



DATED: Date Month 2007

HER MAJESTY THE QUEEN
in right of New Zealand acting by and through the
SECRETARY FOR INTERNAL AFFAIRS

and

FULL LEGAL NAME OF RECIPIENT

AGREEMENT

for the provision of a Crown funded grant from
the Community Partnership Fund

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THIS AGREEMENT is made on Date Month 2007

BETWEEN **HER MAJESTY THE QUEEN** in right of New Zealand acting by and through the **SECRETARY FOR INTERNAL AFFAIRS** (the “Crown”)

AND **[NAME OF INCORPORATED SOCIETY]**, an incorporated society registered under the Incorporated Societies Act 1908, Registration Number XXXXXXXXXXX and having its registered office at *address* (the “Recipient”)

OR

[NAME OF CHARITABLE TRUST], a charitable trust registered under the Charitable Trusts Act 1957, Registration Number XXXXXXXXXXX and having its registered office at *address* (the “Recipient”)

OR

[NAME OF INDIVIDUAL PERSON(S), occupation(s)], of *address(es)* (the “Recipient”)

OR

[OTHER FULL LEGAL ENTITY NAME], *entity type and address* (the “Recipient”)

BACKGROUND

- A. The Recipient has applied to the Crown for a Community Partnership Fund grant for the Project with identifiable Project Deliverables as set out in Schedule 3.
- B. The Recipient has provided to the Crown the Project Plan set out in Appendix 1 and the Project Timeline set out in Appendix 2.
- C. The Recipient will deliver the Project in partnership with others, as listed in Schedule 1.
- D. The parties have agreed that the Recipient will receive a grant to deliver the Project on the terms and conditions set out in this Agreement.

IT IS AGREED:

1. Definitions and Interpretation

1.1 Definitions: In this Agreement, unless the context otherwise requires:

“**Funding**” is the amount of the Crown grant for the Project Deliverables, as set out in Schedule 2;

“**Current Financial Year**” means the current financial year of the Crown;

“**Evaluation Report**” means a written report containing an evaluation of the Project to be presented by the Recipient to the Crown;

“**Partners**” means the partners described in Schedule 1, or such other partners as agreed in writing between the parties;

“**Project**” means the project described in the Project Plan;

“**Project Plan**” means the Recipient’s Project Plan as set out in Appendix 1;

“**Project Deliverables**” means the deliverables to be carried out by the Recipient as set out in Schedule 3, which are based on the Recipient’s Project Plan and Project Timeline as set out in Appendix 1 and Appendix 2, or such other deliverables as agreed in writing between the parties.

1.2 Interpretation: For the purposes of interpretation of this Agreement:

- (a) words importing one gender include all others;
- (b) words importing the singular or plural number include the plural and singular number respectively;
- (c) the provisions and conditions contained in the schedule to this Agreement will have the same effect as if set out in the body of this Agreement;
- (d) headings and the table of contents are inserted for ease of reference only and do not affect the interpretation of this Agreement;
- (e) references to clauses or the schedule are references to clauses of or the schedule to this Agreement unless expressly specified otherwise;
- (f) references to persons shall be deemed to include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, in each case whether or not having separate legal personality; and
- (g) references to a statute or statutory provision include that statute as amended, modified, re-enacted or replaced from time to time.

2. Basis of Grant

2.1 Selection of Recipient: On the basis of the application to the Crown for a Community Partnership Fund grant made by the Recipient, including representations made as to its ability to deliver the Project Deliverables and its financial status, the Crown has agreed to make a grant to the Recipient to deliver the Project Deliverables and the Recipient accepts such grant.

2.2 Obligations: The Recipient will:

- (a) deliver the Project Deliverables;
- (b) refer to the Project Plan as set out in Appendix 1 and the Project Timeline as set out in Appendix 2 in relation to the delivery of the Project Deliverables; and
- (c) comply with all directions given by the Crown that are reasonably required for the performance of this Agreement.

2.3 Representatives: The Crown and the Recipient will designate representatives as their respective points of contact for the administration of this Agreement. The first such representatives are specified in Schedule 2. Either party may vary the identity or contact details of that party's representative by giving the other party written notice of that variation in accordance with clause 12.

2.4 Warranties: The Recipient warrants that:

- (a) it is not insolvent or bankrupt and no action has been taken to initiate insolvency administration in relation to the Recipient;
- (b) all information provided by it to the Crown in connection with this Agreement, including but not limited to the Community Partnership Fund Application Form, the Project Plan set out in Appendix 1 and the Project Timeline set out in Appendix 2, was, at the time it was provided, true, complete and accurate in all material respects; and
- (c) it is not aware of any material information that has not been disclosed to the Crown that may, if disclosed, materially adversely affect the decision of the Crown whether to provide the Funding.

3. Quality Standards

The Recipient will carry out its obligations under this Agreement with all due care, skill and judgment, and will deliver the Project Deliverables as set out in Schedule 3 in accordance with:

- (a) the best currently accepted principles and practice applicable to the field(s) of expertise relating to the Project Deliverables; and

- (b) all applicable laws, regulations rules and professional codes of conduct or practice.

4. Term

The term of this Agreement is as set out in Schedule 2 (the "Term"), unless terminated earlier under this Agreement.

5. Timetable and Reporting

5.1 Timetable: The Recipient will deliver the Project Deliverables by the Due Dates set out in Schedule 3 or by such other dates as agreed in writing between the parties.

5.2 Reporting: The Recipient will report to the Crown as set out in Schedule 2 and as otherwise required by the Crown.

5.3 Audit: The Recipient must:

- (a) maintain true and accurate records in connection with the use of the Funding and the carrying out of the Project Deliverables sufficient to enable the Crown to meet its obligations under the Public Finance Act 1989, and retain such records for at least 7 years after termination or expiry of this Agreement;
- (b) permit the Crown, at the Crown's expense, to inspect or audit (using an auditor nominated by the Crown) from time to time until 7 years after termination or expiry of this Agreement, all records relevant to this Agreement;
- (c) allow the Crown, or any auditor nominated by the Crown, reasonable access to the Recipient's premises or other premises where the Project Deliverables are being carried out; and
- (d) appoint a member of the New Zealand Institute of Chartered Accountants to audit its financial statements in relation to the use of the Funding.

5.4 Project Progress: The Crown may renegotiate or terminate this Agreement if:

- (a) the Crown is not satisfied with the progress of the Project Deliverables;
- (b) the Recipient does, or omits to do, something, or any matter concerning the Recipient comes to the Crown's attention, which, in the Crown's opinion, may damage the business or reputation of the Crown; or
- (c) the Recipient breaches any of its obligations under this Agreement.

- 5.5 Notification of Change:** The Recipient will give the Crown written notice, in accordance with clause 19, of any change that occurs after the date of execution of this Agreement to:
- (a) The legal personality of the Recipient;
 - (b) The ownership or control of the Recipient;
 - (c) The constitution of the Recipient;
 - (d) The office holders of the Recipient;
 - (e) The contact details of the Recipient;
 - (f) The financial situation of the Recipient;
 - (g) The Partners; or
 - (h) Any part of the contribution of \$_____ received by the Recipient from the Partners or from any other source for the delivery of the Project Deliverables.

5.6 In the event that there are any changes to the matters described in clauses 5.5(a) to 5.5(h), the Recipient must notify the Crown immediately, and unless the Recipient obtains the Crown's approval for amendments, clause 9.1(d) applies.

6. Funding and Payment

6.1 Payments: Subject to the terms of this Agreement including, but not limited to, clause 6.3, the Crown will pay the Funding to the Recipient on the terms set out in Schedule 2. The Recipient undertakes to the Crown only to use the Funding to deliver the Project Deliverables and for no other purpose and to notify the Crown immediately if it becomes aware of any misapplication or misappropriation of any Funding.

6.2 Repayment of Funding: The Recipient must repay to the Crown any unspent Funding within 10 working days of the completion of the Project.

6.3 Appropriation: In the event that any payment to the Recipient is due at a date beyond the Current Financial Year, the Crown will be released from its obligation to pay any amount of the Funding that remains unpaid after the Current Financial Year if no appropriation to fund such Funding is received by the Department of Internal Affairs.

6.4 Future Funding: Notwithstanding anything in this Agreement, the Recipient acknowledges that the Crown is under no obligation to enter into any further funding agreements with the Recipient.

6.5 Taxes: The Funding paid to the Recipient is treated as income for the Recipient for the purposes of the Goods and Services Tax Act 1985. GST will be added to the Funding if the Recipient is registered for GST. The Funding is otherwise inclusive of any taxes, duties, fees or other similar charges of any kind whatsoever (including, without limitation, any withholding taxes).

7. Disposal of Assets

If at any time during the Term of this Agreement the Recipient decides, or is required, to dispose of assets purchased using any portion of the Funding,

the Recipient will either distribute the assets to other community organisations in New Zealand, or pay any proceeds of such disposal to the Crown. In any case, the Recipient must notify the Crown in accordance with clause 19 of this Agreement before taking such disposal action and the Crown must approve such disposal action.

8. Obligations of Recipient as an Employer

8.1 Principles: If the Recipient is an employer, the Recipient agrees that it will operate as an employer in a manner that is consistent with equal employment opportunities principles and the Employment Relations Act 2000.

8.2 Good Employer: If the Recipient is an employer, the Recipient agrees that it will operate as a good employer by:

- (a) providing its staff with job descriptions that are consistent with the Recipient's obligation to carry out the Project Deliverables;
- (b) meeting regularly, but at least monthly, with its staff;
- (c) ensuring its staff receive sufficient support and supervision; and
- (d) providing its staff with relevant training.

9. Termination

9.1 By the Crown: The Crown may immediately terminate this Agreement before the end of the Term if:

- (a) the Recipient fails to comply with any of the terms or conditions of this Agreement, and providing such failure is capable of being remedied, fails to remedy such failure within 14 days of the Crown giving written notice to the Recipient of the failure;
- (b) the Recipient is dissolved, becomes insolvent or goes into voluntary or compulsory liquidation, or an order is made, or a resolution is effectively passed for the winding-up or dissolution of the Recipient, or a receiver is appointed on behalf of debenture holders, or the Recipient is adjudicated bankrupt or otherwise ceases business;
- (c) the Crown is released from its funding obligations; or
- (d) the Recipient fails to comply with clause 5.6.

9.2 Either party: Either party may terminate this Agreement at any time before the end of the Term, subject to clause 11.4, immediately by written notice to the other party, if any provision of, or the continued performance of, this Agreement or any part of it, by either party, becomes illegal.

9.3 Termination consequences: Upon termination of this Agreement pursuant to clause 9.1 or 9.2:

- (a) the Recipient will return to the Crown any part of the Funding which has not been used in the delivery of the Project Deliverables in accordance with this Agreement;
- (b) the Crown may require the Recipient to provide evidence of how the Funding has been spent; and
- (c) the Crown will be released from its obligations to pay the Funding, or any other amounts otherwise payable under this Agreement and without prejudice to any other rights or remedies available to the Crown whether under this Agreement or at law or in equity.

10. Advertisements, Confidentiality and Information Sharing

10.1 Publishing information: The Recipient agrees that the Crown may publish information about this Agreement, the Project funded through this grant including details of the Partners, and the Recipient.

10.2 Advertisements: The Recipient agrees:

- (a) not to disclose any terms of this Agreement in any newspaper, magazine, journal, the Internet or other advertising medium, or broadcast on radio or television, without the prior approval of the Crown; and
- (b) to acknowledge in all relevant publicity material, annual reports and similar documents relating to the Project Deliverables, the Crown's role in funding the Project Deliverables, provided that the Crown has given prior approval.

10.3 Official Information Act: The Recipient acknowledges that the Crown is subject to the Official Information Act 1982 and may be required to release information relating to this Agreement to the public unless there is good reason, in terms of that Act, to withhold the information.

10.4 Information Sharing: The Recipient agrees that the Crown may disclose to or obtain from any other government department or agency, private person or organisation, any information about the Recipient for the purposes of gaining or providing information related to funding of the Recipient.

10.5 Continuing Effect: This clause 10 will continue to have effect even after this Agreement has been terminated or has expired but will cease to apply to any knowledge, information or data which is generally known to the public otherwise than by a breach of this clause 10.

11. No Sub-Contracting or Assignment; Severability

- 11.1 Sub-contracting:** The Recipient shall not sub-let, or enter into any sub-contract for the performance of this Agreement, or any portion of it, without the prior written consent of the Crown.
- 11.2 No Assignment:** Neither party may assign or transfer all or any part of its rights or obligations under this Agreement.
- 11.3 Complete Agreement:** This Agreement supersedes any prior agreement of the parties relating to the subject matter, except as expressly stated.
- 11.4 Severability:** In the event that any part of this Agreement becomes void or unenforceable, that part shall be severed from this Agreement, to the intent that all parts which are or do not become void or unenforceable will remain in full force and effect and be unaffected by any severance.

12. Amendment to Agreement

The parties may at any time by supplemental agreement in writing vary, amend, add to, make substitutions in, or alter, this Agreement including the Schedules and after the execution of any such supplemental agreement this Agreement shall take effect accordingly. No amendment to the terms of this Agreement will be binding on either party unless both parties agree to that amendment in writing.

13. Force Majeure

Neither party shall be liable for any act, omission or failure to perform any obligation under this Agreement if such act, omission or failure is caused by force majeure.

14. Recipient Status

- 14.1 Recipient independent:** Nothing in this Agreement creates an employment, fiduciary, partnership, agency or joint venture relationship either between the Crown and the Recipient, or between the Crown and any of the Recipient's employees, volunteers or Partners.
- 14.2 No employee entitlements:** At no time and under no circumstances will the Crown have any liability to pay or be called upon by the Recipient to pay to the Recipient any sum or sums in respect of:
- (a) holiday pay; or
 - (b) taxes or levies under the Injury Prevention, Rehabilitation, and Compensation Act 2001; or
 - (c) sick pay; or
 - (d) redundancy or any other form of severance pay; or
 - (e) superannuation.

15. Intellectual Property

15.1 Intellectual Property Existing Prior to the Commencement of This Agreement:

The parties acknowledge that each party shall retain ownership of any intellectual property it owns prior to the commencement of this Agreement (“Pre-Existing Intellectual Property”) and ownership of Pre-Existing Intellectual Property shall not be altered or transferred merely by virtue of its use in relation to the Project Deliverables.

15.2 Intellectual Property in Reports:

The ownership of any intellectual property rights in the reports created or developed under clause 5.2 and Schedule 2 is the exclusive property of the Crown.

15.3 Intellectual Property in Other Documents:

The ownership of any intellectual property rights in any document other than the reports created or developed under clause 5.2 and Schedule 2, including electronic documents, records, papers, recordings or other material created or developed in connection with this Agreement or relating in any way to the Project Deliverables is the exclusive property of the Recipient.

15.4 Warranty and Indemnity:

The Recipient warrants that material created or developed in connection with this Agreement does not infringe the intellectual property rights of any third party. The Recipient will indemnify the Crown against all loss or liability arising from the use of any material used or created in connection with this Agreement, including any infringement or alleged infringement or any other claims by third parties about the ownership or right to use intellectual property rights in material used or created in connection with this Agreement.

15.5 Recipient Grants the Crown a Licence:

The Recipient grants to the Crown a royalty free licence to allow the Crown to use any intellectual property in any document (including electronic documents), records, papers, recordings or other material created or developed in connection with this Agreement or relating in any way to the Project Deliverables. The licence shall continue for so long as the intellectual property subsists.

15.6 The Crown grants Recipient a Licence:

The Crown grants to the Recipient a royalty free licence to allow the Recipient to use any intellectual property in the reports created or developed under clause 5.2 and Schedule 2. The licence shall continue for so long as the intellectual property subsists.

16. Conflict of Interest

The Recipient warrants to the Crown that it has no direct or indirect pecuniary interest or conflict of interest that will affect its ability to deliver the Project Deliverables and that it will disclose to the Crown if it receives any other funding for the Project.

17. Liability and Insurance

- 17.1 The Crown is not liable for direct or indirect, consequential or incidental loss or damage arising under or in connection with this Agreement. The Crown's maximum liability under or in connection with this Agreement, however arising, is the total amount of the Funding payable if the Project Deliverables had been carried out in accordance with this Agreement.
- 17.2 Where the Recipient is a trustee, the Crown acknowledges that the Recipient has entered into this Agreement as a trustee of the trust named in the Community Partnership Fund Application Form in an independent capacity without any interest in the assets of the trust other than as trustee.
- 17.3 The Recipient must hold and maintain for the Term adequate insurance to cover standard commercial risks and other insurance reasonably required by the Crown. The Recipient must, upon request by the Crown, provide the Crown with evidence of its compliance with this clause.

18. Dispute Resolution

- 18.1 Negotiation:** If any dispute or difference arises between the parties concerning the construction or performance of this Agreement or the rights and liabilities of the parties, the parties will actively, openly and in good faith discuss that dispute or difference with a view to resolving it by mutual agreement. Except as provided in clause 18.4, neither party shall commence any litigation in relation to this Agreement unless it has provided an opportunity for the representatives of both parties to meet for the purpose of endeavouring to resolve the dispute or difference by mutual agreement.
- 18.2 Mediation:** Any dispute or difference arising under this Agreement which cannot be settled by active, open and good faith discussion between the parties will be submitted to mediation before either party commences any litigation. Either party may initiate mediation by giving written notice to the other. If the parties cannot agree a mediator within two working days of the notice, then the Chair for the time being of LEADR New Zealand Inc., or its successor, will appoint a mediator.
- 18.3 Continuing Performance:** Both parties will continue to perform their obligations under this Agreement as if no dispute or difference had arisen pending the final settlement of any matter referred to mediation.
- 18.4 Injunctive Relief:** Nothing in this clause will preclude either party from taking immediate steps to seek urgent injunctive relief before a New Zealand court.

19. Notices

Notices or other documents to be given or sent under this Agreement may be given by one party to the other by personal service, post, email or facsimile in accordance with the contact details set out in Schedule 2 marked for the attention of the relevant person.

20. Further Obligations

The Recipient will fulfil any further obligations as set out in Schedule 2.

21. Contracts (Privity) Act 1982

Nothing in this Agreement shall confer any benefit on any person who is not a party to this Agreement.

22. Governing Law

This Agreement is governed by and is to be construed in accordance with New Zealand law.

EXECUTED as an agreement by the parties on the date at the top of page 3.

SIGNED for and on behalf of **HER**)
MAJESTY THE QUEEN in right of)
New Zealand acting by and through)
the Secretary for Internal Affairs by:)
Sarah Hill, Service Delivery Manager)
Local Government & Community Branch)
Department of Internal Affairs)

In the presence of:

Name:
Occupation:
Address:

SIGNED for and on behalf of)
FULL LEGAL ENTITY NAME,)

By (1): _____)
Position Held: _____) _____

In the presence of:

Name:
Occupation:
Address:

SIGNED for and on behalf of)
FULL LEGAL ENTITY NAME,)

By (2): _____)
Position Held: _____) _____

In the presence of:

Name:
Occupation:
Address:

Schedule 1 – Partners

Organisation	
Physical Address	
Postal Address (if different from physical address)	
Telephone Number	(0)
Fax Number	(0)
First Contact Person	
Daytime Telephone Number	(0)
Email address	
Second Contact Person	
Daytime Telephone Number	(0)
Email address	

Schedule 2 – Representatives, Term, etc

Representatives and Contact Details (clause 2.3):

(a) For the Crown:

Representative name:

Local Government and Community Branch

Department of Internal Affairs

46 Waring Taylor Street

PO Box 805

Wellington

Email:

Phone:

Fax: 04 495 9444

(b) For the Recipient:

Representative name:

Recipient name:

Address:

Email:

Phone:

Fax:

Term (clause 4):

The term of this Agreement is from [XX XXXX 2007] until the date the Recipient has fulfilled all of its obligations under this Agreement, including but not limited to the reporting obligations in clause 5.2.

Reporting (clause 5.2):

The Recipient will, for each of the Recipient's financial years during which the Funding are spent:

- Provide the Crown with a copy of the Recipient's audited annual accounts;
- Attend and report (at times as agreed and in a format as agreed between the parties) on the progress towards completion of the Project Deliverables; and
- Complete and present to the Crown:
 - Progress Reports;
 - Annual Reports;
 - a final Project Completion Report; and
 - an Evaluation Report.

as set out in the Progress Report Template attached at Appendix 3.

Funding and Terms of Payment (clause 6.1):

The total of the Funding is NZ\$xxxxx. The Crown will pay the Funding to the Recipient, on the schedule set out in the table below, on receipt by the Crown of satisfactory evidence from the Recipient at each stage, of:

- (a) Project Deliverables by the Due Dates set out in Schedule 3; and
- (b) The reporting requirements in accordance with clause 5.2; and
- (c) The Milestones set out in the table below:

Milestone	Milestone Due Date	Payment Date	Payment Amount
(1) Receipt by the Crown's Representative of this executed Agreement	Date of Receipt of executed Agreement by the Crown's Representative	Within 14 days of Milestone (1) Project Establishment Payment	Grant GST Amount
(2) Progress report (Deliverables 1,2)	31 December 2007	20 January 2008	
(3) Progress report (Deliverables 3,4,5)	31 March 2008	20 April 2008	
(4) Progress report (Deliverable 6)	31 August 2008	n/a	
(5) Project Completion Report		n/a	
(6) Evaluation Report	31 December 2008	n/a	
Total Grant GST Total Payment			

[Further obligations (clause 20) (if any – delete if not required)]

The Recipient will:]

Schedule 3 – Project Deliverables

Summary of Project:	
Project Deliverables	Due Date
Deliverable 1:	
Deliverable 2:	
Deliverable 3:	
Deliverable 4:	

Appendix 1 –Project Plan

Aim: (the Recipient must write in the overall aim of your project)			
Outcome 1:			
Initiatives	Activities	Milestones / Performance indicators / Completion dates	Responsibility
Outcome 2:			
Initiatives	Activities	Milestones / Performance indicators / Completion dates	Responsibility

Appendix 2 – Project Timeline

Appendix 3 – Progress Report Template

Community Partnership Fund

Progress Report

(Please keep this report to 4 pages maximum plus Attachments)

F: _____

1. Achievements:

Tell us about what you've achieved so far.

2. Learnings:

Tell us about what you've learnt so far. What has worked well, what hasn't worked so well?

3. Shared Learning:

How have you been able to share any learning or collaborate with others?

4. Resources:

Are there any resources that you have produced that may be useful for others that you are able to share? Please attach document or links.

5. Evaluation:

If your project is due to complete within six months, what arrangements have you made for the evaluation of your project?

6. Progress Summary for Website:

Please provide a brief paragraph about how the project has progressed (up to 150 words) which may be published on the website www.digitalstrategy.govt.nz under Project Updates.

7. Project Deliverable progress and Evidence provided:
 (Evidence: e.g. documents, website links, photos, CDs, manuals, receipts)

Deliverables (due at this report)	Progress (complete/partial/none)	Evidence provided

Attachments Checklist

- Income and Expenditure Statement for the Project**
 - for any expenditure relating to the Grant Monies within the reporting period
 - to be consistent with your organisation's financial records
 - to include evidence of expenditure eg copies of all invoices, receipts, relevant bank statements, or wage records

- Risk Register**

- Evidence of Project Deliverables**
 (please note we may return the material provided once it is verified)