

## Terms and Conditions

### 2017–2018 Round Two

#### Maximum Funding \$3,000

These terms and conditions (“**Terms and Conditions**”) apply to the ‘Active Club Grants Program 2017–2018’ (“**Program**”) which is being administered by Victorian Health Promotion Foundation (“VicHealth”).

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 the promotion materials and the Terms and Conditions, these Terms and Conditions take precedence.

#### Program Background

The Program is aimed at providing funding to community sport clubs across Victoria to help address barriers to regular physical activity. VicHealth is looking to fund Community Sporting Clubs who can demonstrate that funding under the Program will increase opportunities for regular physical activity.

More information about the Program Outcome Areas and Funding criteria can be found in the Funding Guidelines at <https://www.vichealth.vic.gov.au/activeclub>.

#### Program eligibility requirements

- 1) VicHealth has a legislative mandate to allocate at least 30% of its appropriation to sports organisations. Applications will only be accepted from community sporting clubs that facilitate or organise community-based sport opportunities as one of their primary functions.
- 2) Organisations may participate in the Program if the following conditions are met:
  - a) the organisation is based in Victoria and committed to delivering the grant in Victoria;
  - b) the organisation is:
    - i) an incorporated association; or
    - ii) a company limited by guarantee;
  - c) the organisation’s primary sport activities align with a recognised State Sporting Association under the classification published by Sport and Recreation Victoria on <http://sport.vic.gov.au/our-work/industry-development/find-sporting-organisations/state-sporting-associations> as of round opening (Tuesday, 30 January 2018);
  - d) the organisation has (to the satisfaction of VicHealth) acquitted any previous grants awarded to it by VicHealth in the past four years;
  - e) if successful, the organisation is able to purchase all approved items within six months of receiving funds;
  - f) the organisation has not received an Active Club Grant in the past two financial years. However this condition will be removed for clubs that demonstrate disadvantage and hardship due to flood, drought, bushfires or other natural disasters.
- 3) VicHealth will **not** Fund an organisation if:
  - a) the purpose of your proposed activities (that would be supported through the funding) involve the head as a deliberate target or involves striking or kicking another individual with intent to injure (e.g. Boxing, Mixed Martial Arts)
  - b) the organisation does not fall within clauses 1, 2 and 3.
  - c) the organisation is excluded from applying for Funding under this Program as it is subject to an Inactive Period which has not expired at the date of the Application. Clubs that have been successful in previous rounds are

subject to Inactive Period of two years from the date an organisation received grant funds from VicHealth.

- 4) A list of clubs subject to this Inactive Period is found at <https://www.vichealth.vic.gov.au/activeclub>
- 5) A non-exhaustive list of the types of organisations which are not eligible to participate in the Program can be found in the Funding guidelines at <https://www.vichealth.vic.gov.au/activeclub>
- 6) The Program will operate on the Program Webpage. By participating in this Program 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 <https://www.vichealth.vic.gov.au/about/policies-and-procedures/privacy-statement>

#### Stages of the Program

There are three stages of the Program:

- Stage 1 – Entry into the Program and provision of an Application
- Stage 2 – Assessment of Applications
- Stage 3 – Awarding grants to Successful Organisations

#### Stage 1 – Entry into the Program and provision of an Application

- 7) The Program commences on Tuesday, 30 January 2018. All Applications must be received by VicHealth by 16.00 Australian Eastern Standard Time on the closing date of Friday 2 March 2018.
- 8) You are required to complete the Application available via the VicHealth application portal on the Program Webpage and provide (amongst other information):
  - a) Your organisation name, key contact names, direct email addresses and contact numbers;
  - b) complete and accurate organisation bank details to enable VicHealth to transfer Funds to You if You are a Successful Organisation;
  - c) valid quotations and estimated quantities for the items provided in Your Application required to enable Your organisation to implement the proposed sport activities;
- 9) VicHealth will not accept entries by email, post, facsimile or any other method. Hardcopy application forms are not available.
- 10) Further to clause 8b) above, 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 and transferred Funds to an incorrect bank account, VicHealth may attempt to recover such Funds from the receiving financial institution and if successful, VicHealth may deduct any costs it incurs as a result of recovering the Funds from the Funding amount awarded to You.
- 11) 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.
- 12) You agree to pay Your own costs in relation to this Program, including (but not limited by):
  - a) applying for this Program;
  - b) complying with these Terms and Conditions; or

- c) attending to any other matter in relation to this Program.

### Stage 2 Assessment of Applications

- 13) The assessment of Applications will be made against the Criteria found in the Funding Guidelines:  
<https://www.vichealth.vic.gov.au/activeclub>
- 14) All Applications will be assessed by VicHealth starting the week beginning 12 March 2018.
- 15) Any decision by VicHealth on any matter in relation to this Program is final and is not subject to review. This includes a decision by VicHealth in determining which organisations will be a Successful Organisation or the number of Successful Organisations or in determining the amount of any Funding for each Successful Organisation.
- 16) By participating in the Program You warrant that You are an authorised representative with the authority to bind Your organisation to these Terms and Conditions.

### Stage 3 Awarding grants to Successful Organisations

- 17) If You are a Successful Organisation, VicHealth will provide You with Funding for the Program / items covered in the Successful Application in accordance with these Terms and Conditions.
- 18) VicHealth will notify Successful Organisations by email prior to the announcement date as specified in clause 22 below.
- 19) Successful Organisations are required to:
- Send a confirmation email to VicHealth at [activeclub@vichealth.vic.gov.au](mailto:activeclub@vichealth.vic.gov.au) to:
    - accept or decline the Program funding
    - accept the Program Terms and Conditions
    - confirm contact and bank details are accurate within two weeks of receiving the notification of Successful Application from VicHealth
  - Refrain from making any media announcements about the successful grant until the media embargo date has passed. This date for media embargo will be advised by VicHealth after grants notifications have been issued.
- 20) VicHealth will list Approved Items for funding in your successful notification email.
- 21) If You wish to purchase an item which is not covered in the successful notification email and/or is not an Approved Item, You must obtain VicHealth's written consent before purchasing such item.
- 22) VicHealth will announce the Successful Organisations on the Program Webpage in mid-June 2018.
- 23) If You have not commenced work on the Program within five months of receipt of funds, you must formally apply for an extension of time for the Program (which may be granted or refused at VicHealth's discretion and subject to any conditions that VicHealth considers to be reasonably necessary)
- 24) If, after six months, there is an amount of funding that has not been expended in accordance with these Terms and Conditions to VicHealth's satisfaction, VicHealth may request you to return all or part of the funding within 21 days and you must comply with such a request.

- 25) VicHealth will issue a Successful Organisation a Recipient Created Tax Invoice in relation to the Funding. The Successful Organisation is not required to issue VicHealth any invoices in relation to the Funding.
- 26) Payment of the Funds shall be made electronically to the Successful Organisation's nominated bank account as detailed in clause 8(b) above. VicHealth shall provide the Successful Organisation with a remittance advice for record keeping.
- 27) Successful Organisations are required to keep full and accurate financial records relating to the receipt and expenditure of the Funding. Successful Organisations must retain those records for a period of at least 7 years following the termination or expiration of the Program. VicHealth may request access to those records upon providing written notice to the Successful Organisation.
- 28) VicHealth will, at random, audit Successful Organisations. If requested by VicHealth, You must provide a financial acquittal (in the VicHealth financial acquittal template) and provide accurate financial records as required under clause 27 above, for the Approved Items purchased with the Funds. The financial acquittal must be signed by two people authorised to sign financial documents on behalf of the Successful Organisation.
- 29) In the event your club is audited and does not return the financial acquittal by the requested due date, your Organisation will be ineligible to apply for a further two years, bringing the total Inactive Period to four years, and/or require You to promptly repay all or part of the Funds.
- 30) VicHealth may also request Successful Organisations to promote campaign messages through communication channels including (but not limited to) website, social media and email communications. VicHealth will not provide additional funding to support this activity.

### Tobacco Products and Promotion

- 31) You acknowledge that VicHealth is established under the Tobacco Act 1987 (Vic) and it has certain objectives and functions set by that Act.
- 32) You will not endorse, promote, sponsor or otherwise be affiliated with tobacco, smoking or tobacco related products in relation to any activity that You undertake in connection with the Program.
- 33) You must not receive any funding, sponsorship or any other kind of endorsement from any person or organisation involved in or affiliated with the production, manufacture or marketing of tobacco, smoking or tobacco related products.

### Privacy

- 34) In administering this Program, VicHealth will collect personal information, including, without limitation, the name of persons participating in the Program.
- 35) Any personal information collected by VicHealth in administering this Program will be managed in accordance with the Information Privacy Principles (IPPs), the Privacy and Data Protection Act 2014 (Vic), and VicHealth's Privacy Statement, which is available at <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 Program to be delivered and for VicHealth's promotional purposes.

37) You acknowledge that your name and contact information will be made available to internal VicHealth staff, to enable them to contact your club regarding other VicHealth projects that may be of interest to sporting clubs (e.g. other grant rounds targeting sporting clubs or participation in campaigns or events), and staff from the Centre for Sport and Social Impact, La Trobe University for the purposes of the Active Club Grant Program Evaluation. If your club is successful, contact details may be shared with Members of Parliament, State Sporting Associations or Regional Sports Assemblies to assist in celebrating grant success. Your contact details will not be shared with other third parties.

38) Any personal information including videos or photos we collect as part of this project needs to be managed in accordance with the Victorian Privacy Principles available at <https://www.cpdp.vic.gov.au/menu-privacy/privacy-laws-and-standards/privacy-laws-and-standards-ipp>

#### Acknowledgement

39) You must acknowledge VicHealth's contribution of Funding to the Project:

- a) In all public announcements concerning the Project or the outcomes of the Project;
- b) By displaying Our posters (to be provided by VicHealth) at your venue or facility and Our digital promotional image (to be provided by VicHealth) on your website and social media channels controlled by You.

40) You must seek Our approval for any additional display materials for this Project that refer to Us prepared by You, such as banners, posters, signage, publications, website links, brochures and other materials.

#### GST

41) You must provide confirmation of your GST status (whether your Organisation is registered for GST or not registered for GST) in order to receive Funding from VicHealth.

42) If You are registered or required to be registered for GST, the Funds paid by Us under these Terms and Conditions must include GST for supplies provided by You to Us in accordance with the Terms and Conditions and which are Taxable Supplies.

43) The Funding payable by Us to You under these Terms and Conditions must not include any amount which represents GST paid by You on Your own inputs and for which an input tax credit is available to You.

44) If You are registered or required to be registered for GST, any refund for the Funding paid to Us under these Terms and Conditions must be inclusive of GST and must be accompanied by an Adjustment Note under the GST Act relating to Taxable Supplies.

#### Intellectual Property

45) Subject to clauses 34 and 35, You will retain all copyright and any other intellectual property rights in the Application.

46) By submitting an Application as part of the Program, 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 for the purpose of evaluating the Application, and for VicHealth's marketing, advertising and/or promotional activities, which may include, but is not limited to, using, publishing or communicating the Application on a website, social media or other digital media.

47) You hereby represent and warrant that You have all permissions necessary to grant the rights provided for in clause 46 and that any use of such by, or on behalf of Us, 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.

48) By participating in the Program, You accept and agree that you waive any moral rights you may have in relation to the Application You submit, and that VicHealth may use any names featured in the Application in its publicity materials without any obligation for VicHealth to provide acknowledgment, payment or other compensation to You. This includes making such names available on the VicHealth Website, the Program Webpage and other advertising and promotional materials.

#### Indemnity

49) By participating in this Program, 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 Program including without limitation:

- a) any breach of these Terms and Conditions and/or the terms and conditions on the VicHealth Website;
- b) any warranty given by You under these Terms and Conditions being incorrect or misleading in any way;
- c) any breach of confidentiality or breach of privacy by You;
- d) any infringement of a third party's intellectual property rights;
- e) any defamatory statement;
- f) any unlawful activity;
- g) any negligent act or failure to act by you; or
- h) anything else which causes loss, liability, or injury.

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

50) VicHealth reserves the right, at any time and in its sole discretion, to:

- a) alter the structure and/or timing of the Program;
- b) vary or extend any time or date specified in these Terms and Conditions;
- c) require additional information or clarification from an organisation participating in the Program;
- d) modify, cancel, terminate or suspend this Program in whole or in part;
- e) 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 50.

51) If VicHealth exercises any of its rights outlined in clause 50, VicHealth will notify You in writing.

#### Disclaimer

52) VicHealth is not responsible and disclaims all liability for any condition, circumstances, losses, failures or delays caused by events beyond its control.

53) 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 Program including without limitation:

- a) 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 Program;
- b) 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 Application and/or
- c) VicHealth's use or disclosure of Applications in accordance with these Terms and Conditions; or
- d) any defamatory statement; or
- e) any unlawful activity by any person; or
- f) any breach of these Terms and Conditions by You or any misleading warranty provided by You; or anything else.

### General

- 54) These Terms and Conditions constitute the entire agreement between VicHealth and You in relation to the Funding and the Program. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to the Funding and the Program are replaced by these Terms and Conditions and shall have no further effect.
- 55) You may not assign, transfer, sub-contract or otherwise deal with Your obligations under Terms and Conditions or any right under these Terms and Conditions (including in respect of the Funding) without the prior written consent of VicHealth.
- 56) 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 nonexclusive jurisdiction of the courts of Victoria. You waive any right to object to any proceedings being brought in those courts.

### Warranties

- 57) By participating in this Program, 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 submitted as part of this Program; and
  - b) Your Application submitted as part of this Program complies with these Terms and Conditions (and any applicable third party terms and conditions), and:
    - i) is Your original work;
    - ii) 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

- 58) VicHealth reserves the right to remove or reject from the Program (including from the Program Webpage) an organisation that has entered the Program if:
  - a) the organisation's Application is incomplete or fraudulent or does not comply with these Terms and Conditions;
  - b) the organisation has breached these Terms and Conditions or VicHealth suspects that the organisation has breached these Terms and Conditions;

- c) VicHealth receives a complaint about the organisation from a third party in relation to an Application or any matter relating to this Program;
- d) the organisation has tampered with the operation of the Program, has engaged in cheating, hacking, deception or any other unfair practices such as intending to annoy, abuse, threaten or harass any other entrants or VicHealth and/or any of its agents or representatives, or VicHealth suspects, on reasonable grounds, that it has done so; or
- e) 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.
- f) VicHealth otherwise thinks it is appropriate to do so.

### Definitions

**"Adjustment Note"** has the same meaning as it has in Section 195-1 of the GST Act;

**"Application"** means the online application form on the Program Webpage submitted by an organisation to apply for Funding pursuant to the Program;

**"Approved Program / Items"** means VicHealth's list of Funding approved Programs / items of expenditure as set out in the Successful Letter provided to Successful Applicants;

**"Evaluation Criteria"** means the evaluation criteria set out in clause 13;

**"Funding" or "Funds"** means an Active Club Grant of up to \$3,000 (exclusive of GST) to be awarded by VicHealth to a Successful Organisation pursuant to these Terms and Conditions;

**"Funding guidelines"** means the Active Club Grants Funding Guidelines located on the Program Webpage at <https://www.vichealth.vic.gov.au/activeclub>;

**"Inactive Period"** means a fixed period of two years from the date an organisation received grant funds from VicHealth pursuant to a previous Active Club Grants Program administered by VicHealth;

**"Program Period"** means Tuesday, 30 January and the closing date of Friday 2 March 2018

**"Program Webpage"** means the webpage on the VicHealth Website at <https://www.vichealth.vic.gov.au/activeclub>;

**"Program"** means the 'Active Club Grants Program 2016-2018' which is administered by VicHealth on the Program Website;

**"Successful Application"** means an Application that is selected by VicHealth which will result in VicHealth providing Funds to a Successful Organisation pursuant to the Program;

**"Successful Organisation"** means an organisation whose Application is selected by VicHealth as the Successful Application pursuant to the Program;

**"Taxable Supplies"** has the same meaning as it has in the GST Act;

**"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 participates in the Program.