

**Funding Deed for *Tasmanian
Forests Intergovernmental
Agreement Contractors
Voluntary Exit Grants Program***

Commonwealth of Australia acting through the
Department of Agriculture, Fisheries and Forestry
(**Commonwealth**)

[Insert full name of Grantee]
(**Grantee**)

Contents

1.	DEFINED TERMS	2
2.	PROJECT PERFORMANCE	2
3.	FUNDING PAYMENT	4
4.	USE AND BANKING OF FUNDING MONEY	4
5.	REPORTS	5
6.	TERMINATION	6
7.	MISCELLANEOUS	6
	SCHEDULE	7

**DATE OF
EXECUTION**

PARTIES

Commonwealth of Australia ABN 24 113 085 695 for the purposes of this Deed, acting through the Department of Agriculture, Fisheries and Forestry (**Commonwealth**)

Address:

Facsimile:

Email:

Contact officer and Attention:
telephone number:

[Name of Grantee] ABN ***[Insert the Grantee's ABN]*** (**Grantee**)

Address:

Facsimile:

Email:

Contact officer and Attention:
telephone number:

BACKGROUND

- A. The Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program (Program) is designed to assist eligible businesses to exit the Tasmanian public native forest harvest, haulage and silvicultural contracting sector.
- B. The Grantee has applied for funding under the Program.
- C. The Commonwealth has agreed to provide Funding to the Grantee under the Program.
- D. The Commonwealth must ensure accountability of the Funding and the Grantee is therefore required to be accountable for all Funding received.
- E. The Commonwealth's provision of Funding to the Grantee is subject to the terms and conditions set out in this Deed.

AGREED TERMS

1. DEFINED TERMS

In this Deed, unless the context otherwise requires:

Bank Account means the bank account specified the Information Table in the Schedule.

Commencement Date means the date specified in the Information Table in the Schedule.

Deed means this funding deed and includes any schedules.

Deed of Undertaking means the deed which must be executed by the Grantee's Nominated Individuals under clause 2.3.

Funding means the amount specified in the Information Table of the Schedule.

Milestones means the milestones specified in the Schedule.

Nominated Individuals are all the owner(s) or director(s) or partner(s) of the Grantee as the case may be.

Objectives means the objectives of the parties in entering into this Deed specified in the Schedule.

Project means the project described in the Schedule.

Reports means the reports to be provided to the Commonwealth relating to the Project containing the information described in the Schedule.

Term means the period specified in the Information Table in the Schedule commencing on the Commencement Date.

2. PROJECT PERFORMANCE

2.1 Project performance

The Grantee must undertake the Project during the Term in accordance with this Deed diligently, effectively and with due care and skill.

2.2 Milestones

- (a) The Grantee must carry out the Project in accordance with the Milestones.

-
- (b) The Grantee must:
- (i) exit the industry within two months from the Commencement Date and provide an exit strategy detailing arrangements for its exit from the industry;
 - (ii) pay all employee entitlements on receipt of the payment of the Funding for Milestone 1;
 - (iii) provide evidence of ceasing to use the Grantee's forestry machinery in the Australian native forest harvest, haulage and silvicultural contracting sector and/or the Australian plantation forest harvest, haulage and silvicultural contracting sector except to the extent of existing contractual arrangements in the mainland sector or the Tasmanian private native forest sector or the Tasmanian plantation sector;
 - (iv) not hire out or lease out the forest machinery of the business to another business, organisation or person for utilisation in the Australian forest industry before re-entry is permitted;
 - (v) terminate any pre-existing hiring out or leasing out arrangements as at the Commencement Date; and
 - (vi) not re-enter the Australian native forest harvest, haulage and silvicultural contracting sector and/or Australian plantation harvest, haulage and silvicultural contracting sector within ten years of receiving the payment of the Funding for Milestone 1, except to the extent of existing contractual arrangements in the mainland sector or the Tasmanian private native forest sector or the Tasmanian plantation sector.

2.3 Deed Poll of Undertaking

- (a) The Grantee must ensure that each Nominated Individual executes a Deed Poll of Undertaking in which they undertake not to re-enter the Australian native forest harvest, haulage and silvicultural contracting sector and/or Australian plantation harvest, haulage and silvicultural contracting sector within ten years of the Grantee receiving the Milestone 1 payment of the Funding, except to the extent of existing contractual arrangements in the mainland sector or the Tasmanian private native forest sector or the Tasmanian plantation sector.
- (b) The Grantee must ensure that each Nominated Individual informs the Commonwealth if, within ten years of the Grantee receiving the payment of the Funding for Milestone 1, he or she enters into business which is indicative of a return to the Australian native forest harvest, haulage and/or silvicultural contracting sector and/or Australian plantation harvest, haulage and silvicultural contracting sector or otherwise engages in any activity that is inconsistent with the undertakings in the Deed Poll of Undertaking.

2.4 Monitoring of the project

The Grantee must:

- (a) provide to the Commonwealth such information concerning the Project as the Commonwealth reasonably requests from time to time; and
- (b) facilitate such visits by representatives of the Commonwealth as the Commonwealth reasonably requests for the purposes of assessing the Project.

3. FUNDING PAYMENT

3.1 Payment of Funding

The Commonwealth will pay the Funding to the Grantee at the times and in the manner specified in the Schedule if:

- (a) the funds for the Funding have been appropriated;
- (b) the Grantee has met the conditions to which the instalment relates, in accordance with the Milestones relevant to the payment to the satisfaction of the Commonwealth; and
- (c) the Commonwealth receives a tax invoice which sets out:
 - (i) the total amount of the Funding instalment to which the invoice relates;
 - (ii) the project number;
 - (iii) the name of the Commonwealth's contact officer; and
 - (iv) such other information as the Commonwealth requires.

3.2 Right to suspend payment

The Commonwealth may suspend payment of the Funding or a part of it:

- (a) if the Grantee has not achieved a Milestone due to be completed before the date for payment, until that Milestone is completed;
- (b) if the Grantee is in breach of this Deed, until the breach is rectified.

3.3 Right to recover debts due to the Commonwealth from Funding payable under this Deed

Notwithstanding any other clause in this Deed, the Commonwealth may withhold from the Funding payable under this Deed an amount or amounts equal to a debt to the Commonwealth in order to satisfy the debt due.

4. USE AND BANKING OF FUNDING MONEY

4.1 Funding to be used for Project purposes

The Funding must only be spent by the Grantee in accordance with the terms and conditions of this Deed.

4.2 Repayment of Funding

- (a) If the Grantee spends the Funding otherwise than in accordance with clause 4.1, the Grantee must repay to the Commonwealth the amount of Funding so spent and the Commonwealth may recover that amount of Funding from the Grantee as a debt due to the Commonwealth.
- (b) The Commonwealth may demand repayment of the Funding, or part of it, if a Nominated Individual acts in breach of the Deed of Undertaking and in that event the Funding, or that part demanded, becomes a debt due to the Commonwealth.

4.3 Payment of Funding into the Bank Account and accounting records

- (a) All of the Funding paid by the Commonwealth to the Grantee must be deposited immediately into the Bank Account.
- (b) The Grantee must identify the receipt and expenditure of the Funding separately within the Grantee's accounting records so that at all times the Funding is identifiable and ascertainable.
- (c) The Grantee agrees that the Commonwealth may, at any time and without prior notice, through its officers, agents or advisers authorised on its behalf, examine and inspect any material in the possession of the Grantee which is relevant to this Deed, including any books and records, and provide all necessary facilities for that purpose.
- (d) The Grantee must retain for a period of five years after receipt of the initial payment of Funding all books and records relating to the Funding.

4.4 Spending the Funding

The Grantee must not spend any of the Funding if it receives notice from the Commonwealth directing the Grantee not to spend the Funding. The Commonwealth may issue such a notice to the Grantee if the Grantee:

- (a) has not achieved a Milestone that was due to be achieved before the date of notification; or
- (b) is otherwise in breach of this Deed.

5. REPORTS

5.1 Provision of Report and Deed of Undertaking

The Grantee must provide the Report and the Deed of Undertaking to the Commonwealth at the time and in the manner specified in the Schedule.

5.2 Failure to provide Report or Deed of Undertaking

Without limiting the Commonwealth's rights under this Deed, a failure to provide a Report or a Deed of Undertaking may result in:

- (a) suspension of payment of the Funding or any instalment of the Funding under clause 3.2;
- (b) a liability to repay the Funding to the Commonwealth under clause 4.2;
- (c) the Commonwealth carrying out an audit under clause 4.3(c);
- (d) a direction not to spend the Funding under clause 4.4;
- (e) the Commonwealth requesting an audit of the Grantee's books and records from an independent auditor at the Grantee's expense.
- (f) termination of this Deed under clause 6;
- (g) the Commonwealth noting the Grantee's failure and taking this into account in any future grant applications that the Grantee or the Grantee's Nominated Individuals may make.

6. TERMINATION

In addition to the right to terminate provided for elsewhere in this Deed, the Commonwealth may terminate this Deed with immediate effect by giving notice to the Grantee if:

- (a) the Grantee breaches any provision of this Deed and fails to remedy the breach within 14 days, or such longer period as the Commonwealth stipulates, after receiving notice requiring it to do so;
- (b) the Grantee breaches a material provision of this Deed and that breach is not, in the opinion of the Commonwealth, capable of remedy; or
- (c) the Grantee notifies the Commonwealth that the Project is not to proceed.

7. MISCELLANEOUS

7.1 Alteration

This Deed may only be altered in writing signed by each party.

7.2 Breaches of this Deed

For the purposes of this Deed, the Grantee acknowledges and agrees that a breach by a Nominated Individual of an obligation under a Deed of Undertaking constitutes a breach by the Grantee of this Deed.

7.3 Governing law and forum

This Deed is governed by the law applicable in the Australian Capital Territory. The courts of the Australian Capital Territory shall have exclusive jurisdiction to decide any matter arising out of this Deed.

7.4 Disclosure of terms of Deed

The parties acknowledge that details including, but not limited to, the name of the Grantee, value of the Funding, the Term, and location may be disclosed or published by the Commonwealth.

Schedule

1. INFORMATION TABLE

Grantee Name	<i>[Insert name]</i>
Project Number	<i>[Insert Clarity or other ID]</i>
Name of Project	[eg "X&Y contractors exit from Tasmanian forest contracting sector]
1.1	Commencement Date: <i>[The date the Funding Deed is executed]</i>
1.2	Term: 5 years from receipt of first Milestone payment
1.3	Funding: <i>[Insert amount of funding inclusive of GST, if applicable]</i>
1.4	Bank Account:

2. PROJECT DESCRIPTION:

Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program

3. PROJECT OBJECTIVES

The Project Objectives are:

- (a) the Grantee ceases operations;
- (b) the Grantee pays all employee entitlements;
- (c) the Grantee does not use the business's forestry machinery in the Australian native forest harvest, haulage and silvicultural contracting sector and/or the Australian plantation forest harvest, haulage and silvicultural contracting sector;
- (d) the Grantee does not hire or lease out its forest machinery to another business or person and terminate any pre-existing hiring out or leasing out arrangements; and
- (e) the Grantee and Nominated Individuals do not re-enter the Australian native forest harvest, haulage and silvicultural contracting sector and/or Australian plantation forest harvest, haulage and silvicultural contracting sector for ten (10) years, except to the extent of existing contractual arrangements in the mainland sector or the Tasmanian private native forest sector or the Tasmanian plantation sector.

4. MILESTONES

Project Milestones	Activities to meet objectives
Milestone 1 – Execution of the Deed and Deed of Undertaking	Execute this Deed. Deed Poll of Undertaking properly executed by the Nominated Individuals.
Milestone 2 – The Grantee must: <ul style="list-style-type: none"> (a) have provided an exit strategy; (b) provide details of payment of employees entitlements - signed by accountant; (c) have stopped using business's forestry machinery; and (d) have ceased any contracts or arrangements to hire out or lease out business's forestry machinery. 	Submission of completed form evidencing: <ul style="list-style-type: none"> • Paid all employee entitlements in full; • Stopped using business's forestry machinery; • Termination of any hire out or lease out of business's forestry machinery; and • An exit strategy satisfactory to the Commonwealth that details how the Grantee intends to approach (or has approached) the termination of ongoing contracts or ongoing arrangements with the relevant principal buyer(s) or other businesses, including a letter from the principal buyer or other businesses supporting the termination of the business's existing contracts or existing arrangements.

5. PAYMENT SCHEDULE

Payment Description	Estimated Date	Amount due (GST excl)	GST	Total (GST incl)
Milestone 1	[insert date]	\$	\$	\$
Milestone 2	[insert date]	\$	\$	\$
Total Funding		\$	\$	\$

EXECUTED as a Deed.

**SIGNED SEALED AND DELIVERED for
and on behalf of [Name of Grantee] by the
Nominated Individual(s)***

**where the business is a partnership, each
partner must sign as a Nominated Individual*

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

Signature of Nominated Individual

Signature of witness

Name of Nominated Individual (print)

Name of witness (print)

**SIGNED SEALED AND DELIVERED for
and on behalf of the COMMONWEALTH
OF AUSTRALIA by a duly authorised
representative**

**Signature of duly authorised
representative**

Signature of witness

**Name of duly authorised representative
(print)**

Name of witness (print)

***Insert date on which the Commonwealth signs in handwriting in Date of Execution box on
page 1***