# Commonwealth Simple Grant Agreement (Tier 3)

Between the Commonwealth represented by

Australian Trade and Investment Commission

And

<Grantee>

NB: This is an example grant agreement intended for use with the Export Market Development Grants (**EMDG**) program. The Commonwealth reserves the option to amend or adjust the form of the grant agreement.

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## Grant Agreement <grant number>

Once completed, this document, together with each set of Grant Details and the Commonwealth General Grant Conditions (Schedule 1), forms an Agreement between the Commonwealth of Australia (the Commonwealth) and the Grantee.

### Parties to this Agreement

#### The Grantee

|  |  |
| --- | --- |
| Full legal name of Grantee | <insert details> |
| Legal entity type (e.g. individual, incorporated association, company, partnership, etc.) | <insert details> |
| Trading or business name | <insert details> |
| Australian Business Number (ABN) | <insert details> |
| Australian Company Number (ACN)  | <insert details> |
| Registered for Goods and Services Tax (GST)? | <insert details> |
| Date from which GST registration was effective? | <insert details> |
| Registered office - physical | <address line><city> <state> <postcode> |
| Registered office - postal | <address line><city> <state> <postcode> |
| Telephone | <insert details> |
| Email | <insert details> |

#### The Commonwealth

The Commonwealth of Australia represented by the
Australian Trade and Investment Commission
of Level 7, Tower 3 International Towers, Barangaroo, Sydney, NSW Australia 2000
ABN 11 764 698 227

### Background

This Agreement is being entered pursuant to s 9 of the *Export Market Development Grants Act 1997* (Cth) (the **Act**). The Commonwealth has agreed to enter this Agreement under which the Commonwealth will provide the Grantee with the Grant to undertake the associated Activity.

The Grantee agrees to use each Grant and undertake the Activity in accordance with this Agreement and the Grant Details.

### Scope of this Agreement

This Agreement comprises:

1. this document;
2. the Supplementary Terms (if any);
3. the Commonwealth General Grant Conditions (Schedule 1);
4. the Grant Details;
5. any other document referenced or incorporated in the Grant Details.

If there is ambiguity or inconsistency between the documents comprising this Agreement, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

In addition, this Agreement is entered into under and is subject to the Act and the *Export Market Development Grants Rules 2021* (the **Rules**), as well as other general Commonwealth requirements such as the Public Governance, Performance and Accountability Act 2013 (Cth) and Commonwealth Grants Rules and Guidelines. This Agreement is not intended to and does not alter the operation or application, or otherwise derogate from, the Act or the Rules. In the event of any ambiguity or inconsistency between this Agreement and the Act or the Rules, the Act and the Rules will take precedence.

The parties acknowledge that this Agreement is a ‘tier 3 agreement’ under s16(2)(b) of the Act and s51 of the Rules.

This Agreement represents the Parties’ entire agreement in relation to the Grant and the Activity and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing.

Certain information contained in or provided under this Agreement may be used for public reporting purposes.

## Grant Details <insert reference number/name>

1. Purpose of the Grant

The purpose of the Grant is to assist the Grantee to undertake promotional activities for the purposes of:

1. marketing an eligible product in a foreign country;
2. seeking to expand its export promotion activity; and
3. making a strategic shift in the marketing of eligible products in a foreign country,

in accordance with the Act and Rules.

This Grant is a ‘tier 3 agreement’ under s16(2)(b) of the Act and s51 of the Rules. The Grantee warrants that, at the time of entering into this Agreement, it meets the requirements of a ‘tier 3 agreement’ and is exporting eligible products and seeking to expand its export promotion activity within the meaning of the Rules.

1. Activity

The Activity includes the provision of all milestone reports required under this Agreement. The Grantee is required to submit a follow up report one year after the completion of the Activity.

The Grantee must spend the Grant on ‘eligible expenses’ for ‘eligible products’ (as defined in the Act and Rules) in respect of promotional activities undertaken for the purposes of:

1. marketing an eligible product in a foreign country;
2. seeking to expand its export promotion activity; and
3. making a strategic shift in the marketing of eligible products in a foreign country.

Whether the Grantee is seeking to expand its export promotion activity or make a strategic shift in its marketing is assessed against what the Grantee is doing at the time of entering into this Agreement (as outlined in its plan to market).

If the Grantee makes a pre-payment for an ‘eligible expense’ the activity subject to the pre-payment must occur during the period of the Grant Agreement. (For example, if the Grantee purchases flights in the final year of the Grant Agreement, however those flights are not scheduled until after the Grant Agreement has expired, those expenses will not be ‘eligible expenses’.)

The Grantee must use their best endeavours to include the Australia Nation Brand logo on all signage, publications and promotional activities used during the Activity Period in relation to eligible products. Any use of the Australia Nation Brand logo must be done in accordance with the Australia Nation Brand Guidelines, including all requirements in relation to sizing, colouring, alignment and placement.

1. Duration of the Grant

The Activity starts on <insert start date/event> and ends on <insert end date/event>, which is the **Activity Completion Date**.

The Agreement ends when the Grantee has provided all of the reports, including the follow up report, and repaid any Grant amount as required under this Agreement, which is the **Agreement End Date**.

The Grantee agrees that it may not apply for a new EMDG grant while there is more than one year remaining until the Activity Completion Date.

1. Payment of the Grant

Subject to the Act and the Rules, the total amount of the Grant is <grant amount> (GST excl).

The Parties have entered into this Agreement on the agreed assumptions that GST is not payable on the Grant.

The Grant will be paid in instalments by the Commonwealth in accordance with s11 of the Act if the Commonwealth is satisfied that (at the time of making payment):

1. the Grantee is eligible under the Act and Rules;
2. the Grantee has had or will have eligible expenses in relation to eligible products; and
3. the Grantee has met all other requirements in the Act and Rules.

The Grantee must, at a minimum, spend a matching dollar amount of the Grantee’s own money, to the Grant received, on eligible expenses for eligible products in accordance with s10 of the Act.

Subject to the above requirements, the Commonwealth will:

1. have the discretion to make upfront payments to certain applicants; or
2. otherwise endeavour to make payment as soon as possible after we have received and assessed your completed milestone report that is in the form as specified in Schedule 2 that is acceptable to the Commonwealth.

The Commonwealth may reject a milestone report or request further information if sufficient information is not provided.

Where an applicant does not meet the eligibility requirements for its relevant grant tier, but would meet the requirements for a lower grant tier, Austrade may vary the payment owed to an applicant down to be in line with the grant amount the applicant would have received under the grant tier it did satisfy.

**Payment breakdown**

Subject to the Grantee’s compliance with this Agreement, the Commonwealth will make payments to the Grantee is respect of the following periods (noting payments will not exceed the maximum amounts described below):

| Period  | Payment type  | Maximum amount of payment for the period (GST excl) |
| --- | --- | --- |
| <period> [**remove if no upfront payment**] | Upfront  | $<amount> |
| <period>  | Milestone | $<amount> |
| <period>  | Milestone | $<amount> |
| <period>  | Milestone | $<amount> |
| **Total** |  | **$<total grant amount>** |

Without limiting clause 8 of Schedule 1, the amount of the Grant, including any instalment or part payment, may be reduced or withheld by the Commonwealth:

1. to give effect to the cap on total amount of grants payable under the Act in accordance with s13 and s48(3) of the Rules;
2. so that the total amount paid in any financial year to which this Agreement applies does not exceed 50 per cent of the total amount spent by the Grantee on eligible expenses in relation to eligible products for that period, consistent with section 54 of the Rules;
3. as otherwise provided in the Act or the Rules.

Where the full grant allocation for a financial year is not distributed, Austrade may offer to the Grantee an amount of extra funding moneys subject to s53 and s54 of the Rules. This extra funding amount will be determined at Austrade’s discretion.

#### Making payments

The Grantee must ensure that the Grant is held in an account in the Grantee’s name and which the Grantee controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia. Austrade can only pay grant funding directly to the organisation that it has entered into a grant agreement with.

The Grantee’s nominated bank account into which the Grant is to be paid is <insert bank account details>.

1. Reporting

The Grantee agrees to provide to the Commonwealth Representative the following reports in the form specified in Schedule 2:

| Report type | Period to be covered by the report (**Reporting Period**) | Agreed evidence | Due date |
| --- | --- | --- | --- |
| Milestone report 2022-23(Appendix 1) | <Period> [**milestone** **reporting periods may cover upfront payments – please specify here**] | * An invoice (or other supporting documentation) for the largest expenditure item
* if you have a representative, provide the largest invoice paid to your representative and corresponding bank statement that shows the transaction
* if you have a consultant, provide the largest invoice paid to your consultant and corresponding bank statement that shows the transaction.
 | <period end date + 60 days> |
| Milestone report Year 2023-24 (Appendix 1) | <Period> | * An invoice (or other supporting documentation) for the largest expenditure item
* if you have a representative, provide the largest invoice paid to your representative and corresponding bank statement that shows the transaction
* if you have a consultant, provide the largest invoice paid to your consultant and corresponding bank statement that shows the transaction.
 | <period end date + 60 days> |
| Follow up report (Appendix 2) | Activity Completion Date + 1 year] |  | Activity Completion Date + 1 year + 60 days |

When submitting a milestone report in the form at Appendix 1, the Grantee must:

1. confirm that the Grantee was eligible for the Grant at all times throughout the Reporting Period;
2. confirm that the Grantee has complied with the provisions of this Agreement, the Act and the Rules throughout the Reporting Period;
3. provide details of expenses in respect of promotional activities undertaken for the purposes of this Agreement for the Reporting Period;
4. provide details of the Other Contributions for the Reporting Period; and
5. ensure an authorised person of the Grantee certifies the following:
	1. the information in the report is accurate, complete and not misleading, and the authorised person understands the giving of false or misleading information is a serious offence under the *Criminal Code 1995 (Cth)*;
	2. the activities undertaken and the expenditure incurred is in accordance with this Agreement;
	3. the authorised person is aware of the Grantee’s obligations under this Agreement; and
	4. the authorised person is aware that this Agreement empowers the Commonwealth to terminate this Agreement and to request repayment of funds paid to the Grantee where the Grantee is in breach of this Agreement.

Where only a portion of an expense is an ‘eligible expense’, such as travel expenses where a component of the trip relates to activities that are not part of the Activity, the Grantee must provide details of the apportionment and the basis upon which the apportionment has been made.

The Commonwealth may request that the Grantee provide supporting evidence such as receipts of costs incurred.

1. Party representatives and address for notices

#### Grantee's representative and address

|  |  |
| --- | --- |
| Grantee’s representative name | <insert details> |
| Position | <insert details> |
| Postal/physical address(es) | <insert details> |
| Business hours telephone | <insert details> |
| Mobile | <insert details> |
| E-mail | <insert details> |

#### Commonwealth representative and address

|  |  |
| --- | --- |
| Name of representative | <insert details of representative> |
| Position | <insert details> |
| Postal/physical address(es) | <insert details> |
| Business hours telephone | <insert details> |
| Mobile | <insert details> |
| E-mail | <insert details> |
| Alternative contact | <insert details> |

The Parties' representatives will be responsible for liaison and the day-to-day management of the Grant, as well as accepting and issuing any written notices in relation to the Grant.

1. Supplementary Terms
	1. Other Contributions
		1. ‘Other Contributions’ refers to the Grantee’s own financial contributions towards the Activity to match the EMDG grant received.
		2. In accordance with s19 of the Act, ‘Other Contributions’ must not include any financial assistance received under a scheme administered by the Commonwealth or a State or Territory, or an authority of the Commonwealth or State or Territory.

Note: to receive the full grant amount, you must spend double of the grant amount in eligible expenses.

| Contributor | Nature of Contribution | Amount of Grantee’s own financial contribution (GST exclusive) | Timing |
| --- | --- | --- | --- |
| Grantee | < insert description of contribution, e.g., cash> | $<insert amount> | <activity end date> |
| Total |  | $<total other contributions> |  |

* + 1. The Grantee agrees to provide, or to ensure the provision of, the Other Contributions and to use them to undertake the Activity. If the Other Contributions are not provided in accordance with this clause, then the Commonwealth may:
			1. reduce or require the repayment of the Grant until the Other Contributions are provided; or
			2. terminate this Agreement in accordance with clause 18 of Schedule 1.
	1. Activity budget

 Not Applicable

* 1. Record keeping
		1. The Grantee agrees to maintain the following records:
			1. identify the receipt and expenditure of the Grant and any Other Contributions separately within the Grantee's accounts and records so that at all times the Grant is identifiable; and
			2. keep financial accounts and records relating to the Activity so as to enable all receipts and payments related to the Activity to be identified and reported; and
			3. keep records of the reports lodged in accordance with the Grant Details
		2. The Grantee agrees to maintain the records for five years after the Activity Completion Date and provide copies of the records to the Commonwealth representative upon request.
		3. Clause G3 is in addition to any requirements under the Act or the Rules and survives the termination, cancellation or expiry of the Agreement.
	2. Audit and acquittal
		1. The Grantee agrees on request from the Commonwealth to provide the Commonwealth with financial acquittal reports in relation to expenses relating to the Grant and any Other Contributions (G1.1) and the conduct of the Activity verifying that they meet the requirements of the Act and the Rules and the Grant was spent in accordance with this Agreement.
		2. If requested by the Commonwealth, the financial acquittal reports must be independently audited by:
			1. a Registered Company Auditor under the *Corporations Act 2001* (Cth); or
			2. a certified Practising Accountant; or
			3. a member of the Institute of Public Accountants; or
			4. a member of the Institute of Chartered Accountants;

who is not a principal member, shareholder, officer or employee of the Grantee or a related body corporate.

* + 1. Clause G4 is in addition to any requirements under the Act or the Rules and survives the termination or expiry or cancellation of the Agreement.
	1. Activity Material

Not Applicable

* 1. Access
		1. If requested by the Commonwealth, the Grantee agrees to provide the Commonwealth, or any persons authorised in writing by the Commonwealth, with access to Grantee’s premises, personnel, documents and other records, and all assistance reasonably requested, to enable the Commonwealth or other persons to verify that the Grant was spent in Accordance with this Agreement.
		2. The Commonwealth will reimburse the Grantee’s substantiated reasonable costs for complying with a request under clause G6.1.
	2. Equipment and Assets

Not Applicable

* 1. Relevant qualifications or skills

Not Applicable

G8A Child Safety

G8A.1 If the Activity or any part of the Activity involves the Grantee employing or engaging a person (whether as an officer, employee, contractor or volunteer) that is required by State or Territory law to have a working with children check to undertake the Activity or any part of the Activity, the Grantee agrees:

* + - 1. to comply with all State, Territory and Commonwealth law relating to the employment or engagement of people who work or volunteer with children in relation to the Activity, including mandatory reporting and working with children checks however described; and
			2. if requested, provide the Commonwealth, at the Grantee’s cost, with an annual statement of compliance with clause G8A in such form as may be specified by the Commonwealth.
	1. Activity specific legislation, policies and industry standards

Not Applicable

G9A Fraud

G9A.1 In this Agreement, Fraud means dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes alleged, attempted, suspected or detected fraud.

G9A.2 The Grantee agrees to ensure that its personnel, agents and subcontractors do not engage in any Fraud in relation to this Agreement.

G9A.3 If the Grantee becomes aware of:

* + - 1. any Fraud in relation to this Agreement; or
			2. any other Fraud that has had or may have an effect on the performance of this Agreement,

the Grantee agrees to report the matter to the Commonwealth and all appropriate law enforcement and regulatory agencies within 5 business days.

G9A.4 The Grantee agrees to investigate any Fraud referred to in clause G9A.3 at its own cost and in accordance with the Australian Government Investigations Standards available at [www.ag.gov.au](http://www.ag.gov.au).

G9A.5 The Commonwealth may, at its discretion, investigate any Fraud in relation to the Activity. The Grantee agrees to co-operate and provide all reasonable assistance at its own cost with any such investigation.

G9A.6 The Grantee acknowledges that it is aware of the provisions in Chapter 7 of the *Criminal Code 1995* (Cth) and the provision of false or misleading information may be an offence.

G9A.7 This clause survives the termination or expiry of the Agreement.

* 1. Commonwealth Material, facilities and assistance

Not Applicable

* 1. Jurisdiction
		1. This Agreement is governed by the law of the Australian Capital Territory.
	2. Grantee trustee of a Trust (if applicable)
		1. In this clause, 'Trust' means the trust specified in the Parties to the Agreement section of this Agreement.
		2. The Grantee warrants that:
			1. it is the sole trustee of the Trust; and
			2. it has full and valid power and authority to enter into this Agreement and perform the obligations under it on behalf of the Trust; and
			3. it has entered into this Agreement for the proper administration of the Trust;
			4. all necessary resolutions, consents, approvals and procedures have been obtained or duly satisfied to enter into this Agreement and perform the obligations under it; and
			5. it has the right to be indemnified out of the assets of the Trust for all liabilities incurred by it under this Agreement.
		3. The Grantee also acknowledges s105B of the Act and agrees that it applies to this Agreement as though a reference in that section to ‘Act’ were a reference to this Agreement.
	3. Illegal or Corrupt Practice
		1. **Illegal or Corrupt Practice** means directly or indirectly:
			1. making or causing to be made, any offer, gift, payment, consideration or benefit of any kind to any party, or
			2. receiving or seeking to receive, any offer, gift, payment, consideration or benefit of any kind from any party, as an inducement or reward in relation to the performance of the Activity, which would or could be construed as an illegal or corrupt practice.
		2. The Grantee warrants that the Grantee, its officers, employees, contractors, agents and any other individual or entity involved in carrying out the Activity have not, engaged in an Illegal or Corrupt Practice.
		3. The Grantee agrees not to, and to take all reasonable steps to ensure that its officers, employees, contractors, agents and any other individual or entity involved in carrying out the Activity do not:
			1. engage in an Illegal or Corrupt Practice; or
			2. engage in any practice that could constitute the offence of bribing a foreign public official contained in section 70.2 of the *Criminal Code Act 1995* (Cth).
		4. The Grantee agrees to inform the Commonwealth within 5 business days if the Grantee becomes aware of any activity as described in clause G13.3 in relation to the performance of the Activity.
	4. Value with Relevant Money
		1. The Grantee acknowledges that:
			1. the Commonwealth must comply with the *Public Governance, Performance and Accountability Act* (PGPA Act) and the *Commonwealth Grants Rules and Guidelines* (CGRGs), which require all commitments of public resources to be efficient, effective, economical and ethical;
			2. in administering the Grant, the Commonwealth will consider whether the expenses incurred in undertaking the Activity achieve ‘value with relevant money’ (as described in section 11 of the CGRGs) with reference to the following factors, including (but not limited to):
			3. the quality of the Activity;
			4. fitness for purpose of the Activity in contributing to the Commonwealth’s objectives;
			5. that the absence of the Grant is likely to prevent the Grantee and Commonwealth’s outcomes being achieved; and
			6. the Grantee’s relevant experience and performance history.
	5. Travel expenses
		1. So that the Commonwealth can meet its obligations under clause G14, the Grantee agrees, in relation to any travel expenses incurred in undertaking the Activity, to claim only the following as eligible expenses:
			1. For travel within Australia
1. the reasonable amounts for meals, accommodation and incidentals up to the maximum amounts under Taxation Determination 2021/6 (and its replacement determination each year), for the middle salary tier ($129,251 to $230,050 in 2021–22);
2. economy class airfares;
	* + 1. For overseas travel
3. up to business class airfares for international flights between countries; and
4. up to $350 per day for meals, accommodation, ground transport and incidentals.
	1. Counterparts and electronic signatures
		1. This Agreement may be executed in counterparts, with each counterpart deemed to constitute one and the same Agreement. This Agreement may also be executed electronically by each Party and any such electronic execution will be deemed an original signature for the purpose of this Agreement.
		2. For the purpose of this Agreement, electronic execution may be made by each Party accepting the Agreement through the online application portal, with that acceptance recorded in the ‘Signatures’ section of this Agreement.
		3. This Agreement will not be taken to be entered into until each Party has exchanged an executed counterpart of the Agreement.
	2. Novation
		1. The Grantee may not take any action to novate this Grant Agreement to another entity without the prior approval of the Commonwealth. Any novation will be contingent on the new entity meeting all eligibility requirements under the grant program and must be executed by a Deed of Novation between the Parties.
		2. Only the parties and their relevant details can be changed by way of a Deed of Novation and no updates to the requirements or terms of the Grant Agreement will be made.

## Signatures

Executed as an agreement:

### Commonwealth of Australia

Executed electronically for and on behalf of the Commonwealth of Australia as represented by the Australian Trade and Investment Commission.

|  |  |
| --- | --- |
| Name | <name> |
| Position | <position > |
| Date and time of electronic execution | <date and time> |

### Grantee

Executed electronically by:

|  |  |
| --- | --- |
| Full legal name of the Grantee | <name of the grantee>ABN <ABN of the grantee> |
| Name of Authorised Representative | <name of authorised representative> |
| Date and time of electronic execution | <date and time of acceptance> |

## Schedule 1 Commonwealth General Grant Conditions

1. Undertaking the Activity

The Grantee agrees to undertake the Activity in accordance with this Agreement.

1. Acknowledgements

The Grantee agrees to acknowledge the Commonwealth’s support in Material published in connection with this Agreement and agrees to use any form of acknowledgment the Commonwealth reasonably specifies.

1. Notices
	1. Each Party agrees to notify the other Party of anything reasonably likely to adversely affect the undertaking of the Activity, management of the Grant or its performance of its other requirements under this Agreement.
	2. A notice under this Agreement must be in writing, signed by the Party giving notice and addressed to the other Party’s representative.
	3. The Commonwealth may, by notice, advise the Grantee of changes to the Agreement that are minor or of an administrative nature provided that any such changes do not increase the Grantee’s obligations under this Agreement. Such changes, while legally binding, are not variations for the purpose of clause 7.
2. Relationship between the Parties

A Party is not by virtue of this Agreement the employee, agent or partner of the other Party and is not authorised to bind or represent the other Party.

1. Subcontracting
	1. The Grantee is responsible for the performance of its obligations under this Agreement, including in relation to any tasks undertaken by subcontractors.
	2. The Grantee agrees to make available to the Commonwealth the details of any of its subcontractors engaged to perform any tasks in relation to this Agreement upon request.
2. Conflict of interest

The Grantee agrees to notify the Commonwealth promptly of any actual, perceived or potential conflicts of interest which could affect its performance of this Agreement and agrees to take action to resolve the conflict.

1. Variation

This Agreement may be varied in writing only, signed by both Parties.

1. Payment of the Grant
	1. The Commonwealth agrees to pay the Grant to the Grantee in accordance with the Grant Details.
	2. The Commonwealth may by notice withhold payment of any amount of the Grant where it reasonably believes the Grantee has not complied with this Agreement or is unable to undertake the Activity.
	3. A notice under clause 8.2 will contain the reasons for any payment being withheld and the steps the Grantee can take to address those reasons.
	4. The Commonwealth will pay the withheld amount once the Grantee has satisfactorily addressed the reasons contained in a notice under clause 8.2.
2. Spending the Grant
	1. The Grantee agrees to spend the Grant for the purpose of undertaking the Activity only.
	2. The Grantee agrees to provide a statement signed by the Grantee verifying the Grant was spent in accordance with the Agreement.
3. Repayment
	1. If any of the Grant has been spent other than in accordance with this Agreement or any amount of the Grant is additional to the requirements of the Activity, the Grantee agrees to repay that amount to the Commonwealth unless agreed otherwise.
	2. The amount to be repaid under clause 10.1 may be deducted by the Commonwealth from subsequent payments of the Grant or amounts payable under another agreement between the Grantee and the Commonwealth.
4. Record keeping

The Grantee agrees to maintain records of the expenditure of the Grant.

1. Intellectual Property
	1. Subject to clause 12.2, the Grantee owns the Intellectual Property Rights in Activity Material and Reporting Material.
	2. This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material.
	3. The Grantee gives the Commonwealth a non-exclusive, irrevocable, royalty-free licence to use, reproduce, publish and adapt Reporting Material for Commonwealth Purposes.
2. Privacy

When dealing with Personal Information in carrying out the Activity, the Grantee agrees not to do anything which, if done by the Commonwealth, would be a breach of an Australian Privacy Principle.

1. Confidentiality

The Parties agree not to disclose each other’s confidential information without prior written consent unless required or authorised by law or Parliament.

1. Insurance

The Grantee agrees to maintain adequate insurance for the duration of this Agreement and provide the Commonwealth with proof when requested.

1. Indemnities
	1. The Grantee indemnifies the Commonwealth, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.
	2. The Grantee's obligation to indemnify the Commonwealth will reduce proportionally to the extent any act or omission involving fault on the part of the Commonwealth contributed to the claim, loss or damage.
2. Dispute resolution
	1. The Parties agree not to initiate legal proceedings in relation to a dispute unless they have tried and failed to resolve the dispute by negotiation.
	2. The Parties agree to continue to perform their respective obligations under this Agreement where a dispute exists.
	3. The procedure for dispute resolution does not apply to action relating to termination or urgent litigation.
3. Termination for default

The Commonwealth may terminate this Agreement by notice where it reasonably believes the Grantee:

* + 1. has breached this Agreement; or
		2. has provided false or misleading statements in their application for the Grant; or
		3. has become bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration.
1. Cancellation for convenience
	1. The Commonwealth may cancel this Agreement by notice, due to
		1. a change in government policy; or
		2. a Change in the Control of the Grantee, which the Commonwealth believes will negatively affect the Grantee’s ability to comply with this Agreement.
	2. The Grantee agrees on receipt of a notice of cancellation under clause 19.1 to:
		1. stop the performance of the Grantee's obligations as specified in the notice; and
		2. take all available steps to minimise loss resulting from that cancellation.
	3. In the event of cancellation under clause 19.1, the Commonwealth will be liable only to:
		1. pay any part of the Grant due and owing to the Grantee under this Agreement at the date of the notice; and
		2. reimburse any reasonable expenses the Grantee unavoidably incurs that relate directly to the cancellation and are not covered by 19.3(a).
	4. The Commonwealth’s liability to pay any amount under this clause is subject to:
		1. the Grantee's compliance with this Agreement; and
		2. the total amount of the Grant.
	5. The Grantee will not be entitled to compensation for loss of prospective profits or benefits that would have been conferred on the Grantee.
2. Survival

Clauses 10, 12, 13, 14, 16, 20 and 21 survive termination, cancellation or expiry of this Agreement.

1. Definitions

In this Agreement, unless the contrary appears:

* **Activity** means the activities described in the Grant Details.
* **Activity Completion Date** means the date or event specifiedin the Grant Details.
* **Activity Material** means any Material, other than Reporting Material, created or developed by the Grantee as a result of the Activity and includes any Existing Material that is incorporated in or supplied with the Activity Material.
* **Agreement** means the Grant Details, Supplementary Terms (if any), the Commonwealth General Grant Conditions and any other document referenced or incorporated in the Grant Details.
* **Agreement End Date** means the date or event specified in the Grant Details.
* **Asset** means any item of property purchased wholly, or in part, with the use of the Grant.
* **Australian Privacy Principle** has the same meaning as in the *Privacy Act 1988.*
* **Change in the Control** means any change in any person(s) who directly exercise effective control over the Grantee.
* **Commonwealth** means the Commonwealth of Australia as represented by the Commonwealth entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
* **Commonwealth General Grant Conditions** means this document.
* **Commonwealth Purposes** does not include commercialisation or the provision of the Material to a third party for its commercial use.
* **Existing Material** means Material developed independently of this Agreement that is incorporated in or supplied as part of Reporting Material or Activity Material.
* **Grant** means the money, or any part of it, payable by the Commonwealth to the Grantee as specified in the Grant Details.
* **Grantee** means the legal entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
* **Grant Details** means the document titled Grant Details that forms part of this Agreement.
* **Intellectual Property Rights** means all copyright, patents, registered and unregistered trademarks (including service marks), registered designs, and other rights resulting from intellectual activity (other than moral rights under the *Copyright Act 1968*).
* **Material** includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.
* **Party** means the Grantee or the Commonwealth.
* **Personal Information** has the same meaning as in the *Privacy Act 1988.*
* **Reporting Material** means all Materialwhich the Grantee is required to provide to the Commonwealth for reporting purposes as specified in the Grant Details and includes any Existing Material that is incorporated in or supplied with the Reporting Material.
* **Year** means:
* In the case of Year 1: the period from the start of the Activity specified in Item C. Duration of the Grant until the next 30 June; and
* In the case of each subsequent Year: the 12-month period from the end of the previous Year.

## Schedule 2 Reporting templates

**Appendix 1**

Export Market Development Grants -
Milestone Report

The milestone report is to be completed in conjunction with your Grant Agreement (see Grant Details E) and the EMDG Grant Guidelines. Note: You must complete and submit your milestone report online via the EMDG online portal.

* + - 1. General reporting requirements

| **Item** | **Response**  |
| --- | --- |
| Reporting Period |  |
| Total Grant amount |  |
| Maximum amount for this Reporting Period  |  |
| Total grant monies received by the Grantee to date  |  |

###### Grant eligibility

|  |  |
| --- | --- |
| **Item** | **Response**  |
| I confirm and declare that I have complied with the provisions of Grant Agreement and the EMDG Act, the EMDG Rules and Grant Guidelines that:* I have a valid ABN
* I had no disqualifying convictions
* I am not under insolvency administration (this does not apply to Representative Bodies as defined in the Act and Rules)
* I have a designated connection to eligible product(s) or I am Representative Body and my members have a designated connection to the eligible product(s).
* I have contributed at least 50% of my own funds to the grant activities
 |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|

|  |  |  |
| --- | --- | --- |
|  | [ ]  yes | [ ]  no |
|  |  |  |
|  |  |  |

 |

 |
| Please include details of any change of circumstances to your business that may affect your eligibility. |  |

###### Plan to market

|  |  |  |  |
| --- | --- | --- | --- |
| Is your grant activity proceeding in line with your plan to market? |

|  |  |
| --- | --- |
| [ ]  yes | [ ]  no [ ]  not applicable |

 |
| Please describe any changes or anticipated changes to:* Eligible product/s
* Goals you are seeking to address through marketing
* Budget in future year/s
 |  |
| Have you been tracking your progress against the indices you described in your plan to market? |

|  |  |
| --- | --- |
| [ ]  yes | [ ]  no [ ]  not applicable |

Please describe your results |

###### Grantee bank account details

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| I confirm that the bank account details as per Section D of the Grant Agreement have not changed. |

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | [ ]  yes | [ ]  no |

If no, please provide updated details:* BSB Number
* Financial institution and branch
* Account number
* Name on bank account
 |

###### Export income

|  |  |
| --- | --- |
| Your export income for the Reporting Period.  | $ |
| Has your export income increased, decreased or remained the same since the last Reporting Period? | [ ]  Increased[ ]  Decreased[ ]  Remained the same[ ]  Not applicablePlease provide details.  |

###### Total number of employees

|  |  |
| --- | --- |
| What is the total number of employee s of your business for the Reporting Period.Include all full and part time employees, contractors and working directors. |  |

###### Benefits and developments from activities

|  |  |
| --- | --- |
| Provide details of any benefits or developments to your business as a result of the Activity, including:* Details of export income
* Details of promotional/training spend
 |  |

* + - 1. Expenditure

###### Details of the Activity

Briefly describe the promotional activity you have undertaken during the Reporting Period that is helping you work towards your goal (OR if you are Representative Body only providing training to your members, briefly describe the training activities you have provided to your members during the Reporting Period). Please use a new line item/dot point for each high-level activity. EXAMPLE: Commencing social media marketing campaign in Country X.

<free text box>

###### Compliance with requirements of your Tier

Briefly explain how the activities have been carried out for the purposes of marketing your product overseas and seeking to expand your export promotion activity (OR if you are Representative Body only providing training to your members, briefly explain how the activities have helped your members become export ready). EXAMPLE: Social media marketing in Country X will help expand our customer base in our target region.

<free text box>

###### Marketing or expanding goal you are working towards (This will link to Q4 in your Plan to market)

Briefly describe your goal and how the activities undertaken have contributed to this goal, or how you have had to adjust your activities due to changes in circumstances. This goal may be in your plan to market (except for Representative Bodies who are only seeking grant funds for training their members) or may be a new goal. EXAMPLE: Gain more customers in Country X. Initially growth was targeted to the Country Y, however, trade barriers have meant we needed to pivot to Country X.

<free text box>

###### Eligible Expenditure

Complete the table against the Eligible Expenditure Categories. The Grantee must disclose only on ‘eligible expenses’ for ‘eligible products’ (as defined in the Act and Rules (provide links)) in respect of:

a. promotional activities undertaken for the purposes of marketing an eligible product in a foreign country; and/or

b. obtaining training for the purposes of developing the skills of the Grantee in marketing eligible products in foreign countries.

The Grantee must not seek grant funding support on any expenditure excluded in the EMDG Rules (sections 38 to 47). Specifically, expenses for promoting products that are subject to trade sanctions or that might have a detrimental impact on Australia’s trade reputation are not eligible and must not be included.

The Grantee must provide an invoice (or other supporting documentation\*) for the largest eligible expenditure item related to the Grant Activity during the Reporting Period as evidence.

\*If you don’t have an invoice, other supporting documents you provide may include:

* Agreement or Letter of Appointment, showing the relationship, role, duties, function and reporting requirements from a third-party supplier or service provider
* Credit card or Bank statements
* Journal or General ledger transaction details
* Details of renumeration (e.g. Payslips, Employment contracts)
* Travel invoices

###### Where only a portion of an expense is an ‘eligible expense’, such as travel expenses where a component of the trip relates to activities that are not part of the Activity, the Grantee must provide details of the apportionment and the basis upon which the apportionment has been made.

All eligible expenditure should be GST exclusive. Complete the table for all eligible expenditure categories for which you are seeking a grant payment in this reporting period.  Please note the total grant sought cannot be greater than the maximum grant amount that is stated in your grant agreement for the reporting period.  Your obligation is to match the dollar value of the grant monies you receive (this means you must spend double the grant amount), noting:

* If you spend more, you will not receive more grant money. The amount in your grant agreement is the maximum you will receive.
* If you spend less, you will only receive an amount equal to the amount you contributed (i.e., if your grant agreement is for $15,000 and you spend $20,000 on eligible expenditure you will only receive $10,000).

|  |  |  |  |
| --- | --- | --- | --- |
| Eligible expenses category | Total eligible expenditure (AUD) | Amount of grant sought (AUD) | Grantee's contribution amount (AUD) |
| e.g. free samples |  |  |  |
| TOTAL  |  |  |  |

**Detailed description of the expenses for the particular activity described (for each expense category that may apply to that activity).**

For example: Promotional and advertising material category: $5,000 paid to marketing firm X to run Facebook campaign

APPORTIONING: Where only a portion of an expense is an ‘eligible expense’ such as travel expenses where a component of the trip relates to activities that are not part of the Activity (for example, activities of a personal or private nature), you must provide details of the apportionment and the basis upon which the apportionment has been made.

Your trip overseas may involve both marketing activities and personal or other business-related activities. If your records (such as diary entries, itineraries, etc) indicate that 30% of your trip was spent on promotional activities (for the purposes set out in your Grant Agreement), you apportion 30% of the trip costs to eligible marketing expenses.

Provide detailed description of the expense categories.

<free text box>

* + - 1. Overseas representatives and Consultants

If the expenses include maintaining representation in a foreign country and/or consultants, the following information is required:

Name of the overseas representative and/or consultant

Address

Country

Phone

Email address

A breakdown of how the expenses were paid (EFT, Cash, Contra) and when the expenses were paid.

Was the cost of the overseas representative $60,000 or more?

If yes, please attach a copy of the representative agreement/contract

* + - 1. Current exports

Enter your export earnings and expenditure for the reporting period. Expenditure should be attributed to the target export market.

If you are exporting to more than nine markets, or, your expenses or earnings are less than 10% in a market, please group these other markets together in rest of the world. Note: The 'Rest of the World' option can only be used if the Expenses for 'Rest of the World' are 20% or less OR at least three countries have had expenses recorded.

|  |  |  |
| --- | --- | --- |
| **Country** | **Expenses A$** | **Earnings A$** |
| Export Market 1 | $ | $ |
| Export Market 2 | $ | $ |
| Export Market 3 | $ | $ |
| Export Market 4 | $ | $ |
| Export Market 5 | $ | $ |
| Export Market 6 | $ | $ |
| Export Market 7 | $ | $ |
| Export Market 8 | $ | $ |
| Export Market 9 | $ | $ |
| Rest of the world | $ | $ |
| Total | $ | $ |

* + - 1. Report finalisation

Prior to submitting your milestone report it is important to review the information to confirm that you:

* completed all the relevant fields and the information is accurate.
* requested a grant only for eligible expenses as per the EMDG Act and Rules.
* can upload an invoice (or other supporting documentation) to substantiate the largest eligible expenditure item related to the Grant Activity during the Reporting Period as evidence.
* will be able to provide on request invoices, payment records and other supporting evidence of all eligible expenditure for which you are seeking grant funds and be able to explain how the expenses have been spent in accordance with the grant agreement. Austrade may ask you for further information and documentation under Section 102 of the EMDG Act.
	+ - 1. Agreed evidence

The Grantee must provide an invoice (or other supporting documentation\*) for the largest eligible expenditure item related to the Grant Activity during the Reporting Period as evidence.  \*If you don’t have an invoice, other supporting documents you provide may include:

Agreement or Letter of Appointment, showing the relationship, role, duties, function and reporting requirements from a third-party supplier or service provider

Credit card or Bank statements

Journal or General ledger transaction details

Details of remuneration (e.g. Payslips, Employment contracts)

Travel invoices

* + - 1. Declaration

I confirm that the information in this report has been reviewed by and confirmed as correct by [Insert grantee authorised person name], as the **authorised person** of the grantee.

(Please note: the ‘**authorised person’** must be the same person who accepted the EMDG agreement, or person otherwise notified to Austrade by the grantee as the authorised representative of the grantee.)

I am authorised by the grantee to submit this report and declare:

1. the information in this report is accurate, complete and not misleading and that I understand the giving of false or misleading information is a serious offence under the *Criminal Code 1995 (Cth).*
2. the activities undertaken and the expenditure incurred is in accordance with the Grant Agreement.
3. I am aware (or [if not submitted by the authorised person] the authorised person of the Grantee has confirmed to me that they are aware) of the Grantee’s obligations under their Grant Agreement, including survival clauses.
4. I am aware (or [if not submitted by the authorised person] the authorised person of the Grantee has confirmed to me that they are aware) that the Grant Agreement empowers the Commonwealth to terminate the Grant Agreement and to request repayment of funds paid to the Grantee where the Grantee is in breach of the Grant Agreement.
5. I agree (or [if not submitted by the authorised person] I have confirmed with the authorised person of the grantee who agrees) to maintain the following records:
	* identify the receipt and expenditure of the Grant and any Other Contributions separately within the Grantee's accounts and records so that at all times the Grant is identifiable; and
	* keep financial accounts and records relating to the Activity so as to enable all receipts and payments related to the Activity to be identified and reported; and
	* keep records of the reports lodged in accordance with the Grant Details. G3.2 The Grantee agrees to maintain the records for five years after the Activity Completion Date and provide copies of the records to the Commonwealth representative upon request.

[ ] By checking this box I agree to all of the above declarations and confirm all of the above statements to be true.

[CHECK BOX]

Name and position of authorised person submitting this milestone report:

Date:

Appendix 2

Export Market Development Grants -
Follow up - Activity report requirements

You will need to provide the following information in your follow up activity report. The Commonwealth reserves the right to amend or adjust the requirements.

You must complete and submit your report on the portal. You can enter the required information in stages and submit when it is complete.

* + - 1. Activity achievements and outcomes
1. Outline any ongoing benefits or developments to your business as a result of the Grant and the conduct of the Activity.
	* + 1. Business indicators
2. What is your business’ export income for this reporting period?
3. Has your export income increased, decreased or remained the same since the last reporting period?

[ ]  Increased

[ ]  Decreased

[ ]  Remained the same

[ ]  Not applicable

Provide details.

1. Provide employee numbers of your business (full time headcount) for this reporting period.

Provide details if this figure has changed since your last reporting period.

1. Is there any other information you would like to share about your business and how EMDG has assisted you?
	* + 1. Current exports and expenditure

Enter your export earnings and expenditure for the reporting period. Expenditure should be attributed to the target export market.

If you are exporting to more than nine markets, or, your expenses or earnings are less than 10% in a market, please group these other markets together in rest of the world. Note: The 'Rest of the World' option can only be used if the Expenses for 'Rest of the World' are 20% or less OR at least three countries have had expenses recorded.

The Grantee must not seek grant funding support on any expenditure excluded in the EMDG Rules (sections 38 to 47). Specifically, expenses for promoting products that are subject to trade sanctions or that might have a detrimental impact on Australia’s trade reputation are not eligible and must not be included.

|  |  |  |
| --- | --- | --- |
| **Country** | **Expenses A$** | **Earnings A$** |
| Export Market 1 | $ | $ |
| Export Market 2 | $ | $ |
| Export Market 3 | $ | $ |
| Export Market 4 | $ | $ |
| Export Market 5 | $ | $ |
| Export Market 6 | $ | $ |
|  Export Market 7 | $ | $ |
| Export Market 8 | $ | $ |
| Export Market 9 | $ | $ |
| Rest of the world | $ | $ |
| Total | $ | $ |

* + - 1. Declaration

I confirm that the information in this report has been reviewed by and confirmed as correct by [Insert grantee authorised person name], as the **authorised person** of the grantee.

(Please note: the ‘**authorised person’** must be the same person who accepted the EMDG agreement, or person otherwise notified to Austrade by the grantee as the authorised representative of the grantee.)

I am authorised by the grantee to submit this report and declare:

1. the information in this report is accurate, complete and not misleading and that I understand the giving of false or misleading information is a serious offence under the *Criminal Code 1995 (Cth).*
2. the activities undertaken and the expenditure incurred is in accordance with the Grant Agreement.
3. I am aware (or [if not submitted by the authorised person] the authorised person of the Grantee has confirmed to me that they are aware) of the Grantee’s obligations under their Grant Agreement, including survival clauses.
4. I am aware (or [if not submitted by the authorised person] the authorised person of the Grantee has confirmed to me that they are aware) that the Grant Agreement empowers the Commonwealth to terminate the Grant Agreement and to request repayment of funds paid to the Grantee where the Grantee is in breach of the Grant Agreement.
5. I agree (or [if not submitted by the authorised person] I have confirmed with the authorised person of the grantee who agrees) to maintain the following records:
	* identify the receipt and expenditure of the Grant and any Other Contributions separately within the Grantee's accounts and records so that at all times the Grant is identifiable; and
	* keep financial accounts and records relating to the Activity so as to enable all receipts and payments related to the Activity to be identified and reported; and
	* keep records of the reports lodged in accordance with the Grant Details. G3.2 The Grantee agrees to maintain the records for five years after the Activity Completion Date and provide copies of the records to the Commonwealth representative upon request.

[ ] By checking this box I agree to all of the above declarations and confirm all of the above statements to be true.

[CHECK BOX]

Name and position of authorised person submitting this follow up report:

Date: