

# **Recreational Boating Facilities Scheme**

## **Funding Agreement**

### **for Works Project**

**BETWEEN**

**THE MINISTER FOR TRANSPORT**

**AND**

**NAME OF APPLICANT**

**FOR**

**NAME OF WORKS PROJECT**

**ROUND XX**

**Year**

**(FILE NUMBER)**

**THIS AGREEMENT** is made BETWEEN the **Minister for Transport** C/o Dumas House, West Perth ("the Minister")

AND the **Name of Applicant** of address ("the Grantee")

## RECITALS

- A.** The Minister for Transport, a body corporate pursuant to section 8 of the *Marine and Harbours Act 1981*, has implemented the Recreational Boating Facilities Scheme ("RBFS"), a scheme under which the Minister will make grants to eligible authorities in order to contribute to the cost of constructing or improving recreational boating facilities.
- B.** The Grantee has applied to the Minister for a grant of funds by the Minister to the Grantee in accordance with the RBFS.
- C.** The Minister has agreed to provide funds to the Grantee on the terms and conditions contained in this agreement.

## OPERATIVE PROVISIONS

### 1. DEFINITIONS AND INTERPRETATION

- 1.1** In this agreement, unless the contrary intention appears, the following words have the following meanings:

**Actual Component Cost** means, in relation to any Component, the amount expended in respect of that Component to achieve Completion of the Project.

**Actual Project Cost** means the total amount expended to achieve Completion of the Project.

**Approved Project Program** means the information approved by the Minister in accordance with clause 4.1.2.

**Business Day** means a day (not being a Saturday or a Sunday) when banks are open for banking business in Perth, Western Australia.

**Completion** means that stage in the execution of the Works under this agreement when the Works are complete and capable of being used for their intended purpose.

**Completion Certificate** means a signed certificate as set out in Item 12 of the Schedule.

**Component** means a part of a Component Project described in Item 7 of the Schedule.

**Component Project** means a Project where certain portions of the Grant are to be used only for certain parts of the Project described in Item 7 of the Schedule.

**Construction** includes construction of new works and improvement of existing structures or works.

**Estimated Component Cost** means, in relation to any Component, the estimated amount to be expended in respect of that Component to achieve Completion of the Project, as set out in Item 7 of the Schedule.

**Estimated Project Cost** means the estimated amount to be expended in respect of the Project to achieve Completion of the Project, as set out in Item 1(b) of the Schedule.

**Event** means the occurrence of any one or more of the following:

- (a) loss of property;
- (b) destruction of property;
- (c) damage to property;
- (d) injury;
- (e) death; and
- (f) illness.

**Event of Default** means an event of default described in clause 10.1.

**Grant** means the amount set out in Item 1(a) of the Schedule. The grant amount is expressed as GST exclusive.

**Grantee's Contribution** means a contribution to the Project made by the Grantee as set out in clause 3.2.

**Land** means the land described in Item 2 of the Schedule.

**Project** means the project named in Item 3 and the Project Specific Requirements described in Item 4 and 5 of the Schedule.

**Schedule** means the Schedule of this agreement.

**Works** means the works described in Items 4 and 5 of the Schedule and includes works which are not completed.

**Written-Down Value** means, in respect of an asset, the written down value of that asset determined by the Valuer General and calculated using the straight-line method of depreciation.

**1.2** In this agreement, unless the contrary intention appears:

- (a) the word "person" includes a firm, a body corporate, an unincorporated association and an authority;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a person includes a reference to the persons, successors, substitutes (including without limitation, persons taking by novation), assigns, executors and administrators;
- (d) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (e) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;

- (f) a reference to anything is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (g) a reference to a clause, paragraph or Schedule is a reference to a clause, paragraph or Schedule of this agreement;
- (h) a reference to an accounting term is to be interpreted in accordance with accounting standards under the Corporations Law and, if not inconsistent with those accounting standards, generally accepted principles and practices in Australia consistently applied by a body corporate or as between bodies corporate over time; and
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

**1.3** Headings are inserted for convenience and do not affect the interpretation of this agreement.

## **2. PROVISION OF THE GRANT**

The Minister agrees to provide the Grant (as reduced by any deductions made in accordance with clauses 3.3) to the Grantee at the times and in the manner set out in Item 6 of the Schedule.

## **3. USE, CONTRIBUTION AND REDUCTION OF THE GRANT**

### **3.1 Use of the Grant**

The Grantee may use the Grant only for the purpose set out in Item 7 of the Schedule and for no other purpose.

Where the Project is a Component Project, the Grantee may use the Grant:

- (a) only for the purposes set out in Item 7 of the Schedule;
- (b) only in relation to the Components; and
- (c) in relation to each Component, only in an amount up to the amount set out in Item 7 of the Schedule in relation to that Component.

### **3.2 Contribution**

**3.2.1** Where the Project is a not Component Project, the Grantee must make a Grantee's Contribution to the cost of the Project of the amount set out at Item 7 of the Schedule.

**3.2.2** Where the Project is a Component Project, the Grantee must make a Grantee's Contribution to the cost of each Component of the amount set out in the table at Item 7 of the Schedule.

**3.2.3** The Grantee's Contribution can include:

- (a) contributions from any other source including, without limiting the generality thereof, State Government Departments; and

- (b) in-kind contributions of materials, labour and machinery use directly attributable to the Project.

**3.2.4** The inclusion and value of in-kind contributions as part of the Grantee's Contribution shall be determined by the Minister, after receipt of a statement detailing in-kind contributions and the Grantee's assessment of their value and reasons why they should be recognised by the Minister as part of the Grantee's Contribution. The statement shall be included in the report referred to in clause 4.2(b) or attached to the statement referred to in clause 4.3(a).

**3.2.5** If, when Completion of the Project has been achieved:

- (a) where the Project is not a Component Project, the Actual Project Cost exceeds the Estimated Project Cost; or
- (b) where the Project is a Component Project, the Actual Component Cost relating to a Component exceeds the Estimated Component Cost relating to that Component;

the Minister and the Grantee agree that the Grantee's Contribution will be increased by the amount of that excess.

### **3.3 Reduction of the Grant**

If, when Completion of the Project has been achieved:

- (a) where the Project is not a Component Project, the Estimated Project Cost exceeds the Actual Project Cost; or
- (b) where the Project is a Component Project, the Estimated Component Cost relating to a Component exceeds the Actual Component Cost relating to that Component;

the Minister and the Grantee agree that the Grant, or the Grant Amount for that Component will be reduced by the *pro rata* amount of that excess.

If payment of the Grant or the Grant Amount for that Component has been made to the Grantee, the Grantee will immediately refund the *pro rata* amount of that excess to the Minister.

### **3.4 Failure to make a Grantee's Contribution**

**3.4.1** If the Grantee does not make a Grantee's Contribution:

- (a) where the Project is not a Component Project, the Grant will be cancelled; or
- (b) where the Project is a Component Project, the Grant will be reduced by the Maximum Grant Amount set out in Item 7 of the Schedule in relation to that Component.

**3.4.2** If the Grantee only makes part of a Grantee's Contribution, the Grant will be reduced in the same proportion as the shortfall bears to the contribution made by the Grantee.

**3.4.3** If either clause 3.4.1 or 3.4.2 apply and any part of the Grant has been paid to the Grantee, the Grantee will immediately upon demand by the Minister, refund to the Minister the moneys (if any) more than the Grantee's amended entitlement to the Grant.

#### **4. INFORMATION TO BE PROVIDED TO THE MINISTER**

##### **4.1 Prior to commencement of Construction of the Work**

**4.1.1** Prior to the commencement of Construction of the Works, the Grantee must provide to the Minister for the Minister's approval the following:

- (a) a schedule setting out:
  - (i) the expected progress of the Project from planning to Completion; and
  - (ii) the dates on which the Grantee anticipates that it will request payment of the Grant in accordance with clause 2;
- (b) details of the identity and qualifications of each person who will certify the Works;
- (c) plans and specifications of the Project;
- (d) details of the identity and qualifications of each person who will supervise Construction of the Works, including any specific terms and conditions of Project management agreed with the Minister;
- (e) evidence that all consents, licences and approvals required by law, including Jetty Licences where applicable, to be obtained in connection with the Project before commencement of Construction of the Works, have been obtained;
- (f) all items and information described in Item 8.1 of the Schedule (if any); and
- (g) all other items and information which the Minister requests.

**4.1.2** The Minister may:

- (a) approve; or
- (b) refuse to approve; or
- (c) request that the Grantee alter any detail in respect of

the information provided to the Minister in accordance with clause 4.1.1. All information received and approved (whether with or without modification) by the Minister in accordance with this clause 4 will become, when approved, the Approved Project Program.

**4.1.3 The Grantee agrees that:**

- (a) subject to clause 4.1.4, and within the time specified by the Minister, it will alter any detail in respect of the Project which the Minister reasonably requests be altered; and
- (b) it will ensure that Construction of Works is not commenced until the Minister receives and approves (whether with or without modification) all information required to be provided to the Minister under clause 4.1.1.

**4.1.4** If the Minister requests that the Grantee alter a detail in respect of the Project, the Grantee may give notice to the Minister that, if the Minister does not approve the information provided to the Minister in accordance with clause 4.1.2 without alteration to that detail, within a period specified in the notice (which period must be not less than 10 Business Days after the date on which the Minister receives the notice), this agreement will terminate.

**4.1.5** The word “commencement” in clause 4.1.1 and the word “commenced” in clause 4.1.3(b) do not include any preliminary design work, cost estimates or community consultations, unless it is expressly stated in Item 4 or 5 of the Schedule to be the Project or part of the Project.

**4.2 Information to be provided to the Minister during the Project**

The Grantee agrees with the Minister that the Grantee will:

- (a) keep proper and up-to-date records in respect of the progress of the Project and all expenditure in connection with the Project and allow any agent, employee or representative of the Minister to inspect those records; and
- (b) provide to the Minister every 6 months or as otherwise requested by the Minister within 10 Business Days of such request, a report which details the progress of the Project including:
  - (i) expenditure which has been incurred to date in connection with the Project and, where the Project is a Component Project, each Component of the Project; and
  - (ii) the expected date of Completion.

**4.3 Information to be provided to the Minister on completion of the Project**

The Grantee agrees to provide to the Minister within 20 Business Days of Completion of the Project:

- (a) a financial statement (GST exclusive) which sets out the Actual Project Cost and, where the Project is a Component Project, the Actual Component Cost of each Component;
- (b) a Completion Certificate as set out in Item 12;
- (c) engineering certification that the Works are in accordance with the plans and specifications approved pursuant to clause 4.1.1(c);

- (d) photographs of the completed Works, including a photograph of the acknowledgment of the Grant forming part of the Works that is required pursuant to clause 12;
- (e) evidence that all authorisations, registrations, consents, approvals, licences and permits which are required for the lawful utilisation of the Works have been obtained and are current;
- (f) all items and information described in Item 8.2 of the Schedule (if any); and
- (g) all other items and information which the Minister reasonably requests.

## **5. APPROVED PROJECT PROGRAM**

### **5.1** The Grantee agrees that it will ensure that the Project is:

- (a) conducted in accordance with the Approved Project Program; and
- (b) completed by the date set out in Item 9 of the Schedule ("Item 9") unless;
  - (i) notice is given by the Minister under clause 5.5.1, in which case, the date applied for by the Grantee; or
  - (ii) notice is given by the Grantee under clause 5.5.3, in which case, the alternative date specified in the notice under clause 5.5.2.

### **5.2** The Grantee agrees that it will:

- (a) not without the prior written consent of the Minister change any one or more aspects of the Approved Project Program; and
- (b) notify the Minister immediately upon becoming aware that any change or event has occurred which has caused or will or might cause any one or more aspects of the Approved Project Program to change.

### **5.3** If:

- (a) the Grantee requests in accordance with clause 5.2(a) that the Minister consent to a change in the Approved Project Program; and
- (b) the Minister does not consent to that change; and
- (c) in the reasonable opinion of the Grantee, the Grantee will not be able to continue with the Project unless the relevant change is made to the Approved Project Program;

the Grantee may give notice to the Minister that, if the Minister does not consent within a period specified in the notice (which period must be not less than 10 Business Days after the date on which the Minister receives the notice), this agreement will terminate.

### **5.4** If, at any time, in the reasonable opinion of the Minister, a change occurs in the Approved Project Program such that the Approved Project Program is materially altered, the Minister may terminate this agreement with immediate effect.



- 5.5** If the Grantee becomes aware that the Project will not be, or is unlikely to be, completed by the date set out in Item 9 and it wishes to continue with the Project, it shall immediately, by notice to the Minister, apply for an amendment of the date set out in Item 9 to a date specified in the notice.
- 5.5.1** If the Minister consents to the amendment, the Minister shall give notice to the Grantee to that effect and Item 9 shall be deemed to have been amended accordingly.
- 5.5.2** If the Minister is prepared to consent to an amendment of the date set out in Item 9 but not to the date specified in the notice, the Minister shall give notice to the Grantee to that effect and specify an alternative date for completion of the Project.
- 5.5.3** If the Grantee agrees to the alternative date specified pursuant to clause 5.5.2, the Grantee shall give notice to the Minister to that effect and Item 9 shall be deemed to have been amended accordingly.
- 5.5.4** If the Minister is not prepared to consent to an amendment of the date set out in Item 9, the Minister shall give notice to the Grantee to that effect and Item 9 shall remain unamended.
- 5.6** Subject to clause 5.5, if the Grantee becomes aware that it will not be able to complete the Project by the date set out in Item 9, or that it does not wish to continue with the Project for any reason, including that it does not wish to accept the alternative date specified pursuant to clause 5.5.2, the Grantee shall immediately, by notice to the Minister, terminate this Agreement with immediate effect.
- 5.7** In the event that this agreement is terminated pursuant to this clause the Minister is under no obligation under this Agreement to provide the Grant or any balance of the Grant. The Minister may require that the Grantee repay to the Minister any money or portion thereof forming the Grant paid pursuant to this Agreement and to pay to the Minister the sum of any costs incurred by the Minister as a result of the termination, including the cost of completing the Project where this is, in the opinion of the Minister, necessary.

## **6. OWNERSHIP, MAINTENANCE AND INSURANCE**

- 6.1** The Minister and the Grantee agree that the Minister will not, by virtue of the Grant, purchase or obtain ownership of the Works or any part of them.
- 6.2** The Grantee:
- (a) agrees that it will at its own cost maintain the Works, keep them in good repair and in good condition, protect them from damage and promptly rectify defects in them;
  - (b) agrees that it will either at its own cost or using the proceeds of an insurance claim in respect of the Works, replace the Works where damage to or defects in the Works cannot be repaired or rectified; and
  - (c) acknowledges and agrees that, except as provided in clause 6.3, the Minister will not be obliged to maintain the Works.

**6.3** The Minister agrees that the Minister will, at the Minister's own cost, maintain all Marine Navigational Aids in connection with the Works and keep them in good repair and in good condition, protect them from damage and promptly rectify defects in them.

**6.4** The Grantee agrees that it will:

- (a) keep the Works and any facilities which are required for the proper use of the Works insured with a reputable insurer to the extent that they are insurable for their full insurable value on a replacement and reinstatement basis against fire, storm and other usual risks against which a prudent owner of property similar to the Works would insure;
- (b) maintain public risk insurance in respect of the Works;
- (c) not do anything which prejudices any insurance effected in connection with the Works; and
- (d) not without prior consent of the Minister use the proceeds of any insurance claim in respect of the Works for any purpose other than replacing and reinstating the Works.

## **7. REPORTING, INSPECTION AND AUDIT OBLIGATIONS**

**7.1** The Grantee agrees to:

- (a) comply with any request of the Minister to be present on site on a particular day or at a particular time during normal working hours;
- (b) allow and assist the Minister or any agent, employee or representative of the Minister to enter upon the Land to:
  - (i) inspect the condition and progress of the Works; and
  - (ii) determine whether the Grantee is complying with the terms of this agreement.

**7.2** The Grantee agrees, upon the request of the Minister, to appoint a person who is accredited as a chartered accountant or a certified practicing accountant to conduct an audit at the Grantee's cost in respect of expenditure in connection with the Project and to provide a report of the results of that audit to the Minister.

## **8. GRANTEE'S COVENANTS**

The Grantee agrees that:

- (a) it will ensure that the Works are Constructed in a competent, efficient and safe manner and that the quality of the Works is of a high standard;
- (b) in the event that the Grantee levies on any person a fee in connection with the use of the Works, that fee will be, subject to the provisions of any statute or other law, an amount which, together with all such other fees that it is estimated will be levied, will not exceed the estimated cost to be incurred by

the Grantee in operating and maintaining the Works in the Grantee's financial year. That is, those fees will not represent an amount to be retained by the Grantee as profit;

(c) in the event that it intends to sell the works or any part of the Works, the Grantee will:

- (i) notify the Minister of the sale immediately upon entering into an agreement to sell the Works or that part of the Works or in any event at least 10 Business Days prior to the date on which title to the Works or the part of the Works is to pass from the Grantee; and
- (ii) so that the Valuer General may determine the Written-Down Value of the Works or that part of the Works which is to be sold, allow and assist the Minister and the Valuer General and any of their servants, agents and employees to inspect the Works and provide the Minister and the Valuer General and any of their servants, agents or employees any documents or records in connection with the Works or the Project which they require; and
- (iii) pay to the Minister an amount which is, in respect of the Written-Down Value of the Works or that part of the Works which was sold or the sale price (whichever is the greater):

\* where the project is not a Component Project, the same percentage as the Grant bears to the Estimated Project Cost; or

\*\* where the project is a Component Project, the same percentage as the Maximum Grant Amount for the relevant Component, set out at Item 7 of the Schedule, bears to the Total Estimated Component Cost for that Component.

The payment to the Minister shall be made within 20 Business Days of the date on which the Valuer General issues its determination of the Written-Down Value, or later date agreed in writing between the Minister and Grantee; and

(d) it will immediately notify the Minister of a pending or threatened occurrence or any event which may cause or constitute a breach of representation, warranty or covenant made by the Grantee in this agreement.

## **9. GRANTEE'S REPRESENTATIONS AND WARRANTIES**

The Grantee represents and warrants that:

- (a) it is duly authorised and has power to enter into and observe its obligations under this agreement;
- (b) its obligations under this agreement are valid and binding and are enforceable against it in accordance with its terms;
- (c) except where, by operation of law, the Minister owns the Works, it owns, or will own, from commencement of Construction of the Works, the Works;

- (d) all authorisations, registrations, consents, approvals, licences and permits which are or will be required by law in connection with the Works or the performance by the Grantee of its obligations under this agreement have been or will be obtained or effected and are or will be and will remain in force and effect as necessary;
- (e) all officers, employees, agents and sub-contractors of the Grantee are conscientious and efficient and are capable of constructing the works in a competent and expeditious manner;
- (f) there is no litigation, arbitration or administrative proceedings currently taking place pending or threatened against the Grantee which could have a materially adverse effect on its ability to perform under this agreement;
- (g) it is unaware of any act, matter, thing or circumstance by reason of which it would be unable to perform any obligation arising out of this agreement;
- (h) it has after diligent inquiry and investigation fully disclosed to the Minister all information which could reasonably be regarded as affecting in any way the Minister's decision to enter into this agreement; and
- (i) this agreement and performance under it in the reasonable contemplation of the parties does not violate any law regulation or government order or decree or any consent registration approval licence or permit or any agreement order or award binding on the Grantee.

## **10. EVENTS OF DEFAULT**

### **10.1** An Event of Default occurs if:

- (a) the Project is not, or, in the reasonable opinion of the Minister, it appears that the Project will not be, completed by the date set out in Item 9 of the Schedule; or
- (b) the Grantee does not use the Grant in accordance with clause 3.1; or
- (c) the Grantee breaches any provision of this agreement and, if that breach can be remedied, does not remedy that breach within 10 Business Days of receiving a notice of default from the Minister or within such longer period set out in the notice of default, or that default is not waived by the Minister; or
- (d) any representation or warranty made by the Grantee is found to be incorrect or misleading; or
- (e) a receiver is appointed to the income or other assets of the Grantee.

### **10.2** Upon the occurrence of an Event of Default, the Minister may by notice to the Grantee terminate this agreement with immediate effect.

### **10.3** Upon termination of this agreement (whether pursuant to clause 10.2 or otherwise), the Minister may require that the Grantee repay to the Minister any money or portion thereof which was provided by the Minister to the Grantee under the RBFS or in connection with the Works, whether pursuant to the provisions of this agreement or otherwise.

- 10.4** In addition to the repayment referred to in clause 10.3, the Minister may require the Grantee to pay to the Minister the sum of any costs incurred by the Minister as a result of the Grantee's default, including the cost of completing the Works where this is, in the opinion of the Minister, necessary.

## **11. INDEMNITY**

- 11.1** The Grantee releases and indemnifies the Minister from and against all:

- (a) actions, proceedings, suits, claims and demands whatsoever which may be brought, made or prosecuted by any person against the Minister or the Minister's employees, agents or instrumentalities in respect of an Event arising out of or in connection with any or all of the Project, the Works, the Grant or this agreement; and
- (b) damages, costs and expenses for which the Minister or the Minister's employees, agents or instrumentalities may be liable or incur in defending or settling any action, proceeding, suit, claim or demand described in paragraph (a).

- 11.2** The indemnity in clause 11.1:

- (a) is a continuing obligation, separate and independent from the other obligations of the Grantee; and
- (b) survives termination of this agreement.

## **12. ACKNOWLEDGEMENT OF GRANT**

The Grantee agrees that it will acknowledge the provision of the Grant by ensuring that it does the things set out in Item 10 of the Schedule.

## **13. RELATIONSHIP**

The Minister and the Grantee acknowledge and agree that nothing in this agreement may be construed to make either of them a partner, agent, employee or joint venture of the other.

## **14. NOTICES**

- 14.1** A notice or other communication in connection with this agreement:

- (a) must be in writing;
- (b) may be given by an authorised officer of the Minister or the Grantee (as the case may be); and
- (c) must be sent by email or prepaid ordinary post to the address of the addressee, set out in Item 11 of the Schedule.

- 14.2** A notice or other communication takes effect from the time it is received, unless a later time is specified in the notice or communication. For the purposes of this clause 14.2, a letter is taken to be received on the third Business Day after posting.

**15. WAIVER**

A provision of or a right created under this agreement may not be waived or varied except in writing signed by the party or parties to be bound.

**16. GOVERNING LAW AND JURISDICTION**

This agreement is governed by the law in force in Western Australia. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

**17. COSTS**

The Minister and Grantee agree that they will each meet their own costs, charges and expenses, in connection with the negotiation, preparation, execution and completion of this agreement but the Grantee agrees to pay any stamp duty imposed on this agreement.

**18. GST**

**18.1** For the purposes of this clause 18:

- (a) "GST Law" has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999*; and
- (b) the terms "GST", "supply" and "taxable supply" have the same meanings as in the GST Law.

**18.2** The amount of the Grant is exclusive of GST.

**18.3** If the Grantee becomes liable to pay GST on a supply which is the result of entering into obligations in respect of the Grant, the Minister must pay, in addition to the Grant, an amount equal to the amount of GST payable by the Grantee in respect of that part of the Grant applicable to that supply.

**18.4** If the supply of anything made under this Agreement, other than the supply referred to in clause 18.3, is a taxable supply, the price of the supply shall be inclusive of GST.

**19. DISPUTE RESOLUTION**

If a dispute, controversy or claim arises out of or in connection with this agreement or breach, termination or invalidity thereof and if such dispute, controversy or claim cannot be settled and resolved through negotiation between the parties, then the parties agree to submit their dispute to mediation in accordance with, and subject to, The Institute of Arbitrators and Mediators Australia Mediation Rules.

**20. ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the parties relating to the subject matter of this Agreement and supersedes any and all previous negotiations,

undertakings, understanding, representations, warranties, agreements or indemnities, whether written or oral.

**21. ANNOUNCEMENTS**

- 21.1** The Minister may publish and/or use for marketing purposes details of the Grant, the Project, the Works and the Grantee.
- 21.2** The Grantee must obtain prior written approval from the Minister for all press releases, advertising, signage and other public announcements relating to the Project.

**22. ASSIGNMENT**

This Agreement shall not be assigned, transferred or dealt with in any way by the Grantee without the written consent of the Minister.

**23. SEVERANCE**

In the event that any provision of this Agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality or, at the discretion of the Minister, it may be severed from the Agreement and the remaining provisions of the Agreement shall remain in full force and effect, unless the Minister in the Minister's discretion decides that the effect of such declaration is to defeat the original intention of the parties in which event the Minister shall be entitled to terminate the Agreement by giving one month's notice to the Grantee.

## SCHEDULE

### **Item 1(a) – Grant** *(clause 1.1)*

\$amount (words)

### **Item 1(b) – Estimated Project Cost** *(clause 1.1)*

\$amount (words)

### **Item 2 – Land** *(clause 1.1)*

Reserve / Lot

### **Item 3 – Project** *(clause 1.1)*

PROJECT NAME

### **Item 4 – Works** *(clause 1.1)*

To construct .....

### **Item 5 – Project Specific Requirements** *(clause 1.1 “Project”)*

1. Department of Transport, Maritime Planning Branch, approves parking design plans prior to works commencing. Enter as required

### **Item 6 – Manner in which the Grant is to be provided** *(clause 2)*

The Minister will provide the Grant (as reduced by any deductions made in accordance with clauses 3.3, 3.4.1(b) and 3.4.2) to the Grantee:

- (i) subject to paragraph (ii), after the Minister has received the items which the Grantee is obliged to provide to the Minister under clause 4.3; and
- (ii) only if no Event of Default has occurred or, if an Event of Default has occurred, the Minister has waived that Event of Default.

### **Item 7 – Use of Grant and Grantee’s Contribution** *(clauses 3.1 and 3.2)*

The Grant is to be used for the Project and Works as described in Items 3, 4 and 5 of this Schedule and conducted in accordance with the Approved Project Program. This Project is not a Component Project.

The Grantee’s Contribution, subject to clause 3.2.5, is \$amount (words).



## Item 8 – Additional items and information

### Item 8.1 – Prior to commencement of Project *(clause 4.1.1(f))*

#### **Include as required**

Evidence, acceptable to the Minister, in respect of the Works, the subject of Project that the land on which such Works would or may be developed is:

- (a) controlled by the Grantee
- (b) available for the development of the Works
- (c) is, or is adjacent to, a licensed maritime structure

Or

Nil

### Item 8.2 – On completion of Project *(clause 4.3(f))*

#### **Include as required**

Evidence, acceptable to the Minister, in respect of the Works, the subject of Project that the land on which such Works would or may be developed is:

- (a) controlled by the Grantee
- (b) available for the development of the Works
- (c) is, or is adjacent to, a licensed maritime structure

Or

Nil

## Item 9 – Timing of Project *(clauses 5.1 and 5.5)*

**Completion Date:** DDMMYYYY

**Other significant Dates:** Each April and November, during the term of the grant, provide Progress Reports as requested by the Grantor

## Item 10 – Acknowledge of Grant *(clause 12)*

The Grantee must:

- (i) acknowledge in all press releases, advertising, signage and other public announcements throughout the life of the Project that a grant has been provided for the Project through the Recreational Boating Facilities Scheme; and

- (ii) at Completion, install signage of design approved by the Minister in a prominent place on or near the Works, containing the acknowledgement referred to in paragraph (i).

**Item 11 – Address for Notices** *(clause 14)*

**The Minister for Transport:**

C/o Department of Transport  
Recreational Boating Facilities Scheme  
GPO Box C102  
PERTH WA 6839  
Email: [RBFS@transport.wa.gov.au](mailto:RBFS@transport.wa.gov.au)

**The Grantee:**

NAME OF APPLICANT  
ADDRESS  
ADDRESS  
Email

**Item 11 – Completion Certificate (clause 1.1)**

**RECREATIONAL BOATING FACILITIES SCHEME**

**COMPLETION CERTIFICATE**

**FOR**

**PROJECT NAME**

I certify that Completion of the Project was completed on [date].

In accordance with the funding agreement between the Minister for Transport and the APPLICANT, the APPLICANT incurred an expenditure of \$[amount] (GST exclusive) in completing the project.

Signed on behalf of the APPLICANT:

.....  
CHIEF EXECUTIVE OFFICER

**EXECUTED** as an **AGREEMENT**

Signed this                                      day of                                      [YEAR] for and on behalf  
of the Minister for Transport, as a Body Corporate by the authorised delegate:

.....  
**Executive Director Maritime**

**Delegate's Name**

in the presence of:

.....  
**Witness's Signature**

**Witness Name**

THE COMMON SEAL OF THE  
APPLICANT

was hereunto affixed by the authority  
of a resolution of the Council



On this ..... day of ..... [YEAR] in the presence of

.....  
**Mayor/President's Signature**

.....  
**Name**

.....  
**Chief Executive Officer's Signature**

.....  
**Name**