

## Terms and Conditions

These terms and conditions (Terms and Conditions) apply to the Bright Futures Challenge ('Initiative') which is being administered by The Victorian Health Promotion Foundation.

By submitting an application, You agree to be bound by these Terms and Conditions. In the event of any conflict between any terms referred to in any promotional and/or marketing materials and these Terms and Conditions, these Terms and Conditions take precedence.

### The Initiative and eligibility requirements

1. The Initiative is administered by VicHealth in accordance with these Terms and Conditions.
2. The Initiative commences on Monday, 2 October 2017 and all Applications must be received by VicHealth by 12noon hours Eastern Standard Time on the closing date of Thursday, 9 November 2017
3. The Initiative will operate on the Initiative Webpage. By participating in the Initiative, You agree to act in accordance with:
  - a) these Terms and Conditions; and
  - b) the terms and conditions of the VicHealth Website which are located at [www.vichealth.vic.gov.au/terms-of-use](http://www.vichealth.vic.gov.au/terms-of-use)

### Eligibility to apply for Funding

4. The Initiative is aimed at providing grants to Local Government Authorities located in Victoria the resources to work with partners and co-design with young people projects that will increase community resilience and social connection with a focus on the mental wellbeing of young people..
5. More information about the Initiative objectives and Selection Criteria can be found in the Bright Futures Challenge Guidelines via <https://www.vichealth.vic.gov.au/brightfutures>.
6. VicHealth will not fund an organisation if:
  - a) the organisation operates outside Victoria;
  - b) your application promotes tobacco or alcohol products or in Our opinion, may damage Our reputation.
7. You agree to pay Your own costs in relation to this Initiative, including but not limited by:
  - a) applying for this Initiative;
  - b) completing the Application;
  - c) developing any Application Material;
  - d) complying with these Terms and Conditions and/or Bright Futures Challenge Guidelines;
  - e) executing VicHealth's standard funding agreement; or
  - f) attending to any other matter in relation to the Initiative.

### Submitting an Application

8. To apply for Initiative funding, You must complete and submit an Application using VicHealth online funding application system prior to the closing date. The online funding application system can be accessed via <https://www.vichealth.vic.gov.au/brightfutures>.
9. VicHealth will not accept Applications by email, post, facsimile or any other method that does not involve completing and submitting Application in accordance with clause 8 above.
10. By submitting an Application You warrant that You are an authorised representative with the authority to bind Your organisation to these Terms and Conditions.
11. As part of the Initiative's process, You are required to provide VicHealth with Your ABN and GST registration status. You are required to notify VicHealth if Your GST status changes at any stage of the Initiative.
12. As part of the Initiative process, You are required to provide VicHealth with complete and accurate organisational bank details to enable VicHealth to transfer funds to You if You are a Successful Organisation. In the event that You provide incorrect bank account details, You must notify VicHealth immediately and provide Your correct bank account details. Where VicHealth has relied on the information submitted by You (Including in the Initiative application) and transferred Funds to an incorrect bank account, VicHealth may try and recover the funds from the receiving financial institution and if successful, VicHealth may deduct any costs incurred as a result of recovering the Funds from the Funding amount awarded to You. You acknowledge that VicHealth is not liable to repay any Funds to You in the event that You fail to provide correct bank account details and VicHealth is unable to recover the Funds post transfer.
13. You agree to pay Your own costs in relation to your Application, including but not limited by:
  - a) completing Your Application or other Submission;
  - b) complying with these Terms and Conditions and/or Guidelines For Applicants; or
  - c) attending to any other matter in relation to Application.

### Assessment of Applications

14. All valid Applications will be assessed by VicHealth starting the week beginning Monday 6<sup>th</sup> November 2017 and shall create a shortlist of organisations. A panel of judges will assess shortlisted Applications against the Selection Criteria and will make recommendations on Organisations to be funded.
15. VicHealth will:
  - a) assess all Applications against the Selection Criteria; and
  - b) in its sole discretion, select the Successful Applications.

### Selection Criteria

16. You acknowledge and accept that VicHealth may allocate different weightings to this Selection Criteria in its assessment of Applications and any decision to do so is at the sole discretion of VicHealth.
17. The funded Councils will be required to have a dedicated project manager and implement Council policies and practices that support longer-term change.
18. VicHealth's Selection Criteria can be found on the Initiative Webpage  
<https://www.vichealth.vic.gov.au/brightfutures>

### Announcement of Successful Organisations

19. VicHealth will notify each Successful Organisation in December 2017.

### Provision of grant to Successful Organisation/s of the Initiative

20. If You are a Successful Organisation, VicHealth will provide You with a grant to be used towards implementing the Project in accordance with these Terms and Conditions.
21. Any decision by VicHealth to select a Successful Organisation or the amount of grant to be provided to a Successful Organisation will be at the sole discretion of VicHealth.
22. If You are a Successful Organisation, the provision of the grant to You is subject to You agreeing to enter in to a Standard Funding Agreement with VicHealth, the terms and conditions of which will be determined by VicHealth.

### VicHealth's decisions are final

23. For the avoidance of doubt, any decision by VicHealth on any matter in relation to the Initiative is final and is not subject to review. This includes a decision by VicHealth to:
  - a) Accept an Application;
  - b) Determine which organisation will be a Successful Organisation or the number of Successful Organisations; or
  - c) Determine the amount of any grant.
24. You acknowledge and agree that VicHealth is under no obligation to discuss or provide feedback to You in relation to an Application You have submitted.
25. You also acknowledge and accept that VicHealth will not enter in to any correspondence with You unless Your Application is a Successful Application.
26. If there is a change to Your contact information, You must notify VicHealth as soon as reasonably practicable following that change and give VicHealth the relevant details of that change.

### Warranties

27. By participating in this Initiative, You represent and warrant that:
  - a) You have obtained all rights, licences, and permissions necessary, in writing, from any person who may have helped create Your Application and

any Application Materials submitted as part of this Initiative ; and

- b) Your Application and any Application Materials submitted as part of this Initiative complies with these Terms and Conditions (and any applicable third party terms and conditions), and:
  - i. is Your original work;
  - ii. has not previously been submitted in any other Initiative, competition or promotion, including any third party promotion or event;
  - iii. does not contain any use of the names, likenesses, photographs, or other identifying elements, in whole or in part, of any person, living or dead, without permission of the relevant person or their parent or legal guardian using the relevant consent form available on the VicHealth Website;
  - iv. does not include trademarks, logos, or copyright protected material which belong to third parties unless You have permission from the owner to use the same in Your entry (including, but not limited to, company names, music, photographs, motion picture or television Initiative clips or audio tracks, works of art, or images published on or in websites, television, movies, or other media);
  - v. is not subject to any third party agreements, and VicHealth will not be required to pay any licence fees, royalties or other sums to any person or entity as a result of using the Application and/or any Application Materials in accordance with these Terms and Conditions;
  - vi. does not defame, misrepresent, or contain disparaging remarks or any other content which could adversely affect the name, reputation or goodwill of VicHealth or any other individuals and/or entities, the determination of which shall remain in the sole discretion of VicHealth;
  - vii. does not contain pornographic or sexual content, hateful or offensive content, content which promotes violence or harm to another living creature or any other offensive, obscene or inappropriate content, the determination of which shall remain in the sole discretion of VicHealth;
  - viii. does not include threats of any kind or that intimidate, harass, or bully anyone, or invade the privacy of any person, the determination of which shall remain in the sole discretion of VicHealth;
  - ix. does not violate any applicable laws or include any content that may encourage or provide instructions for a criminal offence;
  - x. does not feature, refer to, or mention any brands competing with VicHealth; and

- xi. along with any electronic method of communication used to submit it to VicHealth, does not contain any known virus, Trojan horse, worm, trapdoor or similar software that may in any way infect or affect any of VicHealth's (or a third party's) hardware or software systems.

#### Right to remove or reject organisations

28. VicHealth reserves the right to remove or reject from the Initiative (including from the Initiative Webpage) an organisation that has entered the Program if:
  - a) VicHealth decides not to shortlist the organisation's Application following an assessment of the Application against the Selection Criteria;
  - b) the organisation's Application or Application Material is illegible, incomplete or fraudulent or does not comply with these Terms and Conditions;
  - c) the organisation has breached these Terms and Conditions or VicHealth suspects that the organisation has breached these Terms and Conditions;
  - d) VicHealth receives a complaint about the organisation from a third party in relation to an Application, Application Materials or any matter relating to this Initiative;
  - e) the organisation has tampered with the operation of the Initiative, has engaged in cheating, hacking, deception or any other unfair practices such as intending to annoy, abuse, threaten or harass any other organisations or VicHealth and/or any of its agents or representatives, or VicHealth suspects, on reasonable grounds, that it has done so;
  - f) the organisation submitting the Application does any act or does anything that is contrary to prevailing community standards, or is otherwise regarded by the public as unacceptable; or
  - g) VicHealth otherwise thinks it is appropriate to do so.

#### Intellectual Property

29. Subject to clauses 30 to 32, You will retain all copyright and any other intellectual property rights in the Application and any Application Materials developed by You pursuant to this Initiative.
30. By submitting an Application and any Application Materials as part of the Initiative, You grant to VicHealth a worldwide, exclusive, transferable, royalty-free, perpetual, irrevocable license (including a right to sub-license) to use, reproduce, distribute, adapt (including without limitation edit, modify, translate and reformat), derive, transmit, publish, communicate, display and perform (publicly or otherwise), the Application and any Application Materials for the purpose of evaluating the Application and any Application Materials, and for VicHealth's marketing, advertising and/or promotional activities, which may include, but is not limited to, using, publishing or communicating the Application and any

Application Materials on a website (including the VicHealth Website and/or Initiative Webpage), social media or other digital media.

31. You hereby represent and warrant that You have all permissions necessary to grant the rights provided for in clause 30 and that any use of such Application including any Application Materials by, or on behalf of, VicHealth shall comply with all applicable laws, rules, and regulations and not infringe or otherwise violate the intellectual property, moral rights or other rights of any third party.
32. By participating in the Initiative, You accept and agree that You waive any moral rights You may have in relation to Your Application and any Application Materials You submit, and that VicHealth may use any names, photographs or video footage featured in the Application and/or Application Materials in its publicity materials without any obligation for VicHealth to provide acknowledgment, payment or other compensation to You. This includes making such names and photographs available on the VicHealth Website, the Initiative Webpage and other advertising and promotional materials.

#### Confidentiality

33. Confidential Information disclosed by VicHealth to You during the Initiative must only be used for the express purpose for which it was disclosed. You agree to keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or Initiatives which are of a confidential nature and have been disclosed by VicHealth to You. You must not, without the prior written consent of VicHealth, use or disclose the Confidential Information, or permit such Confidential Information to be used or disclosed by any third party, except:
  - a) where it is necessary for the purposes of the Initiative;
  - b) where You have obtained the prior written permission from VicHealth;
  - c) to Your officer's agents, professional advisers, employees, contractors and insurers, subject to those persons first being bound by confidentiality obligations in relation to that Confidential Information.

#### Privacy

34. In administering this Initiative, VicHealth will collect personal information, including without limitation, the names and contact details of persons applying for Funding.
35. Any personal information collected by VicHealth in administering the Initiative will be managed in accordance with the Information Privacy Principles (IPP's), the Privacy and Data Protection Act 2014 (Vic), and VicHealth's Privacy Statement which is available at [www.vichealth.vic.gov.au/privacy](http://www.vichealth.vic.gov.au/privacy)

36. You acknowledge and accept that personal information will be shared with VicHealth's employees, agents and subcontractors to the extent necessary for the Initiative to be delivered and for VicHealth's promotional purposes.

#### VicHealth consent forms

37. If You are a Successful Organisation, You must obtain:
- Privacy and moral rights consents from all individuals appearing in photographs and/or video footage provided, or their parents or legal guardians (where applicable);
  - A copyright licence from all individuals or legal entities contributing intellectual property to Your photograph or video footage.
38. In obtaining such consents or licences, you must use the relevant consent forms appearing on the VicHealth Website and provide the signed consent forms upon receiving notification that Your Application is a Successful Application. VicHealth will require You to return the completed consent forms. The consent forms can be found on the Initiative Webpage:  
<https://www.vichealth.vic.gov.au/brightfutures>

#### Indemnity

39. By participating in this Initiative, You will indemnify and hold VicHealth and its officers, employees and agents harmless against any loss, liability, or injury arising out of, or in connection with, this Initiative including without limitation:
- any breach of these Terms and Conditions or the terms and conditions on the VicHealth Website;
  - any warranty given by You under these Terms and Conditions being incorrect or misleading in any way;
  - any breach of confidentiality or breach of privacy by You;
  - any infringement of a third party's intellectual property rights;
  - any defamatory statement;
  - any unlawful activity;
  - any negligent act or failure to act by You; or
  - anything else which causes loss, liability, or injury.

#### Modification, cancellation or suspension of this Initiative

40. VicHealth reserves the right, at any time and in its sole discretion, to:
- alter the structure and/or timing of the Initiative;
  - vary or extend any time or date specified in these Terms and Conditions;
  - require additional information or clarification from and organisation submitting an Application;
  - modify, cancel, terminate or suspend this Initiative in whole or in part; and will not be liable for any costs or expenses incurred by You or any other

person as a result of exercising any of its rights in accordance with this clause 40.

41. If VicHealth exercises any of its rights outlined in clause 40, VicHealth will notify You in writing.

#### Disclaimer

42. VicHealth is not responsible and disclaims all liability for any condition, circumstances, losses, failures or delays caused by events beyond its control.
43. To the maximum extent permitted by law, VicHealth and its officers, employees and agents assume no responsibility for any damage, loss, costs, expenses (including special, indirect or consequential losses, or loss of profits) arising out of, or in connection with, this Initiative including without limitation:
- any technical, hardware or software failures, lost, faulty or unavailable network connections or difficulties of any kind that may limit or prohibit your ability to participate in the Initiative;
  - any lost, damaged, defaced, incomplete, illegible or otherwise unreadable Application or Application Material;
  - any unauthorised access to, or theft, destruction or alteration of, any Application or Application Material at any point in the operation of this Initiative;
  - any infringement of third party's intellectual property rights, breach of confidentiality or breach of privacy or other action which arises as a result of:
    - Your submission of an Application, Application Material or other submission; or
    - VicHealth's use or disclosure of Applications, Application Material or other submission in accordance with these Terms and Conditions; or
  - any defamatory statement; or
  - any unlawful activity by any person; or
  - any breach by You of any third party terms and conditions;
  - any breach of these Terms and Conditions by You or any misleading warranty provided by You; or
  - anything else which causes loss, liability, or injury.

44. By participating in this Initiative, You voluntarily and knowingly release, discharge and relinquish any and all claims, actions and lawsuits of any kind against VicHealth and agree that no claim relating to any loss or injury arising as a result of any of the above shall be made against VicHealth.

#### Governing Law

45. These Terms and Conditions are governed by, and are to be construed in accordance with the laws applicable in Victoria and You irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Victoria.

You waive any right to object to any proceedings being brought in those courts.

## Definitions

“Application” means the application form made by an organisation to participate in the Initiative;

“Application Material” means all material including but not limited to; photos, sketches, diagrams documents, equipment, software (including source code and object code), goods, information and data stored by any means including all copies and extracts of the same and other tangible and intangible works created by You pursuant to Your Application and implementation of the Project;

“Initiative” means the Bright Futures Challenge Initiative which is administered by VicHealth at <https://www.vichealth.vic.gov.au/brightfutures>

“Guidelines” means the VicHealth Bright Futures Challenge Guidelines via <https://www.vichealth.vic.gov.au/brightfutures>

“Initiative Webpage” means the webpage on the VicHealth Website at <https://www.vichealth.vic.gov.au/brightfutures>

“Selection Criteria” means the selection criteria set out in clause 19;

“Standard Funding Agreement” means a funding agreement between VicHealth and a Successful Organisation for the provision of a grant to implement the Successful Organisation’s Initiative;

“Successful Application” means an Application that is selected by VicHealth and results in VicHealth providing a grant to a Successful Organisation;

“Successful Organisation” means an organisation whose Application is selected by VicHealth as the Successful Application;

“VicHealth” means the Victorian Health Promotion Foundation, a statutory authority established pursuant to The Tobacco Act 1987 (Vic), ABN 20734406352 of 15-31 Pelham Street, Carlton 3053;

“VicHealth Website” means the VicHealth website at [www.vichealth.vic.gov.au](http://www.vichealth.vic.gov.au);

“You, Your” means the organisation who has submitted an Application.