

FUNDING AGREEMENT

in relation to the 2020 – 2022 Anzac Day Dawn Service and Brisbane Anzac Student Service

between

State of Queensland acting through the Department of the Premier and Cabinet

and

ANZAC Day Commemoration Committee (Queensland) Incorporated



THIS AGREEMENT is made

2019

**BETWEEN:** STATE OF QUEENSLAND acting through the Department of the Premier and Cabinet ABN 65 959 415 158 of 1 William Street, Brisbane, Queensland 4000 ('*Department*')  
**AND:** ANZAC DAY COMMEMORATION COMMITTEE (QUEENSLAND) INCORPORATED ABN 46 457 412 054 of Unit 2, 14 Boothby Street, KEDRON QLD 4031 ('*Recipient*')

## BACKGROUND

- A. The Recipient delivers two key events annually for Anzac Day (Initiative) including the Anzac Day Student Service in the lead up to Anzac Day and the Anzac Day Dawn Service on 25 April.
- B. In 2016 the parties entered into an Outgoing Sponsorship Agreement for the 2016 – 2018 Anzac Day Dawn Service and Brisbane Anzac Student Service (2016 – 2018 Agreement). Under the 2016-2018 Agreement the Recipient was entitled to receive \$180,000 (plus GST) for the term of the agreement paid as \$55,000 (plus GST) in 2016, \$60,000 (plus GST) in 2017, \$65,000 (plus GST) in 2018.
- C. In 2019, the parties entered into a funding agreement for the 2019 – 2022 Anzac Day Dawn Service and Brisbane Anzac Student Service (Previous Agreement). Under the Previous Agreement the Recipient was entitled to receive \$75,000 (plus GST) per annum for the period, increased annually by Consumer Price Index for 2020, 2021 and 2022.
- D. In addition to the funding received under the Previous Agreement, the Queensland Government has provided the Recipient with financial and in-kind support for the delivery of the Services through the Queensland Police Service, Queensland Fire and Emergency Services and Queensland Rail. The Recipient is also supported by the Brisbane City Council.
- E. In recognition of the rising costs incurred by the Recipient in delivering the Services, the Premier of Queensland committed to cover a potential funding shortfall in delivering these events up to \$20,000 (plus GST) per annum.
- F. This Agreement provides for the surrender of the Previous Agreement and sets out the new funding arrangements for the hosting of the Anzac Day Dawn Service and Brisbane Anzac Student Service for 2020, 2021 and 2022.
- G. The Department has agreed to provide, and the Recipient has agreed to receive and use, the Funds for the Initiative and on the terms of this Funding Agreement (the Agreement).

## AGREED TERMS

### 1. DEFINITIONS & INTERPRETATION

- 1.1 In this Agreement, unless the context otherwise requires, the following definitions apply:

**Agreement** means this agreement and all schedules or attachments;

**Budget** means the budget detailing how the Recipient will spend the Funds and identifying any other contributions to the Initiative and the proposed expenditure of such amounts for the purposes of conducting the Initiative and otherwise performing obligations under this

Agreement. The budget will include the actual costs incurred by the Recipient in, and all funding contributions received by the Recipient for the purposes of, delivering the Initiative in the preceding year. The budget will be in substantially the same form as that provided to the Department by the Recipient for the 2019 Initiative under the Previous Agreement;

**Business Day** means 9.00am to 5.00pm on a day other than a Saturday, Sunday or public holiday in Brisbane;

**Chief Executive** means:

- (a) for the Department, the Director-General; and
- (b) for the Recipient, its chief executive officer or person holding the equivalent position;

**Commencement Date** means the date on which this Agreement is executed by the last party to do so;

**Completion Date** means the day after the Recipient and Department have done all that they are required to do under this Agreement to the reasonable satisfaction of the Department;

**Confidential Information** includes:

- (a) the terms of this Agreement (other than the support of the Department for the Initiative);
- (b) in relation to a party:
  - (i) includes information that is by its nature confidential, is designated by that party as confidential or the other party knows or ought to know is confidential; and
  - (ii) excludes any information that is in the public domain, other than through a breach of this Agreement by the other party;

**Contact Person** for a party means the person specified in item 3 of Schedule 1;

**Department** means the Department of the Premier and Cabinet or any other agency that administers this Agreement from time to time;

**Force Majeure** means an act, omission, cause or circumstance outside a party's reasonable control including inclement weather, fire, storm, flood, earthquake, explosion, accident, enemy acts, war, sabotage, labour dispute, riot or civil commotion and an act or omission of a third party;

**Funding Entitlements** means those entitlements specified in item 4 of Schedule 2;

**Funds** mean an amount of the funding assistance that the Department will provide to the Recipient under this Agreement, as specified in item 3 of Schedule 2. In an appropriate context, it also means all of the funding assistance payable under this Agreement;

**Government Body** means:

- (a) the State of Queensland;
- (b) a Minister, the Parliament of Queensland or a committee of the Parliament of Queensland;
- (c) a department, service, agency, authority, commission, corporation, instrumentality, board, office or other entity established for a State government purpose; or

(d) a part of an entity mentioned in paragraph (c).

**GST** has the same meaning as in the GST Act;

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as amended from time to time;

**GST Amount** means the amount of GST payable in respect of any Taxable Supply under this Agreement, calculated at the rate of GST applicable at the time;

**Initiative** means the purpose and associated activities set out in item 1 of Schedule 2;

**Intellectual Property** includes all present and future rights in relation to copyright, trademarks, designs, patents, trade, business or company names, trade secret, confidential or other proprietary rights, or any rights to registration of such rights whether created before or after the date of this Agreement, and whether existing in Australia or otherwise;

**Milestone** means any fixed date to be met by the Recipient in performing any of its obligations under this Agreement, as specified in Schedule 3 (Milestone Schedule);

**Outcomes** means the objectives for the Initiative identified in item 2 of Schedule 2;

**Previous Agreement** means the funding agreement entered into between the parties in relation to the 2019 – 2022 Anzac Day Dawn Service and Brisbane Anzac Student Service executed by the Recipient on 13 March 2019 and the Department on 22 March 2019.

**Reporting Requirements** means the reporting requirements specified in Schedule 4;

**Tax Invoice** has the same meaning as in the GST Act; and

**Taxable Supply** has the same meaning as in the GST Act.

1.2 In this Agreement, unless the context otherwise requires:

- (a) a reference to a person includes a reference to individuals and other entities recognised by law;
- (b) all monetary amounts refer to Australian currency;
- (c) a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (d) the singular includes the plural and vice versa and words importing one gender include a reference to all other genders; and
- (e) where the day on or by which any act, matter or thing is to be done is not a Business Day, the act, matter or thing may be done on the next Business Day.

## 2. SURRENDER OF PREVIOUS AGREEMENT

2.1 The parties mutually agree to surrender the Previous Agreement on and from the Commencement Date so that upon this Agreement commencing in accordance with clause 3.1, the Previous Agreement will have no further legal effect except for the clauses that survive the termination or expiry of the Previous Agreement as set out in clause 28.5 ("Survival") of the Previous Agreement.

## 3. TERM

3.1 This Agreement starts on the Commencement Date and, unless terminated earlier, will expire on the Completion Date.

#### **4. FUNDS**

- 4.1 Subject to Parliamentary appropriation and to the provisions of this Agreement, the Department will pay to the Recipient the Funds in accordance with the Milestone Schedule.
- 4.2 Funds provided under this Agreement:
- (a) must only be used for the purposes of carrying out the Initiative and performing this Agreement;
  - (b) are not to be applied towards administrative and other general costs of the Recipient unless any such costs are approved in writing by the Department or expressly included in the Budget; and
  - (c) must not, unless the prior written approval of the Department has been obtained, be used in a manner which is inconsistent with the Budget.
- 4.3 The amount of Funds to be contributed by the Department in relation to the Initiative will not exceed the maximum amount of Funds specified in item 3 of Schedule 2.
- 4.4 The Recipient must promptly notify the Department in writing of the amount and source of any additional funding or other contributions for the Initiative (other than Funds provided under this Agreement).
- 4.5 The Department accepts no liability for any debts incurred by the Recipient, any monies owing by the Recipient to its personnel, any Budget or cost overruns or there being insufficient monies to complete the Initiative.
- 4.6 The Recipient acknowledges that the Department makes no representations about future funding and there is no obligation on the Department to provide future funding to the Recipient in respect of any matter.

#### **5. PAYMENT OF FUNDS**

- 5.1 Subject to clause 5.3, the Department will provide the Funds to the Recipient on the terms set out in this Agreement, such Funds to be provided to the Recipient in the Milestones, provided that, in the case of each such Milestone, the Department is satisfied, in its absolute discretion, that:
- (a) any Milestone Requirements applicable to the Milestone have been satisfied; and
  - (b) at the time of payment, the Recipient is not in breach of a material term of this Agreement.
- 5.2 Subject to clause 5.1, the Department will pay each Milestone to the Recipient:
- (a) within 30 Business Days after the last of the Milestone Requirements for the Milestone have been satisfied; and
  - (b) by way of a bank transfer to the Recipient's bank account as specified in item 2 of Schedule 1.
- 5.3 For the avoidance of doubt, if the Department is not satisfied that any one or more of the Milestone Requirements for a Milestone have been satisfied:
- (a) the Department may, without limiting or affecting any other right, defer payment of the Milestone until it is satisfied that the relevant Milestone Requirements have been satisfied; and

- (b) the Recipient must continue performing its obligations under this Agreement despite any such deferral of payment.
- 5.4 Despite anything elsewhere in this Agreement, if the Department considers that any part of a previous Milestone has not been fully expended, the Department may, at its discretion, reduce the amount of any one or more future Milestones by a corresponding amount.
- 6. RECIPIENT'S OBLIGATIONS**
- 6.1 The Recipient must:
- (a) use the Funds only for the Initiative;
  - (b) perform the Initiative in accordance with this Agreement;
  - (c) ensure the Initiative achieves the Outcomes;
  - (d) ensure the Department receives the Funding Entitlements in accordance with this Agreement;
  - (e) exercise the degree of skill and competence reasonably expected of persons performing work of a similar nature to the Initiative;
  - (f) ensure that it uses only suitably qualified personnel to perform the activities comprising the Initiative;
  - (g) immediately notify the Department in writing and provide an adequate explanation, if there are any significant delays or difficulties in performing the Initiative in accordance with this Agreement;
  - (h) in performing the Initiative and carrying out its obligations under this Agreement, comply with all applicable Commonwealth and State laws and regulations;
- 6.2 The Recipient is responsible for any expenditure incurred by it in providing the Initiative in excess of the Funds.
- 6.3 The Initiative may only be varied with the prior written approval of the Department, which approval may be given subject to conditions, including a variation to the amount of the Funds or any future Milestone.
- 6.4 The Recipient acknowledges and warrants to the Department that the Recipient will not do anything or become involved in any situation which, in the reasonable opinion of the Department, brings the Department and/or the Initiative into public disrepute, contempt, scandal or ridicule, offends public opinion or reflects unfavourably upon the Department and/or the Initiative's reputation and the Department will be the sole arbiter in this regard.
- 7. BUDGET**
- 7.1 Within the timeframe specified in the Milestone Schedule, the Recipient must submit a draft Budget for the Department's approval.
- 7.2 Unless the Recipient is otherwise notified by the Department, the Department will reject or approve the draft Budget within 40 Business Days of submission by the Recipient under clause 7.1. Where the draft Budget is rejected, the Recipient must continue to submit a draft Budget, including any necessary amendments until the Department approves a draft Budget.
- 7.3 Once a draft Budget is approved by the Department, it will become the final Budget (subject to any agreed changes agreed by the Department in writing).

7.4 The Recipient must perform the Initiative in accordance with the Budget and must not make any amendments to the Budget, unless approved in writing by the Department.

7.5 For the avoidance of doubt, the Department's approval of the Budget or any amendment to the Budget does not in any way limit the Recipient's responsibility for the performance of its obligations under this Agreement and any consequences of that performance.

## **8. FUNDS MANAGEMENT**

8.1 The Recipient must keep the Funds with a recognised bank, building society or credit union.

8.2 Any interest earned on the Funds forms part of the Funds and the Recipient may use the interest for the purpose of the Initiative and in otherwise meeting its reasonable costs in carrying out its obligations under this Agreement.

## **9. REPORTING**

9.1 The Recipient must comply with the Reporting Requirements.

9.2 The Department may, by notice to the Recipient, require the Recipient to provide such further information as the Department considers necessary or appropriate in relation to any report provided, or required to be provided, by the Recipient as part of the Reporting Requirements, including for the purposes of verifying anything in the report.

9.3 Where a notice is given under clause 9.2, the Recipient must provide the further information within the timeframe specified in the notice.

## **10. REPAYMENT OF FUNDS**

10.1 If, as at the Completion Date or earlier termination of this Agreement, any part of the Funds cannot, by reconciliation between the accounts and records maintained by the Recipient, be shown to the reasonable satisfaction of the Department to have been expended or committed by the Recipient in accordance with this Agreement, the Department may, by written notice to the Recipient, require the Recipient to repay that part of the Funds.

10.2 If, at any time, the Department forms the reasonable opinion or otherwise becomes aware that:

(a) any part of the Funds has been used, spent or committed by the Recipient other than in accordance with this Agreement; or

(b) the Department has made payments of the Funds, or otherwise, to which the Recipient is not, in whole or part, entitled,

the Department may, by written notice to the Recipient, require the Recipient to repay that part of the Funds.

10.3 The Recipient must repay to the Department the amount set out in a notice given under clauses 10.1 or 10.2 within 20 Business Days after receipt of the notice and that amount will constitute a debt due and owing to the Department.

## **11. GST**

11.1 The amount of the Funds as stated in this Agreement is exclusive of GST. If the supply by the Recipient under this Agreement is a Taxable Supply, the Department will, in addition to the amount of the Funding, pay the Recipient the GST Amount, provided that the Department is not required to pay the GST Amount unless it has received a valid Tax Invoice for the Taxable Supply.

- 11.2 The Recipient warrants that it is registered for GST as at the commencement of this Agreement. The Recipient must immediately notify the Department if it ceases to be registered for GST.
- 11.3 The Recipient must remit the GST Amount to the Commissioner for Taxation in accordance with the GST Act.
- 11.4 If for any reason including, without limitation:
- (a) an amendment to the GST Act;
  - (b) the issue of a ruling or advice by the Commissioner for Taxation;
  - (c) a refund of GST to the Recipient in respect of any supply made under this Agreement; or
  - (d) a decision of any tribunal or court;
- the amount of GST paid by the Department differs from the amount of GST paid or payable by the Recipient to the Commissioner of Taxation, then the Recipient must issue an appropriate GST adjustment note and the difference must be paid by or to the Department as the case may be.
- 11.5 The parties agree to exchange with each other such information as may be necessary to enable each party to accurately assess its rights and obligations under this clause.

## **12. FINANCIAL REPORTS, RECORDS AND ACCOUNTING**

- 12.1 The Recipient must:
- (a) at all times keep proper and adequate books of account in relation to the Initiative and its receipt and expenditure of the Funds;
  - (b) if required by the Department at any time by notice to the Recipient, have its books of account in relation to its receipt and expenditure of the Funds audited, and provide a copy of the audited accounts to the Department within 60 days of receipt of the notice under this clause 12.1(b).
- 12.2 The records required under clause 12.1 must be retained by the Recipient for a period of 12 months after the end of this Agreement, or longer if required by law.

## **13. AUDIT RIGHTS AND ACCESS**

- 13.1 The Recipient will, upon three (3) Business Days' notice, permit and provide persons ('*Auditors*') nominated by the Department access at all reasonable times to the Recipient's premises, books, records, documents, computer systems, equipment and other property to verify compliance by the Recipient with its obligations under this Agreement.
- 13.2 The Auditors may make copies of books, records, documents and other materials, and the Recipient will provide the Auditors with the necessary facilities to enable them to do so.

## **14. PUBLIC STATEMENTS**

- 14.1 The Recipient must not make any public statement in relation to this Agreement without the prior written consent of the Department.
- 14.2 Where the Department, in its absolute discretion, considers it reasonable in the circumstances, the Department will give prior notice to the Recipient of its intention to make a public statement in relation to this Agreement.



14.3 Nothing in this Agreement prevents the Department disclosing the identity of the Recipient and the amount or nature of the Funding by way of a statement of a policy or governmental nature including but not limited to a statement in Parliament.

## 15. CONFIDENTIALITY

15.1 Subject to clause 15.2, each party undertakes not to disclose any Confidential Information without the prior consent of the other party, except:

- (a) to its staff, officers or contractors requiring that information for the conduct of their duties under or in relation to this Agreement;
- (b) to its accountants and legal advisors;
- (c) in the case of the Department, to any Government Body; or
- (d) as required or permitted by law or this Agreement.

15.2 Nothing in clause 15.1 limits the Department's ability to make public statements in relation to the Agreement or the provision of the Funds to the Recipient.

## 16. RTI AND PRIVACY

16.1 The Recipient acknowledges that information relating to this Agreement is potentially subject to disclosure to third parties under the *Right to Information Act 2009*.

16.2 Where the Recipient has access to personal information (as defined in the *Information Privacy Act 2009*) in relation to this Agreement, it must comply with:

- (a) any legislative requirements about Personal Information that apply to the Recipient;
- (b) Parts 1 and 3 of Chapter 2 of the *Information Privacy Act 2009*, in relation to the discharge of its obligations under this Agreement as if the Recipient was the Department; and
- (c) any other privacy and security measures as the Department reasonably advises the Recipient in writing from time to time.

16.3 The Recipient must immediately notify the Department upon becoming aware of any breach of this clause.

## 17. INTELLECTUAL PROPERTY

17.1 Nothing in this Agreement effects a change in ownership of Intellectual Property in material that exists as at the Commencement Date and is supplied by a party to the other for the purpose of this Agreement.

17.2 Each party grants, and will ensure that relevant third parties grant, to the other party a paid up, non-exclusive, irrevocable licence to use and reproduce its existing material for the purpose of administering this Agreement.

17.3 Title to, and Intellectual Property in, any new material that is created by the Recipient as a result of this Agreement will, upon its creation, vest in the Recipient. The Recipient grants the Department a paid up, non-exclusive, irrevocable licence to use and reproduce that new material for the purpose of administering this Agreement.

## 18. INDEMNITY

18.1 The Recipient must indemnify the Department, its officers, employees and contractors (each '*an Indemnified*') against any claim, liability, loss, damage, cost or expense

(including legal expenses on a full indemnity basis) made against or suffered by the Indemnified as a result of:

- (a) a breach of this Agreement by the Recipient; or
- (b) a negligent act or omission of the Recipient or its officers, employees, contractors or agents,

except to the extent that an unlawful or negligent act or omission of the Indemnified contributed to the claim, liability, loss, damage, cost or expense.

## 19. INSURANCE

19.1 The Recipient must take out and maintain for the term of this Agreement:

- (a) workers' compensation insurance in accordance with the *Workers' Compensation and Rehabilitation Act 2003*; and
- (b) public liability insurance for a minimum of \$10,000,000 for any one event in respect of accidental death of or accidental bodily injury to persons, or accidental damage to property, arising in connection with the performance of the Initiative or its obligations under this Agreement.

19.2 The insurances required under clause 19.1 must be effected with a reputable insurer that is authorised to operate in Australia and is acceptable to the Department.

19.3 The Recipient must, within 10 Business Days after the Commencement Date and at any other time requested by the Department, provide evidence that the insurances required under clause 19.1 have been effected and are current, including a copy of any certificate of currency.

## 20. SUSPENSION OF FUNDS

20.1 Without limiting any other rights that it has, the Department may suspend provision of the Funds immediately, wholly or in part, by giving the Recipient notice, in any circumstances where the Department would be entitled to terminate this Agreement.

20.2 Where provision of the Funds has been suspended under clause 20.1, the Department may end the suspension by giving the Recipient further notice.

## 21. FORCE MAJEURE

21.1 Neither party will be liable for any delay or failure to perform its obligations other than payment of monetary sums owing to the other party under this Agreement if such failure or delay is due to Force Majeure.

21.2 A party must notify the other party as soon as practicable of any anticipated delay due to Force Majeure. The performance of a party's obligations under this Agreement will be suspended for the period of delay due to Force Majeure.

21.3 If a delay due to Force Majeure exceeds 10 Business Days, either party may terminate this Agreement immediately on providing notice to the other party.

21.4 If this Agreement is terminated pursuant to clause 21.3 by the Department, the Department will be entitled to recover a proportionate amount of the Funds attributable to the Force Majeure as a debt due to it.

21.5 The particulars of any refund or reduction of the Funds under clause 21.4 are to be agreed in writing by the parties, both acting reasonably and in good faith.

21.6 If the parties do not agree to the particulars to be determined under clause 21.5 within a period of 14 days of notification by the party under clause 21.3, the parties are to use the process set out in clause 25 (Dispute Resolution) to settle the dispute.

## **22. TERMINATION**

- 22.1 The Department may immediately terminate this Agreement by notice in writing if:
- (a) the Recipient is in material breach of this Agreement and:
    - (i) the breach is not, in the Department's reasonable opinion, capable of being remedied; or
    - (ii) the breach is capable of being remedied and the Recipient fails to remedy the breach within 10 Business Days after receiving a notice to remedy from the Department specifying the breach;
  - (b) any information the Recipient gives the Department is false or misleading in any material respect;
  - (c) any of the following occurs in relation to the Recipient:
    - (i) it ceases to carry on business;
    - (ii) it becomes insolvent or is unable to pay its debts as and when they fall due;
    - (iii) it enters into liquidation, or is subject to any proceedings being commenced for or in relation to its liquidation;
    - (iv) it has a receiver or manager appointed, or becomes subject to any form of external administration;
    - (v) it enters into an arrangement with its creditors or otherwise takes advantage of any laws in force in connection with insolvent debtors; or
    - (vi) it commences, or is subject to, any proceedings for its winding up, voluntarily or involuntarily.

## **23. EFFECTS OF TERMINATION OR EXPIRY**

- 23.1 If this Agreement is terminated by the Department, then the Department:
- (a) will have no obligation to pay to the Recipient any part of the Funds not already paid; and
  - (b) may demand immediate and full repayment of any part of the Funds already provided to the Recipient but not yet spent on the Initiative, following which demand such amounts will be a debt immediately due and payable to the Department.
- 23.2 The particulars of any refund of the Funds under clause 23.1(b) are to be agreed in writing by the parties, both acting reasonably and in good faith.
- 23.3 If the parties do not agree to the particulars to be determined under clause 23.2 within a period of 14 days of demand by the Department under clause 23.1(b), the parties are to use the process set out in clause 245(Dispute Resolution) to settle the dispute.
- 23.4 Termination or expiry of this Agreement will not affect any rights or remedies already accrued to either party under, or in respect of any breach of, this Agreement and will not relieve either party of any obligation under this Agreement that is expressed to continue after termination or expiry.

## **24. CONFLICTS OF INTEREST**

- 24.1 The Recipient warrants that to the best of its knowledge, information and belief, no conflict of interest exists or is likely to arise in the performance of this Agreement, and will promptly notify the Department if any conflict of interest arises or, in the reasonable opinion of the Recipient, has the potential to arise.

## **25. DISPUTE RESOLUTION**

- 25.1 For the purpose of this clause, a dispute will have arisen when either party gives notice in writing to that effect to the other party. Where a party gives a notice under this clause 25.1, the dispute will be referred to the parties' respective Contact Persons.
- 25.2 If the parties' Contact Persons are unable to resolve a dispute to both parties' satisfaction within 10 Business Days after the dispute has been referred to them, the dispute will be referred to the parties' respective Chief Executives (or nominees).
- 25.3 If the parties' Chief Executives are unable to resolve the dispute to both parties' satisfaction within 10 Business Days, then either party may give notice to the other that it requires the dispute to be referred to mediation. Upon receipt by the other party of that notice, the dispute (unless meanwhile settled) will be referred to mediation in accordance with clause 25.4.
- 25.4 Within 5 Business Days of receipt of the notice referred to in clause 25.3, the parties will, acting in good faith, seek to agree upon the mediator to be appointed. If the parties are unable to agree, either party may request the President of the Queensland Law Society to appoint a mediator.
- 25.5 Nothing in this clause 5 will prevent either party from commencing court proceedings relating to the dispute where the party seeks urgent interlocutory relief or from exercising any of its rights under this Agreement.
- 25.6 Notwithstanding the existence of a dispute, each party will continue to perform its obligations under this Agreement to the extent possible.

## **26. MACHINERY OF GOVERNMENT**

- 26.1 The Department may, at any time by notice to the Recipient, transfer the management of this Agreement from the Department to another Government Body.
- 26.2 If the Department gives notice to the Recipient under clause 26.1:
- (a) the Department will provide the Recipient with an updated Contact Person and Address for Notices; and
  - (b) from the date of that notice that other Government Body will assume the responsibilities and rights of the State of Queensland as if it were a party to this Agreement.

## **27. NOTICES**

- 27.1 Notices under this Agreement must be in writing, signed on behalf of the party giving the notice by an authorised signatory and must be delivered by hand or by mail or email to a party's address as specified in item 4 of Schedule 1, or any substitute address as may have been notified in writing by the relevant party to the other from time to time.

27.2 A notice will be deemed to be given:

- (a) if posted by express post – two (2) Business Days after the date of posting;
- (b) if posted by regular post – four (4) Business Days after the date of posting;
- (c) if delivered by hand during a Business Day – on the date of delivery; or
- (d) if delivered by email – on the date of the email;

except that a delivery received after 5.00pm (local time of the receiving party) will be deemed to be given on the next Business Day.

## 28. GENERAL PROVISIONS

28.1 *Entire agreement:* This Agreement constitutes the entire Agreement between the parties in relation to the Funds and supersedes all prior negotiations, arrangements and Agreements, including the Previous Agreement.

28.2 *Waiver:* No provision of this Agreement will be deemed to be waived unless that waiver is in writing and signed by the waiving party. Any failure by a party at any time to enforce a clause of this Agreement, or any forbearance, delay or indulgence granted by a party to the other will not constitute a waiver of the party's rights. A waiver by a party of a breach of any provision of this Agreement will not operate as a waiver of any subsequent breach of the same provision or as a waiver of any other provision.

28.3 *Governing law:* This Agreement will be construed according to the law of Queensland and the parties agree to submit to the jurisdiction of the courts of Queensland.

28.4 *Compliance with laws:* Both parties must comply with all relevant laws in performing their obligations under this Agreement.

28.5 *Survival:* Without limiting the general law, the following clauses will survive termination or expiry of this Agreement:

- (a) Clause 10 (Repayment of Funds);
- (b) Clause 11 (GST);
- (c) Clause 12.2 (Records);
- (d) Clause 13 (Audit rights and access);
- (e) Clause 14 (Public Announcements and Acknowledgement of Funds);
- (f) Clause 15 (Confidentiality);
- (g) Clause 16 (RTI and Privacy);
- (h) Clause 18 (Indemnity); and
- (i) Clause 23 (Effects of Termination or Expiry).

28.6 *Severability:* If any part of this Agreement is determined to be invalid, unlawful or unenforceable for any reason then that part will be severed from the rest of the Agreement and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.

28.7 *Further assurance:* Each party must do all things reasonably required to give effect to this Agreement.

- 28.8 *Relationship:* The Recipient does not have the authority to bind the Department and must not represent, and must ensure that none of its employees, agents or contractors represent, to any person that it is, or that they are, an employee, partner or agent of the Department.
- 28.9 *No assignment:* The Recipient must not assign or subcontract its rights or obligations under this Agreement without the prior consent of the Department.
- 28.10 *Costs:* Each party must pay its own costs of and incidental to the negotiation, preparation and execution of this Agreement.
- 28.11 *Variation:* This Agreement may be varied by Agreement signed by both parties.
- 28.12 *Counterpart execution:* This Agreement may be signed in any number of counterparts with the same effect as if the signatures to each counterpart were on the same instrument. This Agreement may be executed or delivered by facsimile transmission or electronic transmission with the same force and effect as if it were manually executed and delivered in counterpart.

Released under RTI/DPC

**SCHEDULE 1 Parties Details**

Item	Description	Details
1.	Recipient	Anzac Day Commemoration Committee (Queensland) Incorporated ABN 46 457 412 054
2.	Recipient's bank account	BSB: [REDACTED] Bank account: [REDACTED]
3.	Contact Persons	Department: Executive Director, Office for Veterans  Recipient: David Smith  or such other person as either party may notify to the other from time to time.
4.	Addresses for notices	Department: Address: Level 4, 117 Brisbane Street, IPSWICH 4305 Postal Address: PO Box 15185, CITY EAST QLD 4002 Email: veterans@premiers.qld.gov.au Attention:, Executive Director, Office for Veterans  Recipient: Address: Unit 2, 14 Boothby Street, KEDRON QLD 4031 Postal Address: Unit 2, 14 Boothby Street, KEDRON QLD 4031 Email: president.adcc@anzacday.net.au Attention: David Smith

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**SCHEDULE 2 Initiative and Funding Details**

Item	Description	Details
1.	Initiative	<p><b>2020 – 2022 Anzac Day Dawn Service and Anzac Day Student Service</b></p> <p>The Initiative is the delivery of the Anzac Day Dawn Service (Dawn Service) and the Anzac Day Student Service (Student Service) as described below in each of 2020, 2021 and 2022.</p> <p>For the avoidance of doubt, the delivery of the Dawn Service and the Student Service in:</p> <ul style="list-style-type: none"> <li>(a) 2020 is referred to as the 2020 Initiative;</li> <li>(b) 2021 is referred to as the 2021 Initiative; and</li> <li>(c) 2022 is referred to as the 2022 Initiative.</li> </ul> <p><b>Dawn Service</b></p> <p>Unless otherwise agreed by the parties, each Dawn Service will:</p> <ul style="list-style-type: none"> <li>• take place on 25 April at the Shrine of Remembrance, Anzac Square, Brisbane;</li> <li>• commence at 4.28 am and conclude by 5.15 am;</li> <li>• include: <ul style="list-style-type: none"> <li>○ catafalque party;</li> <li>○ traditional service with wreath laying;</li> <li>○ a reading of the Ode of Remembrance; and</li> <li>○ the playing of the Last Post and the Rouse.</li> </ul> </li> </ul> <p><b>Student Service</b></p> <p>Unless otherwise agreed by the parties, each Student Service will:</p> <ul style="list-style-type: none"> <li>• be directed to, and involve, students from private and public, primary and secondary schools from metropolitan Brisbane;</li> <li>• take place on a day immediately prior to 25 April at the Shrine of Remembrance, Anzac Square, Brisbane;</li> <li>• commence at 10.00 am and conclude by 11.30 am;</li> <li>• include: <ul style="list-style-type: none"> <li>○ catafalque party;</li> <li>○ an address by the Governor of Queensland;</li> <li>○ traditional service with wreath laying by representatives of participating schools;</li> <li>○ a reading of the Ode of Remembrance; and</li> <li>○ the playing of the Last Post and the Rouse.</li> </ul> </li> </ul>
2.	Outcomes	The required Outcomes of the Initiative are as follows:



Item	Description	Details														
		<ul style="list-style-type: none"> <li>with respect to the Dawn Service, engage Brisbane and South East Queensland residents, international visitors and veterans;</li> <li>with respect to the Student Service, engage students from private and public, primary and secondary schools from metropolitan Brisbane;</li> <li>to honour and remember those who served in all conflicts and peacekeeping operations from the Boer War in South Africa in the 19<sup>th</sup> Century to the Afghanistan War in the 21<sup>st</sup> Century;</li> <li>raise community awareness of the significance of Anzac Day;</li> <li>encourage Queensland community participation and engagement in commemorating Anzac Day;</li> <li>be of a standard comparable to the 2019 Brisbane Anzac Day Service; and</li> <li>complement other commemorative activities relating to Anzac Day, including the Anzac Day Parade.</li> </ul>														
3.	Funds	<p>For the purposes of this Agreement:</p> <p><b>Annual Commitment</b> means \$75,000 plus GST</p> <p><b>Supplementary Commitment</b> (SC) means, for each Initiative, the amount determined by the Department in accordance with the following formula:</p> $SC = AF - AC$ <p>Where</p> <p>AF = Agreed Funding being that amount the Department determines is the reasonable cost of delivering the Initiative having regard to the Budget</p> <p>AC = Annual Commitment</p> <p>The Funds payable by the Department under this Agreement are comprised of three (3) instalments of the Annual Commitment and Supplementary Commitment. For the avoidance of doubt, for each Initiative, the Funds payable by the Department under this Agreement comprise one (1) instalment of the Annual Commitment and one (1) instalment of the Supplementary Commitment.</p> <p>For each Initiative, the total amount of the Annual Commitment and the Supplementary Commitment will not exceed \$95,000 (plus GST).</p> <p>The maximum amount of Funds payable under this Agreement for the Initiative is the total amount of the Capped Amounts detailed in the following table or the lesser amount required to deliver the Initiative:</p> <table border="1" data-bbox="512 1771 1369 2033"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">Funds (GST excl)</th> <th rowspan="2">Capped Amount (plus GST)</th> </tr> <tr> <th>Annual Commitment</th> <th>Supplementary Commitment</th> </tr> </thead> <tbody> <tr> <td>2020 Initiative</td> <td>\$75,000.00</td> <td>As determined in accordance with</td> <td>\$95,000.00</td> </tr> <tr> <td>2021 Initiative</td> <td>\$75,000.00</td> <td></td> <td>\$95,000.00</td> </tr> </tbody> </table>		Funds (GST excl)		Capped Amount (plus GST)	Annual Commitment	Supplementary Commitment	2020 Initiative	\$75,000.00	As determined in accordance with	\$95,000.00	2021 Initiative	\$75,000.00		\$95,000.00
	Funds (GST excl)			Capped Amount (plus GST)												
	Annual Commitment	Supplementary Commitment														
2020 Initiative	\$75,000.00	As determined in accordance with	\$95,000.00													
2021 Initiative	\$75,000.00		\$95,000.00													

Item	Description	Details								
		<table border="1" data-bbox="491 353 1335 521"> <tr> <td data-bbox="491 353 692 412">2022 Initiative</td> <td data-bbox="692 353 922 412">\$75,000.00</td> <td data-bbox="922 353 1142 412">the above formula.</td> <td data-bbox="1142 353 1335 412">\$95,000.00</td> </tr> <tr> <td data-bbox="491 412 692 465"><b>Total Funds</b></td> <td data-bbox="692 412 922 465"><b>\$225,000.00</b></td> <td data-bbox="922 412 1142 465"></td> <td data-bbox="1142 412 1335 465"><b>\$285,000.00</b></td> </tr> </table> <p data-bbox="491 539 1342 598">The Funds are payable on the achievement of the Milestones detailed in Schedule 3.</p> <p data-bbox="491 616 1342 674">The Department is not providing any in-kind support. Other in-kind support may be provided by other Government Bodies.</p>	2022 Initiative	\$75,000.00	the above formula.	\$95,000.00	<b>Total Funds</b>	<b>\$225,000.00</b>		<b>\$285,000.00</b>
2022 Initiative	\$75,000.00	the above formula.	\$95,000.00							
<b>Total Funds</b>	<b>\$225,000.00</b>		<b>\$285,000.00</b>							
4.	<b>Funding Entitlements</b>	<p data-bbox="491 707 874 743"><b>Recipient's Planning Meetings</b></p> <p data-bbox="491 757 1342 815">1. The Recipient must invite the Department to attend all regular planning meetings for the Services.</p> <p data-bbox="491 833 1023 869"><b>Recipient's Initiative Planning Documents</b></p> <p data-bbox="491 882 1342 940">2. The Recipient must deliver to the Department its Initiative planning documents.</p> <p data-bbox="491 958 724 994"><b>Acknowledgement</b></p> <p data-bbox="491 1008 1342 1124">3. The Recipient must acknowledge the Department's support in all reporting, advertising and promotional activities relating to the Initiative in the manner approved by the Department. Without limitation, the Recipient must, with the Department's prior approval:</p> <ul style="list-style-type: none"> <li data-bbox="529 1142 1342 1236">(a) (Coat of Arms and Acknowledgement) apply the Coat of Arms and Acknowledgement to all Advertising Materials used by the Recipient;</li> <li data-bbox="529 1249 1342 1344">(b) (Online Acknowledgement) ensure the Coat of Arms and Acknowledgement appears on the Recipient's website (including any website created for the Initiative);</li> <li data-bbox="529 1357 1342 1451">(c) (Social Media Acknowledgement) ensure the Department's support is noted on the Recipient's social media sites (including any social media sites created for the Initiative) and</li> <li data-bbox="529 1464 1342 1559">(d) (Verbal Acknowledgement) verbally acknowledge the Department's support in speeches, media briefings, interviews and to the audience at any event of the Initiative.</li> </ul> <p data-bbox="491 1572 1342 1630">4. The Recipient will provide to the Department all Advertising Materials in a timely fashion for the Department's consent.</p> <p data-bbox="491 1644 1342 1769">5. The Department grants to the Recipient a non-exclusive, royalty free, non-transferable licence to use the Coat of Arms in its Advertising Materials for the Term solely for the purpose of promoting the Department's support of the Initiative.</p> <p data-bbox="491 1783 762 1818">6. The Recipient must:</p> <ul style="list-style-type: none"> <li data-bbox="529 1832 1342 1890">(a) not modify the Coat of Arms in any way without the consent of the Department;</li> <li data-bbox="529 1904 1342 1971">(b) obtain the consent of the Department to publishing, producing, printing or distributing any material containing the Coat of Arms;</li> </ul>								

Item	Description	Details
		<p>(c) not sub-licence or assign the use of or transfer the Intellectual Property in the Coat of Arms without the consent of the Department; and</p> <p>(d) use the Coat of Arms in accordance with any style guides and guidelines for use provided by Department.</p> <p>7. Nothing in this Agreement affects in any way the Department's ownership of Intellectual Property in the Coat of Arms.</p> <p><b>Opportunities for the Department</b></p> <p>8. The Recipient must provide the Department with the opportunity for the Premier of Queensland (or her nominated representative) to take part in any public acknowledgement of the Initiative, including but not limited to speaking at any event related to the Initiative, providing forewords or messages to form part of the Initiative.</p> <p>For the purposes of this Agreement,</p> <p><b>Acknowledgement</b> means recognition of the State's support of the Initiative in the following form,</p> <p><i>"Proudly supported by the Queensland Government";</i></p> <p><b>Advertising Materials</b> includes any materials used by the Recipient to promote, advertise or report on the Initiative including publicity (media release, statement, announcement or the like), advertisements (cinema, online, outdoor, print, radio and television), audio visual aids, brochures/newsletters/flyers, CDs and DVDs, displays, forms, invitations, merchandise, online activities, point of sale materials, publications, signage and social media;</p> <p><b>Coat of Arms</b> means the logo version of the Queensland Coat of Arms specified below:</p> <div style="text-align: center;">  <p>Queensland Government</p> </div>

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**SCHEDULE 3 Milestones**

<b>Milestone Requirements</b>	<b>Milestone Payment (excl GST)</b>	<b>GST</b>	<b>Milestone Payment (incl GST)</b>
<p><b>Stage 1</b>                      The Department's acceptance of the Budget.                      The Recipient will provide the draft Budget to the Department:                      (a) for the 2020 Initiative on the Commencement Date;                      (b) for the 2021 Initiative by 25 October 2020;                      (c) for the 2022 Initiative by 25 October 2021.</p>	<p>\$50,000.00                      (from the Annual Commitment)</p>	<p>\$5,000.00</p>	<p>\$55,000.00</p>
<p><b>Stage 2</b>                      The Department's acceptance of the Interim Report.                      The Recipient will provide the Interim Report to the Department:                      (a) for the 2020 Initiative by 11 February 2020;                      (b) for the 2021 Initiative by 11 February 2021;                      (c) for the 2022 Initiative by 11 February 2022.</p>	<p>\$15,000.00                      (from the Annual Commitment)</p>	<p>\$1,500.00</p>	<p>\$16,500.00</p>
<p><b>Stage 3</b>                      The Department's acceptance of the Final Report.                      The Recipient will provide the Final Report to the Department:                      (a) for the 2020 Initiative by 1 June 2020;                      (b) for the 2021 Initiative by 1 June 2021;                      (c) for the 2022 Initiative by 1 June 2022.</p>	<p>\$10,000.00 plus Supplementary Commitment as determined in accordance with Item 3 of Schedule 2</p>	<p>\$1,000.00 plus 10% of the Supplementary Commitment as determined in accordance with Item 3 of Schedule 2</p>	<p>\$10,000.00 plus Supplementary Commitment plus GST payable on the Supplementary Commitment</p>

#### SCHEDULE 4 Reporting Requirements

Report(s) (type and content)	Date(s) report(s) required
<p><b>Meetings</b></p> <p>The Recipient must attend such meetings as reasonably requested by the Department including the Event Operation Group meetings hosted by Events and Engagement, Department of the Premier and Cabinet.</p>	<p>Within timeframes notified by the Department.</p>
<p><b>Ad-hoc Reports</b></p> <p>Ad-hoc reports as requested by the Department.</p>	<p>Within timeframes notified by the Department.</p>
<p><b>Budget</b></p> <p>Detailed Budget including a fully itemised budget.</p>	<p>For the 2020 Initiative on the Commencement Date;</p> <p>For the 2021 Initiative by 25 October 2020;</p> <p>For the 2022 Initiative by 25 October 2021.</p>
<p><b>Interim Report</b></p> <p>The Recipient must provide a written report to the Department that includes, at a minimum:</p> <ul style="list-style-type: none"> <li>(a) general description of the status of the Initiative;</li> <li>(b) Event Planning documents</li> <li>(c) Advertising Materials for approval;</li> <li>(d) draft invitations to the Premier of Queensland to attend the Initiative for approval prior to release;</li> <li>(e) a valid tax invoice for the relevant portion of Funds for the Milestone.</li> </ul>	<p>For the 2020 Initiative by 11 February 2020;</p> <p>For the 2021 Initiative by 11 February 2021;</p> <p>For the 2022 Initiative by 11 February 2022.</p>
<p><b>Final Report</b></p> <p>The Recipient must provide a written report to the Department that includes, at a minimum:</p> <ul style="list-style-type: none"> <li>(a) a statutory declaration acknowledging that the Funds have been used in accordance with this Agreement summary of the Initiative;</li> <li>(b) an outcome assessment reporting on how the Outcomes set out in this Agreement were achieved;</li> <li>(c) a comprehensive and detailed financial report evidencing the income and expenditure for the Initiative;</li> <li>(d) specific details of the Initiative including dates, events, attendance figures;</li> <li>(e) a report on how the Funding Entitlements were delivered in accordance with this Agreement, including</li> </ul>	<p>For the 2020 Initiative by 1 July 2020;</p> <p>For the 2021 Initiative by 1 July 2021;</p> <p>For the 2022 Initiative by 1 July 2022.</p>

<ul style="list-style-type: none"><li>(i) Coat of Arms placement;</li><li>(ii) State Acknowledgement placement;</li><li>(iii) Advertising Materials;</li><li>(iv) media coverage;</li><li>(v) social media reach;</li><li>(vi) initiative feedback from relevant stakeholders, participants and/or the organising committee following the Initiative.</li></ul>	
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EXECUTED as an AGREEMENT by the parties on the respective dates set out below.

SIGNED for and on behalf of STATE OF QUEENSLAND acting through the Department of the Premier and Cabinet on:

2 March 2020  
(Date)

by Filomena Morgaw  
(name)  
Deputy Director - General  
(position)

a duly authorised person, in the presence of:  
EVE CAROLINE FRIMLEY  
(full name of witness)

[Redacted Signature]  
(signature of officer)

[Redacted Signature]  
(signature of witness)

SIGNED for and on behalf of ANZAC DAY COMMEMORATION COMMITTEE (QUEENSLAND) INCORPORATED on:

11 February 2020  
(Date)

by David Smith  
(name)  
PRESIDENT  
(position)

a duly authorised person, in the presence of:  
ANGELA LOUISE BURKE  
(full name of witness)

[Redacted Signature]  
(signature of officer)

[Redacted Signature]  
(signature of witness)