



NON-TERTIARY MUSIC EDUCATION GRANTS PROGRAM FUNDING AGREEMENT 2023 - 2025

NAME OF PROJECT	Non-Tertiary Music Education Grants Program	
FUNDER'S DETAILS (Us, We, Our)	Name	The State of New South Wales through its Department of Education (the Department)
	A.B.N	40 300 173 822
	Address	Level 11, 105 Phillip Street PARRAMATTA NSW 2150 GPO Box 33 SYDNEY NSW 2001
RECIPIENT ORGANISATION'S DETAILS (You, Your)	Name	The University of « University_ » on behalf of the University of « Universitys » Conservatorium of Music (the Conservatorium)
	A.B.N	« <i>Organisation_ABN</i> »
	Address	« <i>Organisation_Address_Line_1</i> » « <i>Organisation_Address_Line_2</i> »
	Corporation Details	A body corporate created by Section 5 University of « University_3 » Act 1989 (NSW)

Table of Contents

Background 4

Operative Provisions 4

- 1. Definitions and Interpretation 4
- 2. How long the Funding lasts 4
- 3. Provision of Funding 4
- 4. Claiming a Payment 5
- 5. How You must deal with the Funding 5
- 6. Conduct of the Program 6
- 7. Compliance with Law 6
- 8. Personnel..... 7
- 9. Capital Equipment..... 7
- 10. Records and Inspection..... 8
- 11. Reports 8
- 12. Performance Monitoring and Evaluation..... 9
- 13. Publicity 9
- 14. Intellectual Property and Project Materials 10
- 15. Indemnity 10
- 16. Insurance 11
- 17. Confidentiality 11
- 18. Changes 11
- 19. Publicity and Reputation..... 11
- 20. Ending this Agreement..... 12
- 21. Obligations when this Agreement ends 13
- 22. Dispute Resolution 13
- 23. Information management 14
- 24. Notices..... 14

25. General	15
ATTACHMENT 1 AGREEMENT DETAILS.....	17
ATTACHMENT 2 MODEL BUDGET.....	23
ATTACHMENT 3 RECORDS AND REPORTS.....	24
ATTACHMENT 3A: Model Income and Expenditure Statement.....	28
ATTACHMENT 3B: Model Asset Register.....	31
ATTACHMENT 3C: Model Acquittal Certificate.....	32
ATTACHMENT 4 MODEL BUSINESS PLAN.....	33
ATTACHMENT 5 DICTIONARY AND INTERPRETATION	34
Part 1 DICTIONARY	34
Part 2 INTERPRETATION.....	36
ATTACHMENT 6 KEY PERFORMANCE MEASURES	37

Background

Subject to the availability of Funding at the commencement of each Funding Year and You meeting the Funding criteria, We agree to provide You, and You agree to accept, the Funding for the Program in accordance with the terms of this Agreement and the Program Guidelines.

Operative Provisions

1. Definitions and Interpretation

- 1.1 **Dictionary:** In this Agreement, unless the contrary intention appears, a word with a defined meaning has the meaning given to that term in the dictionary in Attachment 5.
- 1.2 **Interpretation:** Rules for interpretation of this Agreement are set out in Attachment 5.

2. How long the Funding lasts

- 2.1 **Funding Period:** The Funding will be provided for the Funding Period, subject to availability of funds.
- 2.2 **Extension of the Funding Period:** The Funding Period may be extended at Our discretion for a period and on the terms agreed by You and Us in writing.
- 2.3 **Funding is conditional:** Our obligation to provide the Funding is conditional on Us actually receiving an appropriate annual allocation from Parliamentary appropriation. If there is no appropriate annual allocation then there will be reduced or no Funding.
- 2.4 **No future promises:** There is no promise that You will receive any additional or future Funding, in connection with the Program or otherwise. There is also no promise as to what terms will apply.

3. Provision of Funding

- 3.1 **Funding through instalments:** We will provide the Funding for the Program in Instalments, in accordance with, and subject to the terms of, this Agreement and the Program Guidelines.
- 3.2 **Conditions which must be satisfied before payment is made:** Payment of each Instalment is conditional upon each and all of the following:
 - (a) You have submitted the relevant Reports to Us in a form and timeframe satisfactory to Us; and
 - (b) You have met each and every obligation imposed on You under this Agreement (including the Key Performance Measures) and the Program Guidelines to Our satisfaction.
- 3.3 **Right to withhold Funding:** Without limiting Our rights under this Agreement, if:
 - (a) You fail to comply with one or more of Your Performance Measures to Our Satisfaction;
 - (b) We have a reasonable basis to believe that a Performance Measure will not be met;
 - (c) You fail to comply with any terms and conditions in this Agreement, then We may, upon notice, withhold payment of the Funding (or any part of it) until:
 - (i) You fully perform each and every Key Performance Measure to Our satisfaction;

- (ii) We are otherwise satisfied that the Key Performance Measures will be met by You in accordance with this Agreement;
- (iii) You comply with the terms and conditions to Our Satisfaction; or
- (iv) this Agreement is terminated by Us in accordance with clause 20 **(Ending this Agreement)**.

4. Claiming a Payment

4.1 **Payment of Instalments:** You and We enter into this Recipient Created Tax Invoice (RCTI) agreement which relates to the supplies noted in this Agreement and accompanying documentation.

We will issue tax invoices in respect of these supplies. You will not issue tax invoices in respect of these supplies.

Acceptance of a RCTI constitutes acceptance of the terms of this RCTI agreement.

Both parties to this supply agree that they are parties to an RCTI agreement as outlined in GSTR 2000/10. You agree to notify Us if You do not wish to accept the proposed agreement.

4.2 **Payment Request Form:** Our RCTI will be correctly rendered if:

- (a) it is fully completed;
- (b) it is accompanied by:
 - (i) the supporting documentation applicable for the Instalment; and
 - (ii) any other documentation requested by Us which evidences to Our satisfaction that the Performance Measures for the Instalment have been achieved.

5. How You must deal with the Funding

5.1 **Use of Funding:** You must:

- (a) use the Funding solely for the purpose of the Program as outlined in the Program Guidelines;
- (b) only use the Funding within the Funding Period;
- (c) not enter into any arrangements or commitments in relation to the Project that are incompatible or inconsistent with the purpose of the Funding.

5.2 **Budget:** You will submit a Budget to us in the form of the Model Budget at Attachment 2 for approval. Once approved, You must spend the Funding in accordance with the Budget unless otherwise approved by us in writing.

5.3 **Delayed or inactive Projects:** You must notify us immediately if:

- (a) the Project will not commence within 60 days from the Commencement Date; and
- (b) the Project has been inactive for a period of 60 days or more.

5.4 **Repayment of Funding:** You must repay to Us:

- (a) Within 30 days of Our request or as otherwise agreed, any part of the Funding spent on purposes not approved by this Agreement.
- (b) If requested by Us, within 30 days of Our request or as otherwise agreed:
 - (i) the whole of the Funding, if the Project is delayed as described in clause 5.3(a); and

- (ii) any part of the Funding which remains unspent, if the Project is inactive as described in clause 5.3(b).
 - (c) Unless otherwise agreed, within 30 days of the earlier of:
 - (i) the expiry of the Funding Period; or
 - (ii) termination of this Agreement,any and all Unexpended Funding.
- 5.5 **Wrongful use of Funding:** If the Funding is used in a manner not consistent with the Agreement as determined by Us, then an amount equal to the wrongfully used funds must be repaid to Us. Such funds must be paid within 14 days of a request from Us.
- 5.6 **Bank account:** To process and record all Funding receipts and expenditure You must, during the Funding Period, maintain either:
 - (a) A separate account at a financial institution (e.g. bank, building society); or
 - (b) If You can demonstrate to Our reasonable satisfaction that adequate internal financial controls are in place within the existing accounts for the identification of the Funding, a general agency account, operating in Australia.
- 5.7 **Interest:** The Funding must be paid into an interest earning account and, unless otherwise agreed by Us, all interest earned on the Funding must be used by You for the Project only in accordance with the terms of this Agreement.
- 6. Conduct of the Program**
- 6.1 **Program Performance:** You must perform all Projects within the Program in accordance with:
 - (a) the Program Guidelines;
 - (b) the Strategic Plan and Business Plans;
 - (c) the expenditure set out in the Budget;
 - (d) any Special Conditions; and
 - (e) any directions given by Us from time to time.
- 6.2 **Key Performance Measures:** In implementing the Program, You must use Your best endeavours to achieve the Key Performance Measures to Our reasonable satisfaction.
- 6.3 **Program Timeframes:** You must complete Projects or cause Projects to be completed, within the Funding Period and the timeframes specified in the Strategic Plan and Business Plans.
- 7. Compliance with Law**
- 7.1 You must:
 - (a) comply with all applicable standards, laws, regulations, policies and statements including complying with Your obligations under or arising from those specified in Item 8 Attachment 1; and as otherwise notified to You by Us at any time;
 - (b) not do anything that would cause Us to breach Our obligations under any applicable laws, regulations and policies; and
 - (c) hold all rights, licences and consents required to conduct the Project and otherwise fulfil Your obligations under this Agreement.

8. Personnel

- 8.1 **Appropriate personnel to perform Projects:** All positions subsidised by the Funding must be filled by persons that have appropriate skills, qualifications or experience for such positions. Qualifications of personnel to be kept on file and may be called upon at any time by Us.
- 8.2 **Responsibility for Personnel:** You acknowledge that all Personnel employed or otherwise engaged by You in the conduct of the Project are Your sole responsibility.
- 8.3 **Your employment policy:** You will ensure that Your employment policy complies with relevant legislation, policies and procedures of the NSW Government including: the legislation, policies and procedures listed in Item 6 Attachment 1, if any and as otherwise notified to You by Us at any time. All Personnel will be merit selected and have signed agreements available to Us upon request.
- 8.4 **Specified Personnel:** You must assign the Specified Personnel (if any) to work on the Project for the number of hours (if any) specified in Item 6 Attachment 1. If any member of the Specified Personnel is unable to work on the Project or is unable to work on the Project for the agreed hours, for any reason, You must notify Us immediately and provide replacement personnel with comparable skill and experience, approved by Us, at the earliest opportunity.
- 8.5 **Sub-contractors:** You:
- (a) May sub-contract all or part of the conduct of the Project to a sub-contractor (including a project partner) subject to Our prior written approval; and
 - (b) Will be responsible for ensuring the suitability of any sub-contractor (or project partner) for the work proposed to be carried out by them and that all work carried out by them meets the requirements of this Agreement. Any approval to sub-contract given by Us under clause 8.5(a) does not relieve You from any of Your obligations or liabilities under this Agreement. You remain fully responsible for the work and activities of any Subcontractor including those approved by Us.
- 8.6 **Special Conditions:** You must comply with the Special Conditions set out in Item 6 of Attachment 1, if any.

9. Capital Equipment

- 9.1 **Maintenance of an Asset Register:** You must maintain an Asset Register for each item of Capital Equipment purchased using the Funding and valued at over the amount set out in Item 7 of Attachment 1.
- 9.2 **Contents of the Asset Register:** You must ensure that:
- (a) all items of Capital Equipment are recorded in the Asset Register;
 - (b) the Asset Register is kept current at all times; and
 - (c) the Asset Register is kept in accordance with Australian Accounting Standards.
- Failure to do so may result in the termination of this Agreement.
- 9.3 **Ownership:**
- (a) You acknowledge that each asset referred to in clause 9.1 You purchase wholly with the Funding is held in trust for Our benefit (and if partially

purchased with the Funding then held in trust for Us as to a proportionate share of the value of that item of Capital Equipment). You must do all things reasonably requested by Us, including the execution of any necessary documents to give full effect to, and protect, this arrangement.

(b) Subject to:

(i) Clause 21.3;

(ii) Your fully complying with Your obligations under this Agreement; and

(iii) Your completion of the Project to Our reasonable satisfaction, all Capital Equipment and other assets purchased by You with the Funding become Your property at the expiry of the Funding Period.

9.4 **Special Conditions:** You must comply with the Special Conditions set out in Item 7 of Attachment 1, if any.

10. Records and Inspection

10.1 **Records:** You must:

(a) ensure that adequate financial and operational records and registers, including those specified or referred to in Part A of Attachment 3 (if any), are kept and maintained whilst carrying out the Projects;

(b) retain the records referred to in this clause 10 (**Records and Inspection**) throughout the Funding Period and for 7 years after the ending of this Agreement.

(c) upon Our request, arrange for the records, books of account and documents relating to the Projects to be made available for inspection by Our authorised representative (including the taking of such extracts and the making of such copies as the representative considers appropriate) and assist the representative in carrying out the inspection.

10.2 **Accountability:** We have statutory obligations to ensure the accountability of expenditure of funds including the Funding and, accordingly, You are required to be accountable for all of the Funding You receive under this Agreement.

10.3 **Inspection:** You must permit Us, or any person authorised by Us, upon reasonable notice (at least 48 hours) and at any reasonable time, to inspect the implementation of the Program, including but not limited to reviewing any and all Project records.

10.4 **Non compliance with Agreement:** If at any time We consider the Project is not being conducted by You in accordance with the provisions of this Agreement, We may request that You take the steps or make the changes as are specified in writing by Us to You to achieve compliance with the Agreement within a reasonable time. Failure to do so may result in termination of this Agreement.

11. Reports

11.1 **Required reports.** You will:

(a) submit the Reports to Us;

(b) at Our request, submit, within the timeframe stipulated by Us, any other information or reports that may be necessary to establish to Our satisfaction that the terms of this Agreement and the Key Performance Measures have been or are being satisfied by You.

11.2 **Notification of insolvency.** You undertake to immediately notify Us of any resolution or event or matter in connection with You involving an event of insolvency including if You go into liquidation or to enter into any scheme or arrangement with Your creditors under any applicable insolvency law.

12. Performance Monitoring and Evaluation

12.1 **Operation of Project:** You and We agree to monitor and evaluate the Project against:

- (a) the Key Performance Measures;
- (b) the Budget; and
- (c) Your compliance with the terms of this Agreement.

12.2 **Performance monitoring:** We may at any time carry out monitoring of Your operations and compliance with this Agreement including compliance with applicable laws and the Program Guidelines (**Performance Monitoring**).

12.3 **Carrying out monitoring:** We will carry out Performance Monitoring by any means including through 'census' information collection processes or other data collection processes or by requesting a self-assessment, monitoring and/or auditing all Your records and any other information provided by You, by attending Your site(s), interviewing personnel. This includes giving access to correspondence and reports from anyone relating to the Projects or the use of Funding. This Performance Monitoring may be carried out by any person authorised by the Department (e.g. external contractors).

12.4 **Assistance:** You will provide all assistance, information or access required by Us to enable the Performance Monitoring to be carried out within the requested timeframe.

12.5 **Cooperation:** You:

- (a) acknowledge that Our representative will maintain regular contact with You to monitor the implementation of the Project and of this Agreement; and
- (b) agree to co-operate with Our representative in this role; and
- (c) agree to Our representative attending Your board or committee meetings and visiting the Premises at any reasonable time, upon giving you reasonable notice.

12.6 **Research and Surveys:** You are required to participate and contribute to requests for the provision of statistical and program information for the purpose of research and surveys conducted by Us or an authorised representative. No such request will require the breach of any duty of confidentiality owed by You to clients.

13. Publicity

13.1 **Acknowledgement:** You will ensure that all public statements relating to the Program or the Funding acknowledge the provision of the Funding by Us.

13.2 **Our right to publicise:** We may publicise the awarding of the Funding at any time after it is awarded, including:

- (a) Your name;
- (b) the amount of the Funding; and
- (c) the title and brief description of the Program and the Program results.

- 13.3 **Special Conditions:** You must comply with the Special Conditions set out in Item 9 of Attachment 1, if any.
- 13.4 **Acknowledgement of NSW Government Funding:** You must:
- (a) Acknowledge the NSW Government's contribution in any written material in relation to the project;
 - (b) Use the NSW Government logo in accordance with the NSW Government Style guide in any publicity provisions of any kind (including any brochures, signage, advertising and invitations); and
 - (c) Issue an invitation to a government representative to any launch or public event associated with the Funding and when they are able to attend, they are acknowledged as official guests. Where practicable, they should be afforded the courtesy of publicly addressing the event.
- 14. Intellectual Property and Project Materials**
- 14.1 **Ownership of IP:** Any Intellectual Property in all Project Materials created by You in the performance of the Project will be retained by You, or relevant third parties, as the case may be.
- 14.2 **Grant of licence:** You grant, and will ensure third parties grant, to Us, without cost, a non-exclusive, irrevocable, royalty free and transferable licence to use, reproduce, communicate to the public and adapt for Our own purposes all Intellectual Property in the Project Materials.
- 14.3 **Moral Rights:** You must hold, or obtain, consents from all authors of the Project Materials to Your and Our use and adaptation, without restriction and without any requirement to attribute the Project Materials to its authors.
- 14.4 **Copies of Project Materials:** If Project Materials are produced for publication as part of the Project then 1 copy of these Project Materials shall be submitted to Us with the Final Program Performance Report.
- 15. Indemnity**
- 15.1 **Your Indemnity:** You must (at all times) indemnify, hold harmless and defend Us and Our Personnel ("**those indemnified**") from and against all liability or loss (including reasonable legal costs and expenses), which those indemnified pay, suffer, incur or are liable for in respect of any act or omission by You or Your Personnel in connection with or arising out of this Agreement. It includes (for example):
- (a) any infringement or alleged infringement of any Intellectual Property (including Moral Rights) arising from the activities of the Project; and
 - (b) any unlawful, wrongful, wilful or negligent act or omission of You or Your Personnel.
- 15.2 **Reduction of Indemnity:** Your liability to indemnify those indemnified under this Agreement will be reduced proportionally to the extent that any unlawful, wrongful, wilful or negligent act or omission of those indemnified caused or contributed to the liability or loss.
- 15.3 **Continuing Obligation:** The indemnity in this clause is a continuing obligation of You separate and independent of any of Your other obligations and will continue after ending of this Agreement.

16. Insurance

- 16.1 **Obligation to insure:** You must ensure that insurance policies specified in Item 10 of Attachment 1 are taken out and maintained with a reputable insurance company throughout the Funding Period.
- 16.2 **Production of policies:** You must, on request, produce satisfactory evidence to Us that any or all of the insurance policies required under this Agreement are current.
- 16.3 **Special Conditions:** You must comply with the Special Conditions relating to insurance set out in Item 10 of Attachment 1, if any.

17. Confidentiality

- 17.1 **Obligation to keep confidential:** You must ensure that You have appropriate protocols to keep Our Confidential Information in confidence.
- 17.2 Each party must not disclose the Confidential Information of the other to any person including the media without the other's prior written consent. In relation to Us, our Confidential Information includes any materials (such as reports) developed arising from or in relation to the delivery of the Projects.
- 17.3 No piece or body of information will be regarded as in the public domain merely because it contains information in the public domain or is covered by a general disclosure which is in the public domain.
- 17.4 **Limited Disclosure:** A party ('first party') may disclose the other's Confidential Information to the first party's personnel and legal and professional advisors provided the first party ensures that the recipient:
- (a) keeps the Confidential Information confidential; and
 - (b) does not use the Confidential Information except for the purposes of this Agreement.

18. Changes

- 18.1 Written agreement between You and Us must be obtained for any variation to:
- (a) this Agreement;
 - (b) any of the following matters disclosed in Your application for the Funding and outlined in the Attachments to this Agreement:
 - (i) the nature/purpose of the Projects;
 - (ii) the way in which the Projects are to be carried out and completed;
 - (iii) the Budget.
- 18.2 **Retaining Unexpended Funding.** Subject to clause 5.4, You may apply to retain any Unexpended Funding using the 'Request for Retention of Surplus Funds' form. We may approve or reject that request in Our absolute discretion. Unless We approve Your request, You must return the Unexpended Funding to Us in accordance with clause 5.4 of this Agreement.

19. Publicity and Reputation

- 19.1 You must not disclose, distribute or otherwise communicate any media release, promotional material or publicity about or in relation to this Agreement, Your relationship or otherwise refer to Us (including use of Our logo) without Our prior written approval.

19.2 You must, and must ensure that your Personnel will, maintain Our good name and reputation at all times. This includes taking no action which prejudices that good name and reputation. It also includes ensuring that You deliver the Projects in a competent, courteous, safe, reliable and to 'best practice' standards. To be clear, You must not engage in any media, publicity or activities that would prejudice Our good name and reputation.

20. Ending this Agreement

20.1 **Termination for convenience on 20 days:** We may terminate this Agreement in whole or in part, for any or no reason, by giving You 20 days' written notice ('Notice of Termination for Convenience'). If We exercise this right, You agree that You are not entitled to any compensation as a result of such termination. If the Agreement is ended in part, then the Funds will be reduced proportionately to the scope reduction. You must give back to Us any excess funds as a result of the scope reduction.

20.2 **Ending or suspension for default:** You will not allow an Event of Default to occur. *(An Event of Default is defined below.)*

- (a) **(Not allowed a default event)** If an Event of Default occurs, You will immediately notify Us of the event and provide sufficient detail to Us to allow Us to assess the significance and impact of the event.
- (b) **(Our rights if default occurs)** If an Event of Default occurs or if there is a Financial Viability Issue, then We may, by notice to You, immediately:
 - (i) suspend all or part of Your rights under the Agreement
 - (ii) withhold in whole or in part any Funding
 - (iii) exercise any of Our other rights under the Agreement; or
 - (iv) terminate all or part of the Agreement.
- (c) **(Defining an Event of Default)** An Event of Default means any of the following (whether or not caused by anything outside the control of You):
 - (i) **Your performance:** in Our opinion You are not carrying out the Project diligently and competently
 - (ii) **KPMs:** You have not achieved any Key Performance Measure
 - (iii) **Use of Funds:** You have in Our opinion used or are using the Funding or part of the Funding for purposes other than those for which the Funding is made
 - (iv) **Your capacity:** We consider (subject to applicable laws) that there has been a material change in circumstances in Your financial position, Your structure or Your identity
 - (v) **Complaint:** A complaint about You is upheld by a departmental investigation
 - (vi) **Non-compliance:** You have not complied with any one or more terms of the Agreement
 - (vii) **Incorrect or incomplete statement:** any statement made by You is incorrect or incomplete in a way which would have affected the decision to enter this Agreement

- (viii) **Untrue matter:** a representation, warranty or statement made by You is untrue or misleading or a reply by You to a question made by, or on behalf of, Us, is untrue or misleading
- (ix) **Compliance unlawful:** it is unlawful for You to comply with any of Your obligations under the Agreement or it is claimed to be so by You
- (x) **Authorisation ceasing:** an authorisation, licence or consent necessary to allow You to comply with Your obligations under the Agreement is withheld or ceases to be in full force and effect

21. Obligations when this Agreement ends

- 21.1 **Delivery of Reports and Return of Confidential Information:** You must, except to the extent agreed between Us and You in writing, provide to Us within 7 days of ending of this Agreement:
- (a) any reports due to Us under this Agreement or otherwise requested by Us; and
 - (b) all Our Confidential Information used by You or Your Personnel in their possession and all copies of such information.
- 21.2 **No entitlement to further payment:** For the avoidance of doubt, upon ending of this Agreement You will not be entitled to any further payments under this Agreement, notwithstanding that the amount paid to You could be less than the Funding specified in this Agreement.
- 21.3 **Delivery of Assets:** If this Agreement is terminated by Us before the end of the Funding Period You must deliver to Us or Our representative all Capital Equipment purchased or leased by You using the Funding.
- 21.4 **Transfer Investments:** Upon the termination of this Agreement You must transfer to Us, free of charge, all investments made by You using the Funding if requested to do so by Us.
- 21.5 **Our rights and remedies not prejudiced:** Any termination of this Agreement by Us is without prejudice to any of Our accrued rights or remedies.
- 21.6 **Survival:** Clauses 5 (**How you must deal with the Funding**), 9.3 (**Ownership**), 10 (**Records and Inspection**), 11 (**Reports**), 12 (**Performance Monitoring and Evaluation**), 14 (**Intellectual Property and Project Materials**), 15 (**Indemnity**), 16 (**Insurance**), 17 (**Confidentiality**), 19 (**Publicity and Reputation**) and this clause 21 (**Obligations when this Agreement ends**) and any other provision of this Agreement which by its nature should survive termination shall survive termination, expiry or repudiation of this Agreement.

22. Dispute Resolution

- 22.1 You and We must attempt to settle any dispute in relation to this Agreement in accordance with this clause before resorting to court proceedings or other dispute resolution process:
- (a) A party claiming that a dispute has arisen, must give written notice of the dispute to the other party. On receipt of this notice the parties must within 14 days of receipt seek to resolve the dispute.

- (b) If the dispute is not resolved within a 14 day period or within such further period as the parties agree in writing then the dispute is to be referred to the Australian Dispute Centre (**ADC**) for mediation.
 - (c) The mediation will be conducted in accordance with the ADC Mediation Guidelines which set out the procedures to be adopted, the process of selection of the mediator and the costs involved.
 - (d) If the dispute is not settled within 28 days (or such other period as agreed to in writing between the parties) after appointment of the mediator, or if no mediator is appointed within 28 days of the referral of the dispute to mediation, the parties may pursue any other procedure available at law for the resolution of the dispute.
 - (e) If We request it, You must continue performing this Agreement while a dispute is being dealt with in accordance with this clause, other than such obligations (or part thereof) which are the subject of the dispute, to the extent practicable to do so.
- 22.2 Nothing in this clause will prevent either party from seeking urgent interlocutory relief.

23. Information management

23.1 Your Information

- (a) We may collect from You or any other source, information about You that relates to Your performance under the Agreement and the provision of Funding to You (**Your Information**). This includes any information that You provide to Us including under any application and any feedback We obtain from third parties regarding You.
- (b) The AFP Information may include general information or Personal Information about Your Personnel or others.

23.2 Privacy

- (a) Personal Information has the same meaning as in applicable Privacy Laws. It includes 'Sensitive Information'. (Privacy Laws is defined below.)
- (b) You must comply with, including when dealing with Personal Information, all applicable privacy laws including:
 - (i) the Privacy and Personal Information Protection Act 1998 (NSW) as You are a 'public sector agency'; and
 - (ii) the Health Records and Information Privacy Act 2002 (NSW).(These are the **Privacy Laws**).

24. Notices

- 24.1 **Change of contact details:** You must inform us within 7 days of any changes to Your contact details set out in Item 1 of the Attachment 1.
- 24.2 **Notice Requirements:** A notice under this Agreement must be:
- (a) in writing, directed to the representative of the other party as set out in Item 1 of Attachment 1; and
 - (b) forwarded to the address, or the email address of that representative as set out in Item 1 of Attachment 1.
- 24.3 **When a notice is served:** A notice under this Agreement will be deemed to be served:

- (a) for delivery in person – when delivered to the recipient’s address for service and a signature received as evidence of delivery;
 - (b) for delivery by post – within 3 Business Days of posting;
 - (c) for delivery by email – on receipt of confirmation by the sender that the email has been successfully delivered to the recipient.
- 24.4 **Delivery late in the day:** If delivery or receipt of a communication is on a day which is not a Business Day in the place to which the communication is sent or is later than 5pm (local time in that place) it will be deemed to have been duly given or made at 9am (local time in that place) on the next Business Day in that place.
- 25. General**
- 25.1 **Entire Agreement:** This Agreement and all documents referred to as being incorporated in this Agreement, such as the Program Guidelines, constitutes the entire Agreement and understanding between the parties as to the subject matter of this Agreement. Any prior arrangements, representations or undertakings as to the subject matter of this Agreement are superseded.
- 25.2 **Non-waiver:** No failure or delay by Us in exercising any right, power or remedy under this Agreement and no course of dealing or grant by Us to You of any time or other consideration, will operate as a waiver of the breach or a default by You. Any waiver by Us of a breach of this Agreement will not be construed as a waiver of any further breach of the same or any other provision.
- 25.3 **Conflict of interest:** You warrant that at the date of this Agreement, no conflict of interest exists or is likely to arise in relation to execution of this Agreement or its subject matter. You undertake to notify Us, in writing, immediately upon becoming aware of the existence, or possibility, of a conflict of interest and agree to comply with any reasonable directions of Us to appropriately manage the conflict of interest, within the time frame stipulated by Us in writing.
- 25.4 **Severability:** If any part of this Agreement is prohibited, void, illegal or unenforceable, then that part is severed from this Agreement but without affecting the continued operation of the remainder of the Agreement.
- 25.5 **Relationship:**
- (a) Nothing in this Agreement is intended to create a partnership, joint venture or agency relationship between the parties;
 - (b) You shall not hold Yourself out to be an employee, partner, agent or representative of Us; and
 - (c) All work performed by You and all contracts made by You to carry out the Project shall be performed and made by You as principal and not as agent for Us. In all dealings in relation to the Project You shall act solely on Your own account.
- 25.6 **Applicable law:** This Agreement is governed by, and must be construed in accordance with, the laws in force in the State of New South Wales.
- 25.7 **Governing jurisdiction:** You and We submit to the exclusive jurisdiction of the Courts exercising jurisdiction in the State of New South Wales and the courts of appeal therefrom.

SIGNED on _____ 20____.

Signed by:)

«Executed_By__Conservatorium_»)

(name of Funding Recipient as per the Agreement Details))

[company seal may be affixed here]

A.B.N: «Organisation_ABN1»)

(Funding Recipient A.B.N.))

in accordance with the University)
Delegations of Authority in the presence of:)

.....)

(name and title of first signatory))

.....)

(name and title of second signatory))

.....

(signature)

.....

(signature)

Signed, sealed and delivered for and on)
behalf of the State of New South Wales)
through its Department of Education, but not)
so as to incur any personal liability)

By Leanne Nixon, Deputy Secretary, School)
Performance North)

(authorised officer))

.....

(signature of authorised officer)

.....

(signature of witness)

in the presence of

.....

(name of witness)

ATTACHMENT 1 AGREEMENT DETAILS

This attachment forms part of the Agreement between Us and You.

Item 1 Contact Details

Us: contact name: Leanne Nixon
contact address: Level 11, 105 Phillip Street
Parramatta NSW 2150
contact telephone: 0447 456 452
contact email: conservatorium@det.nsw.edu.au

You: contact name: «You_Contact_Name»
contact address: «You_Contact_Address_Line_1»
«You_Contact_Address_Line_2»
contact telephone: «You_Contact_Telephone»
contact email: «You_Contact_Email»

Item 2 Funding Period Subject to the availability of funds

Commencement

Date: 1 January 2023

End date: 30 December 2025

Program Performance Report Dates for each year: 31 March for the previous January to December.

Item 3 Program

The Non-Tertiary Music Education Grants Program aims to offer a wide range of music education, training, performance and engagement opportunities for schools, students, teachers and community members in the Sydney and Newcastle areas by catering for learners, performers and audiences of all interests and abilities from birth onwards.

Item 4 Funding

Funding

Total Amount of Funding:

Payable in Instalments as set out in the table below:

Description	Amount	Percentage of Funding	Time for Payment
Year 1 Instalment 1	«Year_1_Instalment_1__50» nil GST	50% of the annual Funding in advance	1. On or before 31 January 2023; and 2. Compliance by You with all terms and conditions of this Agreement.
Year 1 Instalment 2	«Year_1_Instalment_2__50» nil GST	50% of the annual Funding in arrears	1. On or before 30 April 2023 and the Supporting Documentation referred to in Item 5 of this Attachment 1; and 2. Compliance by You with all terms and conditions of this Agreement.
Year 2 Instalment 1	«Year_2_Instalment_1__50» nil GST	50% of the annual Funding in advance	1. On or before 31 January 2024; and 2. Compliance by You with all terms and conditions of this Agreement.
Year 2 Instalment 2	«Year_2_Instalment_2__50» nil GST	50% of the annual Funding in arrears	1. On or before 30 April 2024 and the Supporting Documentation referred to in Item 5 of this Attachment 1; and 2. Compliance by You with all terms and conditions of this Agreement.
Year 3 Instalment 1	«Year_3_Instalment_1__50» nil GST	50% of the annual Funding in advance	1. On or before 31 January 2025; and 2. Compliance by You with all terms and conditions of this Agreement.

Year 3 Instalment 2	«Year_3_Instalment_2__50» nil GST	50% of the annual Funding in arrears	<ol style="list-style-type: none"> 1. On or before 30 April 2025 and the Supporting Documentation referred to in Item 5 of this Attachment 1; and 2. Compliance by You with all terms and conditions of this Agreement.
---------------------	--------------------------------------	--------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Item 5 Supporting Documentation

Documentation required in support of claim for:

First Instalment:

- (a) Recipient Created Tax Invoice (generated by Us);
- (b) any other document as per the Reporting Framework (refer to Program Guidelines) or supporting documents requested by Us.

Second Instalment:

- (a) Recipient Created Tax Invoice (generated by Us);
 - (b) any other document as per the Reporting Framework (refer to Program Guidelines) or supporting documents requested by Us.
-

Item 6 Personnel and Additional Employment Terms

1 Specified Personnel

Name of Specified Personnel	Position	Hours per week
Insert	Insert (Head of Agency)	Insert

2 End Recipient

Name of End Recipient	Business Address and contact details for End Recipient
Insert	Business Address: Contact Name: Contact Address: Contact telephone: Contact email:

3 Your employment policy must comply with:

- Children and Young Persons (Care and Protection) Act 1998 (NSW)
- Child Protection (Working With Children) Act 2012 (NSW)
- Child Protection (Working With Children) Regulation 2013 (NSW)
- Work Health and Safety Act 2011 (NSW)
- Work Health and Safety Regulation 2017 (NSW)

- Public Health Act 2010 (NSW).

4 Additional terms, Special Conditions:

All Personnel including Board or Committee of Management members must have appropriate Working With Children Checks and must be trained in Child Protection requirements.

This requirement is above and beyond legislation requirements.

Conservatoriums must be able to guarantee that their Personnel comply with Child Protection legislation. Working with Children Checks must be finalised before engaging Personnel.

Item 7 Capital Equipment

1. Value of Equipment: (exclusive of GST)
2. Additional terms:

Item 8 Specified laws and regulations, standards, policy and statements

- 1 Anti-Discrimination Act 1977 (NSW)
- 2 Children and Young Persons (Care and Protection) Act 1998 (NSW)
- 3 Child Protection (Working With Children) Act 2012 (NSW)
- 4 Child Protection (Working With Children) Regulation 2013 (NSW)
- 5 Multicultural NSW Act 2000 (NSW)
- 6 Fair Work Act 2009 (Cth)
- 7 Copyright Act 1968 (Cth)
- 8 Corporations Act 2001 (Cth)
- 9 Crimes Act 1900 (NSW)
- 10 Disability Inclusion Act 2014 (NSW)
- 11 Disability Inclusion Regulation 2014 (NSW)
- 12 Health Records and Information Privacy Act 2002 (NSW)
- 13 Privacy and Personal Information Protection Act 1998 (NSW)
- 14 Work Health and Safety Act 2011 (NSW)
- 15 Public Health Act 2010 (NSW)

Item 9 Publicity

Additional terms:

1. You must ensure that the following wording appears on all Program related materials:
 - (a) “Partly Funded by NSW Government through the Non-Tertiary Music Education Grants Program”; and
 - (b) “The views expressed herein do not necessarily reflect the views of the NSW Department of Education”.

Item 10 Insurance**1 Insurance policies**

- (a) adequate broad form public liability insurance (\$20 million per occurrence) to cover, as a minimum, all of Your obligations and liabilities under this Agreement; and
- (b) Workers' Compensation insurance in accordance with applicable legislation in respect of all of Your employees.

Item 11 Special Conditions

1. You accept that the Funding through the Non-Tertiary Music Education Grants Funding Program is non-recurrent and subject to Treasury revision at any time.
2. The Funding may be terminated at any time throughout the program if You fail to comply with departmental directives. There is no claim for additional Funding outside what has already been received by You.
3. Unused Funding may be requested by Us to be returned if the Agreement is terminated or the Funding Period ends:
4. Our Confidential Information is and will remain Our property at all times, including after completion of the Agreement. Except as required by law, You must:
 - a. not use Our Confidential Information for any purpose other than directly in relation to the performance of Your obligations under this Agreement;
 - b. not, and must ensure that Your Personnel will not, sell, commercially exploit, let for hire, assign rights in or otherwise dispose of any of Our Confidential Information;
 - c. not make any of Our Confidential Information available to a third party other than a subcontractor approved by Us and then only to the extent necessary to enable the approved subcontractor to perform its part of Your obligations under this Agreement; and
 - d. other than to the extent necessary to enable You to perform Your obligations under this Agreement, not remove or transfer Our Confidential Information to any third party without obtaining the prior approval from Us.
5. You must return Confidential Information to Us immediately on termination or expiration of this Agreement or on request by Us at any time.
6. You must:

- a. comply with all data and information security requirements in respect of access to Our Confidential Information as notified to it in writing from time to time;
- b. prohibit and prevent any person who does not have the appropriate level of security clearance from gaining access to Our Confidential Information; and
- c. notify Us immediately and comply with all directions by Us if You become aware of the contravention of any of Our data and information security requirements.

ATTACHMENT 2 MODEL BUDGET

This Attachment forms part of the Agreement between Us and You.

ITEM	\$ PER ANNUM
A - INCOME	
<i>Service user contributions (Trading/Operating Activities)</i>	
<i>Administrative</i>	
<i>Tuition fees (for example, individual, ensemble, workshop)</i>	
<i>Fees for services to other organisations (for example: schools)</i>	
<i>Other - specify</i>	
<i>Non-Tertiary Music Education Grants Program</i>	
<i>Other funding grants</i>	
<i>Local government funding</i>	
<i>Other state government funding</i>	
<i>Federal government funding</i>	
<i>Universities</i>	
<i>Other - specify</i>	
<i>Service provider contributions</i>	
<i>Hire of facilities and equipment</i>	
<i>Sales (for example: box office, subscriptions, publications)</i>	
<i>In-kind Support</i>	
<i>Other - specify</i>	
Sub – total (A)	
B – EXPENDITURE	
<i>Administrative</i>	
<i>Direct workers' Salaries and Wages and associated costs (for example: Annual Leave Expense, Fringe Benefits Tax, Superannuation, etc.)</i>	
<i>Full-time</i>	
<i>Temporary</i>	
<i>Casual</i>	
<i>Travel & Accommodation</i>	
<i>Stationery</i>	
<i>Communication (post, telecommunications, website)</i>	
<i>Insurances</i>	
<i>Technology (computer, software)</i>	
<i>Equipment</i>	
<i>Capital works</i>	
<i>Other - specify</i>	
<i>Artistic Program</i>	
<i>Production (venue, design, props, equipment hire)</i>	
<i>Professional Performances</i>	
<i>Production</i>	
<i>Publication / Advertisement</i>	
<i>Professional Learning</i>	
<i>Instruments</i>	
<i>In-kind Support</i>	
<i>Other - specify</i>	
Sub – total (B)	

ATTACHMENT 3 RECORDS AND REPORTS

This Attachment forms part of the Agreement between Us and You

Part A Records

- (a) You must provide to Us a copy of Your Corporation details, if requested.
- (b) You are required to maintain organisational records (including accounting and financial records) under the various forms of legislation in external scrutiny of the organisation's yearly activities.
- (c) You are required to maintain a complete set of accounting records and financial records, including:

Accounting Records

- Cash Book
- Bank Deposit Book
- Cheque Butts
- Petty Cash Book
- Pre-numbered Official Receipt Book
- Monthly Bank Reconciliation of Cash Book
- Documentation of all Expenditure with evidence of approval (e.g. Management Committee of Officers as authorised under the organisation's approved constitution)
- Wages Records/Time Sheets (where staff are employed).

The above may be encompassed in an adequate computerised accounting system.

Financial Records

- Balance Sheet
- Income and Expenditure Statement or Profit & Loss Statement
- Asset/Inventory Register.

Part B Plans and Reports

1. You must prepare and submit to Us the Reports meeting the description and requirements specified below, at the times and frequency specified below. We may prescribe the form of Reports and manner of submission by written notice to You from time to time.
2. All Financial Reports must comply with Australian Accounting Standards issued by the Australian Accounting Standards Board, as amended from time to time.
3. All Reports must be sent to the Conservatorium Officer.

Report name	Description	Special requirements	Reporting period frequency & submission
Strategic Plan	As outlined in the Non-Tertiary Music Education Grants Program Guidelines	This report must be approved by Your authorised delegate.	On application for the Funding Period.
Business Plans	As outlined in the Non-Tertiary Music Education Grants Program Guidelines	This report must be approved by Your authorised delegate.	Conservatoriums that plan on a Calendar Year basis must submit their annual business plans for January to December to Us by 31 March of each Funding Year or otherwise annually within 3 months of the commencement of the Conservatorium's operational Year.
Program Performance Report	As outlined in the Non-Tertiary Music Education Grants Program Guidelines	This report must be approved by Your authorised delegate.	31 March each Funding Year.
Annual Report	<ol style="list-style-type: none"> 1. A summary report documenting outcomes achieved with Funding provided by the Program 2. An up-to-date copy of the Asset Register in the format specified at Attachment 3B. 	<ol style="list-style-type: none"> 1. Unless authorisation to retain surplus funds is being sought (where this is allowed), all unspent Funding money must be returned to Us either: <ol style="list-style-type: none"> (a) by cheque submitted with 	<p>The Report is to be provided to Us within three (3) months of:</p> <ol style="list-style-type: none"> (a) the end of each Accounting Year during the Funding Period, in relation to that Financial Year; and (b) the end of the Accounting Year following expiry of the Funding Period or the termination of this Agreement, in relation to

		<p>the Annual Report; or</p> <p>(b) electronically by EFT direct to Our bank, on the same day as the Annual Report is submitted to Us.</p> <p>2. The summary report must be signed by Your authorised delegate.</p> <p>3. The Certification Statement must be signed by two of the office bearers specified at the top of the Certification Statement.</p>	<p>the Accounting Year up to the date of expiry or termination, as applicable.</p>
<p>Audited Financial Report</p>	<p>Complete audited financial statements showing Your full activities, including a financial statement that clearly indicates how the Funding has been applied to the Project.</p> <p>The following financial information:</p> <p>(a) Completed Statement of Income and Expenditure in the format specified at Attachment 3A;</p> <p>(b) Completed Certification</p>	<p>The Report is to:</p> <p>(a) be prepared in accordance with Australian Accounting Standards and any statutory requirements that govern your accounting and financial records;</p> <p>(b) be signed by Your Chief Financial Officer or equivalent authorised officer; and</p> <p>(c) incorporate a statement by an independent qualified</p>	<p>The Report is to be provided to Us within three (3) months of:</p> <p>(c) the end of each Accounting Year during the Funding Period, in relation to that Financial Year; and</p> <p>(d) the end of the Accounting Year following expiry of the Funding Period or the termination of this Agreement, in relation to the Accounting Year up to the date of expiry or termination, as applicable.</p>

	<p>Statement (Acquittal Certificate) in the format specified at Attachment 3C; and</p> <p>(c) Any additional documents required in accordance with any notes to the financial statements.</p>	<p>accountant certifying that the financial statements present fairly that the Funding has been spent solely on the Project and in accordance with the Agreement.</p>	
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

ATTACHMENT 3A: Model Income and Expenditure Statement

Recipient Organisation:
Name of Project/Service:
This Reporting Period:

STATEMENT OF INCOME & EXPENDITURE

Template for customisation by grant giving agency

[HIDE LINE ITEMS AS NECESSARY]

<u>Notes</u>	<u>Budget</u>	<u>Interim Results</u> <small>(state period)</small>	<u>Variance</u> <small>(difference between budget and interim result)</small>	<u>%</u>	<u>Final</u>
--------------	---------------	-------------------------------------------------------------	----------------------------------------------------------------------------------	----------	--------------

[HIDE COLUMNS AS NECESSARY]

INCOME

Grants

Grants (Commonwealth) Operating - *Recurrent*
Grants (Commonwealth) Operating - *Non-recurrent*
Grants (Commonwealth) - *Capital*
Grants (State) Operating - *Recurrent*
Grants (State) Operating - *Non-recurrent*
Grants (State) - *Capital*
Grants (Local) Operating - *Recurrent*
Grants (Local) Operating - *Non-recurrent*
Grants (Local) - *Capital*
Grants - *Other*

Fundraising - *Gifts*

Donations received
Tax Deductible Donations (Non-public)
Donations (Public collections)
Non-tax deductible gifts
Bequests

Fundraising – *Contributions*

Contributions (Members)
Contributions (Public)
Contributions (Government)
Contributions (Philanthropic trusts and corporations)

Trading/Operating Activities

Sales of Goods
Fees and Charges
Sponsorship and licensing fees
Income from Gaming
Sales of tickets to performances

Other Income

Interest
Rental Income
Dividends Received
Other/Sundry Income
Gain on Sale of Non-current Assets

TOTAL INCOME

0

0

0

STATEMENT OF INCOME & EXPENDITURE (cont'd)

Notes Budget Interim
Results Variance % Final

EXPENDITURE

Cost of Goods Sold

Opening Stock
Purchases
Freight Inwards
(Less: Closing Stock)

Cost of Goods Sold

0 0 0

Expenses

Accounting Fees
Advertising and Promotion
Amortisation Expense
Assets Purchased under \$[insert figure]
Audit Fees
Auspicing Fees
Bank Charges
Bad debts
Business Planning Costs
Cleaning
Client Support Services
Client Support Consumables
Computer Expenses
Consultancy Fees
Credit Card Fees
Depreciation
Donations Paid
Employment Support and Supervision Costs
Equipment Hire/Lease
Fees & Permits
Fundraising Expenses – General
Gaming Expenses
Insurance - General
Insurance - Public Liability
Insurance - Professional Indemnity
Insurance - Rental Properties
Insurance - Volunteers
Interest Paid
Legal Fees
Loss on Sale of Non-Current Assets
Management Fees
Meeting Expenses
Meeting Fees for Management Committee or Board
Membership Fees Paid
Motor Vehicle Expenses
Postage, Freight and Courier
Printing & Stationery
Property Management Fees
Publications and Information Resources
Rates & Taxes
Rates – Rental Properties
Rent

STATEMENT OF INCOME & EXPENDITURE (cont'd)

	<u>Notes</u>	<u>Budget</u>	<u>Interim Results</u>	<u>Variance</u>	<u>%</u>	<u>Final</u>
Rent – Rental Properties						
Repairs & Maintenance						
Repairs & Maintenance – Rental Properties						
Salaries & Wages						
<i>Annual Leave Expense</i>						
<i>Fringe Benefits Tax</i>						
<i>Long Service Leave Expense</i>						
<i>Recruitment Expense</i>						
<i>Salary Sacrifice</i>						
<i>Sick Leave Expense</i>						
<i>Superannuation</i>						
<i>Termination Payments</i>						
<i>Workers' Compensation</i>						
<i>Salaries - Other</i>						
Security Expenses						
Staff Amenities						
Sundry Expenses						
Telephone & Fax Charges						
Tenancy and Property Supplies and Services						
Training & Development (Staff)						
Travel & Accommodation						
Utilities						
Volunteer Costs						
Other (specify)						
TOTAL EXPENSES		0	0			0
TOTAL EXPENDITURE						
Operating Surplus/(Deficit)						
TOTAL		0	0			0
<u>Signatures</u>						
Hon Sec/Treasurer:						
President:						

ATTACHMENT 3B: Model Asset Register

ASSET REGISTER

Recipient Organisation: *Insert details*

Service or Project: *Insert details*

Funding Period:

This Asset Register forms part of the Funding Agreement. An asset is a capital item with a value of \$500 or more.

Date of Purchase	Item Description	Make & Model	Serial Number	Location	Cost (excluding GST)

ATTACHMENT 3C: Model Acquittal Certificate

CERTIFICATION STATEMENT BY GRANT RECIPIENT

Certificate by two authorised office bearers of the Grant Recipient Organisation

We, [insert name] _____

and [insert name] _____

certify that the information contained in the Statement of Expenditure of Grant, books, Financial Records and Financial Reports

of [insert details] _____

present the truth, fairness and accuracy of the accounts including the notes to the accounts of the organisation as at [insert date] _____.

We confirm that: [DELETE 1 OR 2 AS APPLICABLE]

1. An amount equal to the total Grant paid (\$[insert amount]) **has been expended** on the Project in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the [insert department name]

OR

2. The total Grant of \$[insert amount] **has not been expended**. An amount of \$ [insert amount] has not been expended and –

OR a cheque for this amount made payable to the [insert department name] is attached. we have today transferred by EFT (electronic funds transfer) this amount into the bank account of the [insert department name].

OR [where department policy allows for this] we are seeking to retain the surplus.

All funds were expended in accordance with the terms and conditions of the Funding Agreement dated [insert date] with the State of New South Wales represented by the [insert department name];

AND

A complete set of accounting and financial records relevant to the Project have been maintained.

Date: _____

Signature: x _____

Name: [insert name] _____

Position: [insert details] _____

Witness signature: x _____

Witness name: [insert name] _____

Date: _____

Signature: x _____

Name: [insert name] _____

Position: [insert details] _____

Witness signature: x _____

Witness name: [insert name] _____

ATTACHMENT 4 MODEL BUSINESS PLAN

Please refer to Non-Tertiary Music Education Grants Program Guidelines Section 4.5.2

Key Result Area (KRA): (The link to the Strategic Plan)						
Business Plan No.	Activities/Actions	Key Performance Measures No.	Responsibility	Resources / Budget Allocation	Timeline	Performance Measures
1.1						
1.2						
1.3						
1.4						
1.5						
1.6						

ATTACHMENT 5 DICTIONARY AND INTERPRETATION

This Attachment forms part of the Agreement between Us and You

Part 1 DICTIONARY

In this Agreement, unless the context otherwise require:

“Accounting Year” means the accounting period for the organisation i.e. Financial Year or Calendar Year;

“Agreement” means this Agreement including the Attachments;

“Asset Register” means a written register (whether stored in hardcopy or electronic form) containing details of assets owned by You including but not limited to:

- (a) the date of purchase of each item of Capital Equipment;
- (b) a description of each item of Capital Equipment;
- (c) the address at which each item of Capital Equipment is located;
- (d) the purchase price of the Capital Equipment, exclusive of GST; and
- (e) the amount of the Funding used to purchase the Capital Equipment.

“Attachment” means an attachment to this Agreement;

“Audited Financial Report” means an audited Financial Report as specified in Part B of Attachment 3;

“Budget” means the budget contained in Attachment 2;

“Business Day” means the day which is not a Saturday, Sunday or public holiday in Sydney, NSW;

“Business Plan” means the Project(s) Plan contained in Attachment 4;

“Capital Equipment” means those items purchased to support the Program with the Funding and of a value exceeding \$500;

“Commencement Date” means the date specified in Item 2 of Attachment 1;

“Confidential Information” means any information and all other knowledge at any time disclosed (whether in writing or orally) to by a party (‘first party’) to the other party, or acquired by the other party in carrying out the Project which:

- (a) is by its nature confidential;
- (b) is designated, or marked, or stipulated as confidential; or
- (c) the other party know or ought to know is confidential;

But does not include information which:

- (d) is or becomes public knowledge other than by breach of this Agreement;
- (e) is in the other party’s lawful possession without restriction in relation to disclosure before the date or receipt of the information from the first party or a third party;
- (f) has been developed or acquired the other party independently of the carrying out of the Project;
- (g) is ascertainable through independent enquiries;
- (h) may be or is required to be disclosed pursuant to Memorandum No. 2000-11 Disclosure of Information on Government Contracts with the Private Sector dated 27 April 2000, as amended or updated from time to time; or

- (i) is required to be disclosed pursuant to law, regulation, legal process or a regulatory authority;

“Department” means NSW Department of Education;

“Financial Year” means the period of 12 months beginning on:

- (a) one (1) July in a calendar year; or,
(b) if You have a financial year that begins on some other date, that date.

“Financial Viability Issue” means that We determine that Your financial position has or may adversely affect Your delivery of the Projects;

“Funding” means the Funding specified in Item 4 of Attachment 1;

“Funding Period” means the period specified in Item 2 of Attachment 1;

“GST Law” means *A New Tax System (Goods & Services Tax) Act 1999*, related legislation and any delegated legislation made pursuant to such legislation.

“Head of Agency” means the most senior manager of the Conservatorium responsible for the operations of the organisation;

“Instalment” means an Instalment of the Funding;

“Intellectual Property” includes patent, know-how, copyright, design, semi-conductor or circuit layout rights, trade mark, trade, business or company names or other proprietary rights and any rights to registration of such rights, whether created before or after the Commencement Date in Australia or elsewhere;

“Key Performance Measure” means the quantifiable indicator used to assess how well Your Projects are achieving the Program goals, as set out in the Application and monitored through the Program Performance Report;

“Moral Rights” means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the *Copyright Act 1968* (Cth), and rights of a similar nature anywhere in the world whether existing at the Commencement Date or which may come into existence on or after the Commencement Date;

“Personnel” of a person or entity includes its employee, agent, officer, contractor and volunteers. Your Personnel does not include Us. Our Personnel does not include You;

“Program” means Our Non-Tertiary Music Education Grants Program;

“Program Guidelines” means Our ‘Program Guidelines’ for the Non-Tertiary Music Education Grants Program for 2023 – 2025 as may be amended from time to time by notice to you;

“Project” means any activity undertaken as part of the Non-Tertiary Music Education Grants Program;

“Project Materials” means all material created by or on Your behalf for the purpose of the Program, including documents, software and data stored by any means;

“Reports” means any other document as per the Reporting Framework (refer to Program Guidelines) or supporting documents requested by Us;

“Special Conditions” means any additional conditions applicable to the Project, set out in Attachment 1;

“Statement of Expenditure” means a Statement of Expenditure of the Funding, as specified in Attachment 3A.

“Supporting Documentation” means the relevant supporting documentation, as specified in Item 5 of Attachment 1;

“Unexpended Funding” means Funding paid to You that is unspent at the end of the Funding Period and includes Funding that is committed but unspent.

Part 2 INTERPRETATION

1. **Inconsistency:** In the event of an inconsistency between the terms of this Agreement, for the purpose only of resolving the inconsistency, the documents that comprise this Agreement are to be considered in the following order of decreasing priority:
 - (a) the operative provisions in the main body of this Agreement;
 - (b) Attachment 5 (**Dictionary and Interpretation**);
 - (c) Attachment 1 (**Agreement Details**); and
 - (d) the other Attachments.
2. Except where the context otherwise requires, a reference in this Agreement to:
 - (a) the singular number includes a reference to a plural number and vice versa;
 - (b) a gender includes a reference to the other genders and each of them;
 - (c) any person or company shall mean and include the legal personal representative, successor in title, and permitted assigns of such person or company as the circumstances may require;
 - (d) words and expressions importing natural persons include partnerships, bodies corporate, associations and governmental and local authorities and agents;
 - (e) any organisations, associations, societies, groups or bodies shall, in the event of them ceasing to exist or being reconstituted, renamed or replaced or if the powers or functions of any of them are transferred to any other entity, body or group, refer respectively to any such entity, body or group, established or constituted in lieu thereof or succeeding to similar powers or functions;
 - (f) statutes, regulations, ordinances or by-laws shall be deemed for all purposes to be extended to include a reference to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing same from time to time;
 - (g) a month shall be construed as a reference to a calendar month; and
 - (h) “includes” and “including” mean by way of example but without limitation.
- 2.1 Monetary references are references to Australian currency.
- 2.2 Where any time limit is pursuant to this Agreement falls on a Saturday, Sunday or public holiday in the State of New South Wales then that time limit shall be deemed to have expired on the next Business Day.
- 2.3 Where You are comprised of more than one person, each of Your obligations will bind those persons jointly and severally and will be enforceable against You jointly and severally.
- 2.4 The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
- 2.5 No rule of construction operates to the detriment of a party only because that party was responsible for the preparation of this Agreement or any part of it.
- 2.6. Where there occurs a reference to the doing of anything by Us including giving any notice, consent, direction or waiver, this may be done by any officer we duly authorise.

ATTACHMENT 6 KEY PERFORMANCE MEASURES

KPM Code	Key Performance Measure
01	The number of students receiving one-on-one tuition
02	The number of workshops providing specialised learning resources
03	The number of group-based music learning activities
04	The number of enrolments in group-based learning activities
05	The number of early childhood music education classes
06	The number of students enrolled in early childhood music education courses
07	The number of pre-tertiary students who received or shared music tuition
08	The number of student performance events
09	The number of school-based programs and initiatives
10	The number of student enrolments in school-based programs
11	The number of opportunities provided for access to non-tertiary music education within equity target groups
	Individualised Key Performance Measures:

	University of Sydney
	University of Newcastle