

THE PRINCE'S TRUST AUSTRALIA LIMITED

(referred to as 'Prince's Trust Australia' or 'We', 'Our', or 'Us')

PROGRAM PARTNER TERMS AND CONDITIONS

[Version 2020.01 July 2020]

EACH OF THE FOLLOWING TERMS AND CONDITIONS APPLY TO ANY MEMORANDUM OF UNDERSTANDING ("MOU") ENTERED BETWEEN PRINCE'S TRUST AUSTRALIA AND ITS PROGRAM PARTNERS UNLESS THE PARTIES AGREE TO CHANGE A SPECIFIC TERM OR CONDITION IN THEIR MOU.

IF A CHANGE TO A TERM OR CONDITION IS AGREED, OR SHOULD THERE BE A CONFLICT BETWEEN THE MOU AND THESE TERMS AND CONDITIONS, THE TERM OR CONDITION IN THE AGREEMENT PREVAILS.

1. DEFINITIONS AND INTERPRETATION

Definitions

- 1.1 Unless otherwise agreed within the terms of the Memorandum of Understanding, in any Memorandum of Understanding ("MOU") entered between Prince's Trust Australia and the Program Partner, the following definitions apply:

"Confidential Information" in respect of a party, means information in whatever form, including the terms of the MOU and any information relating to the MOU, and any information concerning a party's business, including that party's work procedures, processes, employees, customers, services, affairs or businesses, handbooks, standards, technical knowledge, intellectual property, concepts, ideas, designs, programs, data or application systems, codes and associated documents or information and whether owned by, licensed to or otherwise in the power, possession or control of that party.

"Exclusive Period" means the period commencing on and continuing until the dates documented in Schedule A of the MOU entered by the parties and is subject to the terms agreed in the MOU.

"Insolvency Event" in relation to a party means anything that indicates that there is a significant risk that that party is or will become unable to pay its debts as and when they become due and payable: including a party being insolvent as that term is defined in section 95A of the *Corporations Act 2001*, the appointment of a liquidator to that party, the appointment of an administrator to that party, the calling of a meeting of creditors of the party to consider a composition, any application being made to wind up that party in insolvency in circumstances where that application is not stayed or dismissed within 10 business days of filing the application, the appointment of a controller as defined in section 9 of the *Corporations Act 2001* to any asset or assets of that party or that party ceasing or threatening to cease to carry on its business.

"Program" means defined activities related to the specific Sustainable Communities program or project which is documented in the MOU under Schedule A and such activities are subject to the terms agreed in the MOU.

"Resolution Institute" means Resolution Institute ABN 69 008 651 232, an Australasian not-for-profit membership organisation that promotes alternative dispute resolution including mediation.

Interpretation

1.2 In the interpretation of the MOU, the following provisions apply unless the context otherwise requires:

1.1.1 A reference in the MOU to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Melbourne, Victoria.

1.1.2 If the day on which any act, matter or thing is to be done under the agreement is not a business day, the act, matter or thing must be done on the next business day.

1.1.3 A reference in the MOU to any document or agreement is to that document or agreement as amended, novated, supplemented or replaced.

1.1.4 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.

1.1.5 A word which indicates the singular also indicates the plural, a word which indicates the plural also indicates the singular, and a reference to any gender also indicates other genders.

1.1.6 A reference to the word 'include' or 'including' is to be interpreted without limitation.

1.1.7 Any schedules and attachments or attachments form part of the MOU.

2. OBLIGATIONS OF PRINCE'S TRUST AUSTRALIA

2.1 Prince's Trust Australia will act in 'good faith' and in line with the preferences of Program Partner outlined in the MOU.

2.2 Prince's Trust Australia will act to cultivate a productive relationship to meet the needs of both parties' strategic objectives and aligned interests.

2.3 Prince's Trust Australia's engagement with Program Partner's staff and beneficiaries will:

2.3.1 be truthful;

- 2.3.2 accurately describe Prince's Trust Australia's activities and the intended collaboration with Program Partner and the Program activities;
- 2.3.3 respect the dignity and privacy of the participants of the Program who benefit from the Program's activities;
- 2.3.4 respect the dignity and privacy of Program Partner's staff, volunteers and other affiliated stakeholders;
- 2.3.5 promptly respond to Program Partner with respect to any requests or concerns they have communicated, and promptly communicate any concerns that Prince's Trust Australia may have with Program Partner;
- 2.3.6 take reasonable steps to uphold Program Partner's reputation and endeavour to prevent negative attention being drawn to their association with Prince's Trust Australia;
- 2.3.7 adhere to the provisions of the guidelines outlined in the MOU; and
- 2.3.8 act with fairness, integrity, and in accordance with all applicable laws.

3. OBLIGATIONS OF PROGRAM PARTNER

- 3.1 Program Partner will act in 'good faith' and in line with the requirements of Prince's Trust Australia outlined in the MOU.
- 3.2 Program Partner will act to cultivate a productive relationship to meet both parties' needs, strategic objectives and their aligned interests.
- 3.3 Program Partner's staff will:
 - 3.3.1 be truthful;
 - 3.3.2 accurately describe the Program Partner's activities and the intended collaboration with Prince's Trust Australia and the Program activities;
 - 3.3.3 Respect the dignity and privacy of those who benefit from the Program's activities;
 - 3.3.4 Respect the dignity and privacy of the beneficiaries, staff, Patrons and Trustees of Prince's Trust Australia.
- 3.4 Promptly respond to Prince's Trust Australia with respect to any requests or concerns they have communicated; and promptly communicate any concerns that Program Partner has with Prince's Trust Australia;
- 3.5 Take reasonable steps to uphold the reputation of Prince's Trust Australia and endeavour to prevent negative attention being drawn to their association with Prince's Trust Australia, The Prince's Trust Group or His Royal Highness The Prince of Wales;
- 3.6 adhere to the provisions of the guidelines outlined in the MOU; and

3.7 act with fairness, integrity, and in accordance with all applicable laws.

4. DATA PROTECTION

4.1 The parties will adhere to applicable Australian Law in privacy principles and guidelines and other applicable privacy law.

4.2 Each party will ensure it is compliant with relevant data protection law and regulation, as well as following advice given to it by its respective management or legal advisors to ensure it does not obtain, process, store, sell or pass on data unlawfully.

4.3 The parties will at all times be aware of the sensitivity of information gathered and held on Program's participants, donors, other affiliated individuals, and Program Partner. Both parties will ensure that information acquired via all channels, particularly information not in the public domain, is treated with the utmost respect.

5. FINANCIAL ACCOUNTABILITY

5.1 The financial affairs of the parties will be conducted in a responsible manner and are subject to the ethical obligations of stewardship and risk management of Australian Corporations Law and practices of the Australian Charities and Non-profit Commission.

5.2 All donations received by Prince's Trust Australia from its Patrons, supporters and sponsors will be used to support the Objects in the Constitution of Prince's Trust Australia.

5.3 An annual financial report will be produced by Prince's Trust Australia in line with Australian Corporations Law and recommendations of the Australian Charities and Not-for-profit Commission. It will be signed by the Chair and it is acknowledged by Program Partner that the Program Partner's participation in the Partnership may be recognised in the annual financial report.

6. CONFIDENTIALITY

6.1 Each party will:

6.1.1 hold all Confidential Information of the other party in strict confidence and not disclose or allow to be disclosed any of it to any person except for the purposes contemplated by the MOU or otherwise as permitted or directed by the other party; and

6.1.2 not cause or allow the other party's Confidential Information to be photocopied, reproduced or recorded in any manner except for the purposes contemplated by the MOU or with the prior written consent of the other party.

6.2 Each party must ensure that Confidential Information of the other party will be disclosed only to its officers, employees, patrons in attendance at programs and suppliers who have a need to know (and only to the extent that each has a need to know) the information. Each party will ensure that at all times each officer,

employee, patron in attendance at a program or suppliers to whom Confidential Information of the other party has been disclosed keeps that information confidential.

6.3 The obligations of confidentiality imposed by the clause do not extend to information that:

4.3.1 is rightfully known to or in the possession or control of the receiving party and there is no obligation of confidentiality in relation to that information on the receiving party;

4.3.2 is required to be disclosed by law or the rules of any stock exchange where the party's securities are, or are intended to be, listed or quoted; or

4.3.3 is public knowledge otherwise than resulting from a breach of an obligation of confidentiality.

6.4 The obligations provided for in the clause survive the expiry or termination of the MOU.

6.5 Each party acknowledges that damages may not be an adequate remedy for any breach of the clause. Each party agrees to consent to the grant of any injunctive relief sought by the other party to restrain any conduct or threatened conduct which is or will be a breach of the clause, or specific performance to compel it to perform its obligations under the clause, as a remedy for any breach or threatened breach and in addition to any other remedies available to the other party.

6.6 If a party requests the return of its Confidential Information at any time, or if the Confidential Information is no longer required by the other party for the purpose contemplated by the MOU, the other party must immediately return all material containing Confidential Information in the possession, power or control of the other party.

6.7 If requested by another party ("**Requesting Party**"), a party must destroy all material containing Confidential Information of the Requesting Party which is in its possession, power or control.

6.8 For the purposes of the clause, material containing Confidential Information includes:

6.8.1 any material created or generated by a recipient of Confidential Information of another party which contains that Confidential Information;

6.8.2 material in any form of storage from which the Confidential Information can be reproduced; and

6.8.3 material in any form in which the Confidential Information is embodied or encoded.

7. REPRESENTATIONS AND WARRANTIES

Mutual representations and warranties

7.1 Each party warrants to the other that:

- 7.1.1 it has the requisite power and authority to enter into and perform the MOU;
- 7.1.2 the MOU has been duly authorised and executed, and the Binding Clauses constitute binding obligations upon it;
- 7.1.3 compliance with the terms of the MOU does not and will not conflict with, or constitute a default under, any provision of:
 - 7.1.3.1 any agreement or instrument to which it is a party; or
 - 7.1.3.2 its constitution; or
 - 7.1.3.3 any lien, lease, order, judgment, award, injunction, decree, ordinance or regulation or any other restriction of any kind or character by which it is bound; and
 - 7.1.3.4 no further consent, approval or authorisation of any governmental agency or other person is required by it for the entry into the MOU.

9. TERMINATION

9.1 The MOU will terminate:

- 9.1.1 if a party gives the other 30 days' written notice of termination after breaching any of the Binding Clauses (as defined in Clause 11.3) of the MOU;
- 9.1.2 if a party suffers an Insolvency Event;
- 9.1.3 on the effective date of a notice by one party to the other of a significant event in which, in the view of the affected party, has brought negative attention to that affected party with the potential of materially damaging its reputation; or
- 9.1.4 upon both parties entering a termination agreement for any reason agreed between the parties.

10. DISPUTE RESOLUTION

Negotiate in Good Faith

- 10.1 In the event that a dispute arises between the parties, other than as provided in Clause 9 (Termination), the parties shall endeavour to negotiate the dispute in good faith.

Mediation

- 10.2 If the parties are unable to resolve the dispute by negotiation in good faith within 14 days of the dispute arising, the dispute will be referred to mediation in Melbourne before a mediator appointed by the parties, or if the parties cannot agree on the mediator, a mediator appointed by the Chair of Resolution Institute. The costs of the appointed mediator will be borne equally by the parties.

- 10.3** Except to the extent inconsistent with the clause, the Resolution Institute Mediation Rules shall apply to the mediation. The parties will engage in the mediation process in good faith and with the aim of reaching a resolution of the dispute by mediation within 30 days of the appointment of a mediator.

Failure to Resolve

- 10.4** If a dispute between the parties is not resolved by mediation in accordance with the clause within 30 days of referral to mediation (unless such period is extended by agreement of the parties) it shall be and is hereby submitted to arbitration in accordance with, and subject to, Resolution Institute Arbitration Rules. Notwithstanding the existence of a dispute or difference each party shall continue to perform the MOU's obligations.
- 10.5** Unless the parties agree upon an arbitrator, either party may request a nomination from the Chair of Resolution Institute.

11. MISCELLANEOUS

Governing Law

- 11.1** Unless another jurisdiction is agreed in the MOU, the MOU, and any disputes or claims arising out of or in connection with it or its validity or interpretation, shall be governed by the laws of Victoria, Australia.

Consent

- 11.2** Whenever a party's approval or consent is required under the MOU, the party must not unreasonably withhold its approval or consent.

Nature of agreement

- 11.3** With respect to these Terms and Conditions which are accepted by both parties on entering the MOU, Clause 4 ('Data Protection'), Clause 5 ('Financial Accountability') and Clause 6 ('Confidentiality') are each legally binding ("Binding Clauses").