



## DELBURN WIND FARM PRE-DEVELOPMENT GRANT FUNDING DEED AGREEMENT

Congratulations on receiving a Delburn Wind Farm Pre-Development Grant. We hope this grant will assist your group or non-profit organization to deliver important activities and projects within the community.

A Funding Deed Agreement must be signed by both parties before any grant payments can be made. The Delburn Wind Farm is not responsible for any expenditure until a grant agreement is executed. Please do not commence any grant activities until a Funding Deed Agreement is fully executed.

Your Funding Deed Agreement may contain specific conditions as determined in the assessment process. If there is a breach of the Funding Deed Agreement, Delburn Wind Farm may be required to recover grant funds.

**This Funding Deed is dated**            /            / **2024** *(Date to be completed by Delburn Wind Farm)*

### Parties

#### Funder

**Delburn Wind Farm Pty Ltd** (ABN 61 614 090 130)  
of 66 Ridgway, Mirboo North VIC 3871

#### Recipient

*X Organisation*

Details	
<b>Funder</b>	Delburn Wind Farm Pty Ltd 66 Ridgway, Mirboo North VIC 3871 1800 676 428
<b>Recipient Organisation</b>	XX
<b>Project Name</b>	XX
<b>Project Plan Attached</b>	XX
<b>Project Term</b>	12 months
<b>Commencement Date</b>	<i>This is the signing of the Deed date.</i>
<b>Funds</b>	A total of \$X will be paid in one amount to X (organisation) once an invoice is received.
<b>Invoicing requirements</b>	Please send an invoice to the Delburn Wind Farm Pty Ltd for \$X. Once the invoice is received, the payment will be made to your organisation.
<b>Insurance policies</b>	Public liability for \$10,000,000 for any single occurrence and unlimited in the aggregate as to the number of occurrences.

<p><b>Acknowledgement/ Promotional activities</b></p>	<p>The Delburn Wind Farm logo must be used on all materials related to the Pre-Development Grants under your program. Whenever the logo is used, the publication must acknowledge the grant by stating: 'This project [funded] by a Delburn Wind Farm Community Pre-Development Grant.' This can be achieved via public signage, a media release, social media post, newsletter story, speech and/or event.</p> <p>If you make a public statement about the grant funding, you are required to acknowledge the grant by using the following: 'The 'X' was provided by grant funding from the Delburn Wind Farm.'</p> <p>You must notify us of events relating to your grant and provide an opportunity for Delburn Wind Farm representatives to attend.</p> <p>You must allow the Delburn Wind Farm to review and approve any text of any proposed publicity concerning this grant, prior to its release. If this grant is to be used for a film, video, book, or other such product, we reserve the right to request a screening or preview of the product, during the final production stages, before deciding whether or not to be credited as a funder of the product.</p> <p>As a grant recipient, you agree to permit the Delburn Wind Farm to include and/or disseminate information about the grant and/or recipient organization in its publications and communications in print and electronic form.</p> <p>We request photos of recipients undertaking grant activities for promotional use to highlight our support of local community groups.</p>
<p><b>Keeping us informed</b></p>	<p>Please inform us as soon as possible if anything is likely to affect your grant activities or organisation. We need to know of any changes to your organisation or its charitable activities, particularly if they affect your ability to complete your grant project, carry on activities and pay debts due because of these changes. Please advise us as soon as possible if your grant cannot be utilized within the twelve-month timeframe.</p> <p>You must also inform us of any changes to your:</p> <ul style="list-style-type: none"> <li>▪ Name;</li> <li>▪ Address;</li> <li>▪ nominated contact details; or</li> <li>▪ bank account details.</li> </ul> <p>If you become aware of a breach of the terms and conditions under the grant agreement, you must contact us immediately.</p>
<p><b>Reports</b></p>	<p>You must provide an update on the progress of your grant activities within a 12 month timeframe. This includes progress on the outcome and expenditure of the grant within the twelve month allocation of the grant funding.</p>

It is agreed:

## 1. Definitions and Interpretation

### 1.1 Interpretation

Unless the context requires otherwise, in this Deed: (a) the terms set out in the left hand column of the Details have the meaning ascribed to them in the right hand column of the Details; (b) where any time limit pursuant to this Deed falls on a day which is not a Business Day then the time limit will be deemed to have expired on the next Business Day; (c) a reference to a statute, regulation, ordinance or by-law will be deemed to include a reference to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing it from time to time; (d) the meaning of general words is not limited by specific examples introduced by "including" or "for example" or similar expressions; (e) references to persons include bodies corporate, government agencies and vice versa; (f) references to the parties include references to respective directors, officers, employees and agents of the parties; (g) nothing in this Deed is to be interpreted against a party solely on the ground that the party put forward this Deed or any part of it; and (h) where an expression is defined, any other grammatical form of that expression has a corresponding meaning.

### 1.2 Definitions

**Activity** means the activity/activities described in **Schedule 1 – Project Plan**, which aim to fulfil one or more of the Objectives of the Project, and includes: (a) the provision of Project Material; (b) any works that are required to be undertaken by the Recipient as part of a Project; (c) any parts of the Activity that are required to be undertaken by the Recipient's subcontractors; and (d) any other obligations that are required to be performed by the Recipient under this Deed in order to deliver the Project. **Activity Period** means the period specified in **Schedule 1 – Project Plan** during which the Activity must be completed. **Budget** refers to a budget for expenditure of the Funds for the purposes of conducting the Activity or performing obligations under this Deed prepared by the Recipient and agreed by the Funder as a part of the Project Plan. **Business Day** means any day other than a Saturday, Sunday or public holiday in Victoria. **Claim** means any cost, expense, loss, damage, claim, action, proceeding or other liability (whether in contract, tort or otherwise), however arising and includes legal costs on a full indemnity basis. **Confidential Information** of a party means all trade secrets, financial information and other commercially or scientifically valuable information of whatever description and in whatever form (whether written or oral, visible or invisible) which: (a) is by its nature confidential; (b) has been designated as confidential by a party; (c) is capable of protection at common law or equity as confidential information; or (d) is derived or produced partly from the information in paragraphs (a), (b) or (c) above, but does not include information that: (a) is in the public domain other than as a result of a breach of this Deed or any other obligation of confidentiality owed by or to any other person; or (b) is independently known or developed by the party receiving the information other than as a result of a breach of this Deed

or any other obligation of confidentiality owed by or to any other person. **Deed** means this funding deed document and includes the Details, Terms, Schedule 1 – Project Plan and any other schedules, annexures or other documents cross-referenced in this deed. **Recipient's Contributions** means the contributions (whether financial or in-kind resources) if any, specified in the Schedule 1 – Project Plan that are provided by you for the purposes of this Deed. **GST Law** means *A New Tax System (Goods and Services Tax) Act 1999*. **Intellectual Property or IP** includes: (a) all rights in relation to copyright, inventions, plant varieties, trademarks, designs, patents; and (b) all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields including trade secrets and know-how, but does not include Moral Rights. **Moral Rights** has the same meaning as in the *Copyright Act 1968* (Cth). **Notice** means any approvals, consents, instructions, orders, directions, statements, requests and certificates, or other communication to be given under this Deed. **Objectives** means the objectives of the Activities described in the Schedule 1 – Project Plan, which are the agreed results you must achieve and ensure your subcontractors achieve. **Personal Information** has the same meaning as in the *Privacy Act 1988* (Cth). **Project Material** means material created as part of or in performance of the Project including any documents or data. **Quarter** means, respectively, the period commencing 1 July, 1 October, 1 January, 1 April of each year of the Term of the Deed. **Signing Date** means the date that this Deed was signed by the last party. **Unexpended Funds** means any part of the Funds paid to you that are unspent at the end of the Project Term and includes any part of the Funds that are committed but unspent.

## 2. Commencement

2.1 This Deed will commence on the Commencement Date.

## 3. Your obligations

You must:

- (a) ensure the Funds are used only for the approved Project;
- (b) make the Recipient's Contributions (if any);
- (c) ensure each Activity is completed within the Activity Period in accordance with this Deed;
- (d) maintain and comply with all relevant permits and approvals; and
- (e) comply at all times with all applicable laws, (including laws, regulations and conventions regarding modern slavery, anti-bribery and anti-corruption).

## 4. Holding of Funds

- (a) The Funds must be held in trust for the benefit of the Funder from the date the Funds are received either:
  - (i) in a separate bank account used solely in connection with the Funds; or
  - (ii) into a general bank account provided that sufficient accounting controls are in place to track the expenditure of the Funds.
- (b) You must not expend any part of the Funds until the Funder has notified you that you may release the specified amount of the Funds for the Project.

## 5. Payment of Funds

- (a) Once you have met any milestones you are required to meet and have provided the Funder with the evidence of compliance required under the Schedule(s) the Funder will pay you the payments at the times and under the terms set out in Schedule 1.
- (b) The Funder making any payment to you does not constitute an admission that the performance of the Project is in conformity with this Deed and no payment will be deemed to release you from your obligations under this Deed.

## 6. Withholding, Suspension, Changes to Payments and Repayment

- (a) The Funder may change the amount of the payment by issuing you with a written notice setting out the details of the changes.
- (b) If you are not complying with this Deed the Funder may withhold or suspend payment until you comply with your obligations to the Funder's satisfaction.
- (c) If the Funder withholds or suspends your payment you must continue to perform your obligations under this Deed.
- (d) You must repay within 28 days of a demand being sent:
  - (i) any payment spent in breach of this Deed;
  - (ii) all Unexpended Funds;
  - (iii) any overpayment; and
  - (iv) any interest earned on any payment required to be repaid.
- (e) Where you have failed to comply with this Deed, the Funder will calculate the amount of repayment you must make with regard to the extent you have failed to meet the objectives and/or the milestones of the Project.
- (f) The Funder may set off the amount of any overpayment or claim for repayment against any future payment to you.
- (g) Any repayment the Funder claims from you under this clause 6 will be a debt due and owing by you to the Funder.

## 7. GST

- (a) Unless otherwise indicated, all consideration for any supply under this Deed is exclusive of any GST imposed in relation to the supply.
- (b) If:
  - (i) despite any other provision of this Deed, GST is imposed on a supply you make to the Funder under this Deed; and
  - (ii) the Funder is or will be entitled to receive an input tax credit (as defined in the GST Law) in relation to that supply,

the Funder will pay you an additional amount equal to the GST imposed on that supply, at the time and in the manner payment is otherwise payable under this Deed in relation to that supply.

- (c) You must be registered under the GST Law at the time of making any supply under this Deed on which GST is imposed.

- (d) If you are not registered under the GST Law as required under **clause 7(c)**, you will not be entitled to receive any additional amount as provided under this **clause 7**.
- (e) If for any reason the Funder pays you an amount under this **clause 7** which is more than the GST imposed on the supply, you must repay the excess to the Funder on demand or the Funder may set off the excess against any other amounts due to you.

## 8. Reporting Requirements

- (a) You agree to provide the Funder with a progress report upon the request of the Funder.
- (b) You must provide a receipt in respect of the Funds to the Funder within 60 Business Days after:
  - (i) completion of the Activity or any termination of this Deed, whichever is the earliest; and
  - (ii) the completion of each Financial Year in which a payment of Funds is made.
- (c) The Statements must include a definitive statement as to whether:
  - (i) the financial information for the Project represents the financial transactions fairly and is based on proper accounts and records; and
  - (ii) the Funds were expended for the Project and in accordance with this Deed.
- (d) You must keep financial accounts and records relating to the Project so as to enable:
  - (i) all receipts and payments related to the Project to be identified in your accounts and reported in accordance with this Deed;
- (e) If any progress report contains information confidential to you, you should mark the relevant parts of the report accordingly.

## 9. Intellectual Property

- (a) Intellectual Property in all Project Material vests in you, unless otherwise stated in the Special Conditions.
- (b) You grant to the Funder, a perpetual, irrevocable, non-exclusive, assignable, royalty free and transferable licence (including the right to sub-licence to others) to use, exercise, reproduce, display, modify, communicate, adapt, perform, distribute or develop all Intellectual Property in the Project Material, for any purpose associated with the completion, development, marketing (including merchandising or promoting), use, operation, maintenance, valuation, redevelopment or other dealing with the Project (including any variation) and otherwise for the purposes of, or in connection with, the Funder's business worldwide, and must do all things reasonably necessary to give effect to such grant.

## 10. Confidential Information

No Confidential Information may be disclosed by you to any person except:

- (a) to your personnel, to the extent necessary for the performance of the Activities;
- (b) with the prior written consent of the Funder, which consent may be given or withheld in its absolute discretion;

- (c) you are required to do so by law (except to the extent the requirement can be excluded or limited by a contract or by a confidentiality obligation) or by any recognised stock exchange on which its shares or the shares of any of its related bodies corporate are listed; or
- (d) if the information is in the public domain, other than by breach of this Deed.

## 11. Privacy

You will:

- (a) ensure that Personal Information that is provided by the Funder or collected by you under or in connection with this Deed is used only for the purposes of this Deed and is protected against loss, unauthorised access, use, modification and disclosure, or against other misuse;
- (b) not disclose any Personal Information without the written consent of:
  - (i) the individual to whom the Personal Information relates; or
  - (ii) the Funder,

unless otherwise required or authorised by law;

- (c) comply with the *Privacy Act 1988* (Cth); and
- (d) include equivalent requirements regarding Personal Information (including this **clause 11**) in any subcontract entered for the provision of any of the Activities under this Deed.

## 12. Insurance

- (a) You must maintain, during the term of this Deed, the Insurance Policies listed in the Details on terms that are reasonably satisfactory to the Funder.
- (b) You must not do, permit or suffer any act, matter or thing or omission whereby any of the policies referred to in this clause may be vitiated, rendered void or voidable.
- (c) On request by the Funder, you must provide a copy of valid and current certificates of currency for each or any of the policies described above.
- (d) Without limitation to **clause 12(a)**, each party warrants that it has and will maintain appropriate insurance to cover any liability it may incur in relation to this Deed.

## 13. Indemnities

### 13.1 Indemnity

Except to the extent caused by any negligent or unlawful act or omission by the Funder, its officers, employees or agents contributed to the relevant loss or liability, you must indemnify and keep indemnified the Funder and its officers, employees and agents from and against any loss (including legal costs and expenses on a solicitor/own client basis) or liability incurred or suffered by, or made against, any of those indemnified arising directly or indirectly from any Claim by any person as a result of or in connection with:

- (a) the Funds or the use of any outcomes from the Project;
- (b) your breach of this Deed;
- (c) any unlawful or negligent act or omission by you, your employees, agents or your subcontractors in connection with this Deed;

- (d) any illness, injury or death of any person caused or contributed to by you, your employees, agents or your subcontractors in connection with this Deed;
- (e) any loss or damage to real or personal property caused or contributed to by you, your employees, agents or your subcontractors in connection with this Deed; or
- (f) any act or omission by you or your employees, agents or your subcontractors in connection with this Deed that is in infringement of any Intellectual Property, Moral Rights or privacy rights of the Funder or any third party.

### 13.2 No limitation

Your liability to indemnify the Funder under this clause does not exclude or reduce the liability of, or benefit to, a party that may arise by operation of the common law, statute or the other terms of this Deed.

## 14. Termination

- (a) Unless terminated earlier in accordance with this clause, this Deed will end at the end of the Project Term and once you have completed the Project to the Funder's satisfaction and the Funder has made all payments due.
- (b) A party may give Notice to the other party terminating this Deed where the other party has breached any material provision of this Deed and that other party has not rectified the breach within thirty (30) days of receiving Notice requiring it to do so.
- (c) The Funder may terminate this Deed by giving you 30 days' notice, if any one or more of the following occurs:
  - (i) in the Funder's opinion (acting reasonably) you are not carrying out the Project diligently and competently;
  - (ii) you have not achieved one or more of the milestones;
  - (iii) the Funder considers the Project no longer viable; or
  - (iv) the Funder considers reasonably that there has been a material change in circumstances in your financial position, your structure or your identity.
- (d) The Funder may terminate this Deed immediately by written notice if:
  - (i) you breach a provision of this Deed in a manner that, in the Funder's opinion (acting reasonably), is not capable of remedy;
  - (ii) you breach a provision of this Deed that in the Funder's opinion (acting reasonably) is capable of remedy and fail to comply with a notice from us to remedy the breach within the period for remedy specified in that notice;
  - (iii) you become insolvent, if you are the subject of a debtors or creditors petition under the *Bankruptcy Act 1966*, or if you resolve to go into administration or liquidation or have a summons for your winding up presented to a Court or enter into any scheme of arrangement with your creditors.

## 15. Notices

Notices regarding this Deed must be sent to the addresses of the parties as specified in the Details (or as otherwise notified by the parties in writing from time to time). A notice or other communication is taken to have been duly served:

- (a) in the case of hand delivery - when delivered;
- (b) if sent by prepaid post - on the third Business Day after the date of posting; and
- (c) if sent by email, (i) when the sender receives an automated message confirming delivery; or (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed, whichever happens first.

## 16. General

**16.1 Survival:** The following clauses survive termination or expiry of this Deed clause 9 (Intellectual Property), clause 10 (Confidential Information), clause 11 (Privacy), clause 13 (Indemnities), clause 14 (Termination), this clause 16.1 and any other clause which by its nature is intended to survive this Deed.

**16.2 Subcontractors:** You remain fully responsible for the performance of the Project if you subcontract the performance of any part of the Project.

### 16.3 Keeping of records, audit and rights of access to such records

You:

- (a) must keep complete and accurate records and books of account with respect to your performance of the Project (**the Records**), and must retain such Records for a minimum of seven (7) years after expiry or termination of this Deed;
- (b) authorise the Funder, to undertake audits, to examine and inspect, at reasonable times and on reasonable notice, any records held by you and Records, and allow any such Records to be copied; and
- (c) provide all reasonable assistance in order for the Funder to properly carry out the inspections and audits referred to in this clause.

**16.4 Conflict of Interest:** You must not carry on or be involved in any capacity in an activity or business, which may conflict with, or adversely affect, your ability to carry out your obligations under this Deed, and you will immediately notify the Funder in writing if such a conflict or risk of such a conflict arises.

**16.5 Entire Agreement:** This Deed states all the express terms agreed by the parties as to the matters referred to in this Deed. It supersedes all prior contracts, obligations, representations, conduct and understandings between the parties relating to the subject matter of this Deed.

**16.6 Variation:** This Deed may only be varied by an agreement in writing signed by the parties.

**16.7 Inconsistency:** If there is any inconsistency between provisions of this Deed then the order of precedence will be:

(a) **the Details**; then (b) **any Special Conditions**; then (c) **these Funding Terms**; then (d) **any Schedules**.

### 16.8 Negation of employment, partnership or agency

- (a) This Deed does not create a relationship of agency, partnership, and/or employment between the parties.
- (b) You must not represent yourself as being an employee or agent of the Funder or as otherwise able to bind or represent the Funder.

### 16.9 Waiver

- (a) If a party fails to exercise any of its rights under this Deed, or delays exercising those rights, that failure or delay will not operate as a waiver of those rights or any future rights or in any respect estop a party from relying on the terms of this Deed to their full force and effect.
- (b) Any waiver by a party of a breach of this Deed must be in writing and will not be construed as a waiver of any further breach of the same or any other provision.

**16.10 Assignment:** You must not assign or novate your obligations or interests under this Deed, without the prior written consent of the Funder.

**16.11 Counterparts:** This Deed may be signed in any number of counterparts which taken together will constitute one instrument. The parties agree that, without limitation, a party may deliver and exchange this deed by means of electronic communications, including as a PDF or other attachment to an email address of the other party or its professional advisers.

**16.12 Governing Law:** The laws in force in Victoria govern this Deed and the parties submit to the non-exclusive jurisdiction of the courts in that State.

**Execution page**

**Signed, sealed and delivered** as a deed

**Executed by Delburn Wind Farm Pty Ltd**  
(ABN 61 614 090 130) in accordance with  
section 127 of the Corporations Act:

.....  
Signature of Director

Elizabeth Radcliffe

.....  
Name of Director

.....  
Signature of Director

Peter Marriott

.....  
Name of Director

**Executed by X Organisation**

.....  
Signature of Witness

.....  
Name of Witness

.....  
Signature of Authorised Representative

.....  
Name of Authorised Representative