

Grant Agreement: Australia Day 2021 COVID Safe Grants Program


Date

Background

- A The NADC has agreed to provide the Funds to the Grantee for the purpose of the Activity, subject to the terms and conditions of this Agreement.
- B The Grantee accepts and agrees to use the Funds for the purpose of the Activity, subject to the terms and conditions of this Agreement.
- C Once completed and signed by the Parties, the Agreement Details and the Terms and Conditions form an Agreement between NADC and the Grantee.

Agreement Details

Item number	Description	Clause Reference	Details
1.	NADC	1.1	National Australia Day Council Limited ABN 76 050 300 626 NADC representative: Karlie Brand, Chief Executive Officer Old Parliament House King George Terrace Parkes ACT 2600 Grants@australiaday.org.au
2.	Grantee	1.1	[insert name and ACN (where applicable)] ABN [insert] Grantee representative: [insert name and position of person to receive notices] [insert physical and postal address] [insert email]
3.	Commencement Date	1.1	The date this Agreement is executed by the last party to do so.
4.	Purpose	1.1 and 2	The purpose of the grant is to help the Grantee deliver Australia Day 2021 events in a COVID safe environment, while supporting local communities and industries.
5.	Activity	1.1 and 2	Any activity to reduce the spread and lower the risk of COVID at the Grantee's Australia Day event/s. These may include, without limitation: <ul style="list-style-type: none"> • additional cleaners; • additional cleaning supplies, including soap and hand sanitiser; • safety clean office (COVID Marshall); • physical barriers and guides; • food services (ie. touchless payment options, limit sharing items); • modified layouts, seating set up; • event ticketing systems; • contact identifying staff and/or technology; • staff COVID safe training; • additional public restrooms; • fencing to control attendee numbers; • increased transport options; • increased food and water distribution areas; • Personal Protective Equipment; • COVID-19 signage; and • Australia Day Designs.
6.	Funds	4	\$20,000 (GST exclusive). The Grantee's bank account for payment is specified in item 7 of the Agreement Details

Item number	Description	Clause Reference	Details
7.	Grantee's Bank Account	4	The Grantee's nominated bank account into which the Funds are to be paid is: Account Name: <i>[insert]</i> Account Number: <i>[insert]</i> BSB Number: <i>[insert]</i> Bank Name: <i>[insert]</i>
8.	Other Contributions		[Note: Other Contributions are only relevant where the Grantee is a government entity and the Australia Day event (or a substantially similar event) was held in a previous year. To be populated as applicable.] <i>[Not applicable]</i> OR <i>[insert amount to be contributed by the Grantee to the Australia Day event]</i>
9.	Reporting	9	By no later than 28 February 2021, the Grantee must complete and submit the online reporting form available on the applicant portal which: <ul style="list-style-type: none"> includes a declaration verifying the Funds have been spent in accordance with this Agreement; and requires the Grantee to provide copies of promotional material and photographs of the Activity, including the Australia Day Designs in a public place or at the Grantee's Australia Day 2021 event/s.
10.	Insurance	15	Public Liability Insurance \$20,000,000 or more per claim and in the aggregate. Workers Compensation Amount as required by the relevant state or territory legislation.
11.	Acknowledgment of support	5	The Grantee must acknowledge the support received from the NADC by including the following statement: <i>'Assisted by the Australian Government through the National Australia Day Council',</i> and using the Australia Day Logo in accordance with the branding guidelines set out in Annexures 1 and 2 to this Agreement, as updated by notice from the NADC to the Grantee.  Australia Day Reflect. Respect. Celebrate.

Terms and Conditions

1. Defined terms & interpretation

1.1 Defined terms

In this Agreement:

Activity means the Activity described in item 5 of the Agreement Details.

Agreement means this Agreement between the NADC and the Grantee, including any attachments.

Agreement Material means any Material created by, for and on behalf of the Grantee on or following the Commencement Date, for the purpose of or as a result of performing its obligations under this Agreement.

Australia Day Designs means the branding and design assets for Australia Day 2021 that follow the message of *Reflect. Respect. Celebrate. We're all part of the story* as approved by the NADC.

Australia Day Logo means the 'Australia Day logo' set out in item 11 of the Agreement Details.

Commencement Date means the date specified in item 3 of the Agreement Details.

Existing Material means Material developed independently of this Agreement that is incorporated in or supplied as part of the Agreement Material, but excludes the Australia Day Designs and the Australia Day Logo.

Funds means the money, or any part of it, paid by the NADC to the Grantee under this Agreement in the amount specified in item 6 of the Agreement Details.

Grantee means the legal entity specified in item 2 of the Agreement Details.

Intellectual Property Rights means all intellectual property rights, including:

- (a) copyright, patents, trademarks (including goodwill in those marks), designs, trade secrets, know how, rights in circuit layouts, domain names and any right to have confidential information kept confidential;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere,

whether or not such rights are registered or capable of being registered.

Material includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.

Other Contribution means the financial or in-kind contributions other than the Funds to be provided by the Grantee as set out in item 8 of the Agreement Details.

Party means the Grantee or the NADC.

Personal Information has the same meaning as in the *Privacy Act 1988* (Cth).

Program means the COVID Safe Australia Day Grants Program.

Purpose means the purpose as described in item 4 of the Agreement Details.

Reports means the reports that the Grantee is required to produce and provide to the NADC in accordance with clause 9.

Terms and Conditions means clauses 1 to 22 of this Agreement.

WHS Law means all applicable Laws relating to work health and safety, including the *Work Health and Safety Act 2011* (Cth) and any corresponding WHS law as defined in that Act.

1.2 Interpretation

- (a) In this Agreement, unless the context requires otherwise: a reference to **A\$, \$A, dollar** or **\$** is to Australian currency, a reference to time is to Canberra, Australia time, and the meaning of general words is not limited by specific examples

introduced by **including, for example** or similar expressions.

- (b) If there is any inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of the inconsistency:

- (i) Terms and Conditions;
- (ii) Agreement Details; and
- (iii) any documents incorporated by reference in this Agreement.

2. Program and Purpose

- (a) The Funds are made available under the Program for the Purpose.

- (b) For clarity:

- (i) any holding of an Australia Day event by the Grantee is at its own risk; and
- (ii) any and all decisions relating to the delivery, management or otherwise of any Australia Day event or the Activity are the sole responsibility of the Grantee.

3. Activity

- (a) The Grantee agrees to:

- (i) ensure that it undertakes the Activity and spends the Funds in a manner that is consistent with the objectives of the Program including the Purpose;
- (ii) ensure that the Activity is carried out in accordance with all applicable laws (including the WHS Law and COVID-19 public health restrictions and rules (however described));
- (iii) promote the message of *Reflect. Respect. Celebrate. We're all part of the story* through NADC available collateral and use of the Australia Day Designs; including displaying the Australia Day Designs at an event or in a public place, and using the Australia Day Designs up to and on Australia Day 2021;
- (iv) provide and use the Other Contribution for the Grantee's Australia Day event/s relating to the Activity; and
- (v) obtain the NADC's prior written approval before undertaking the Activity or spending the Funds in a manner other than as set out in item 5 of the Agreement Details.

- (b) The Grantee represents and warrants that in performing the Activity, it will comply with all applicable laws (including the WHS Law, child safety and working with vulnerable persons laws and regulations).

- (c) The Grantee acknowledges that the NADC may list the Grantee's Australia Day event on the NADC's event register website <https://www.australiaday.org.au/events/>.

4. Payment of Funds

- (a) Subject to this Agreement, the NADC agrees to pay the Funds to the Grantee in accordance with item 6 of the Agreement Details.
- (b) Notwithstanding any other provision of this Agreement, the NADC may by notice withhold payment of any amount of the Funds if it reasonably believes that:
 - (i) the Grantee has not complied with this Agreement;
 - (ii) the Grantee is unlikely to be able to perform the Activity or manage the Funds in accordance with this Agreement; or
 - (iii) there is a serious concern relating to the Grantee or this Agreement that requires investigation.
- (c) Payment will be made following submission by the Grantee of an invoice. The invoice must meet the requirements of a

tax invoice as set out in the GST Law and be in a form approved by the NADC which sets out:

- (i) the amount of the Funds to be paid by the NADC together with any substantiating material required; and
 - (ii) such other information as the NADC requires.
- (d) Invoices should be submitted to the address specified in item 1 of the Agreement Details.

5. Acknowledgements

The Grantee agrees to acknowledge the NADC's support in all Material, publications, promotional and advertising materials published in connection with the Activity or this Agreement, using the form of acknowledgment specified in item 11 of the Agreement Details.

6. GST

- (a) In this clause 6, words and expressions which are not defined in this Agreement but which have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Law**) have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all amounts set out in this Agreement are exclusive of GST.
- (c) If GST is payable by a supplier (**Supplier**) on any supply made under this Agreement, except where the amount is expressly stated to include GST, the payment for that supply will be increased by, and the recipient of the supply (**Recipient**), will pay to the Supplier, an amount equal to the GST payable on the supply (**GST Amount**), provided that no GST Amount is payable under this clause until the Supplier has issued a valid tax invoice to the Recipient for that supply.
- (d) If a payment to a Party under this Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that Party, then the payment will be reduced by the amount of any input tax credit to which that Party, or the representative member of the GST group that Party is a member of (as the case may be), is entitled for that loss, cost or expense.

7. Spending the Funds

- (a) The Grantee agrees to spend the Funds (and any interest the Grantee earns on the Funds) only for the purpose of performing the Activity and otherwise in accordance with this Agreement.
- (b) If any of the Funds have been spent other than in accordance with this Agreement, or any amount of the Funds is additional to the requirements of the Activity (including where the Grantee is unable to hold or deliver an Australia Day event due to COVID restrictions), the Grantee must repay that amount to the NADC unless the NADC agrees otherwise.
- (c) If the NADC issues a notice under this Agreement requiring the Grantee to repay any of the Funds:
 - (i) the Grantee must do so within the time period specified in the notice;
 - (ii) the Grantee must pay interest on any part of the amount that is outstanding at the end of the time period specified in the notice until the outstanding amount is repaid in full; and
 - (iii) the NADC may recover the amount and any interest under this Agreement as a debt due to the NADC without further proof of the debt being required.

8. Record keeping

- (a) The Grantee agrees to maintain records of expenditure of the Funds and any Other Contributions.
- (b) The Grantee agrees to exercise and maintain proper accounting standards and controls in respect of the Funds.
- (c) If requested by the NADC, the Grantee agrees to provide the NADC or any persons authorised by the NADC, with access to the Grantee's premises, personnel, documents and other records, and all assistance reasonably requested, to enable

the NADC or those persons to verify that Funds have been spent only for the purposes of undertaking the Activity.

9. Reporting

The Grantee agrees to provide the reports and other material specified in item 9 of the Agreement Details to the NADC.

10. Relationship between the Parties

A Party is not by virtue of this Agreement the employee, agent or partner of the other Party and is not authorised to bind or represent the other Party.

11. Subcontracting

The Grantee is responsible for the performance of its obligations under this Agreement, including in relation to any tasks undertaken by subcontractors.

12. Intellectual Property

- (a) This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material, the Australia Day Logo, or the Australia Day Designs.
- (b) Intellectual Property Rights in the Agreement Material vest in the Grantee on creation.
- (c) The Grantee grants to, and must ensure all third parties holding Intellectual Property Rights in the Reports grant to the NADC, a perpetual, non-exclusive, irrevocable, royalty-free and licence fee-free licence (including a right of sub-licence) to use, reproduce, adapt, modify, communicate, broadcast, distribute, publish and disseminate the Reports for the purposes of the NADC or Commonwealth purposes.
- (d) The Grantee grants to, and must ensure all third parties holding Intellectual Property Rights in the Agreement Material (other than the Reports) grant to the NADC, a perpetual, non-exclusive, irrevocable, royalty-free and licence fee-free licence (including a right of sub-licence) to use, reproduce, adapt, modify, communicate, broadcast, distribute, publish and disseminate that Agreement Material for the purpose of the Program and any other purpose connected with the operation of this Agreement.
- (e) The NADC grants to the Grantee a non-exclusive, royalty-free licence to use, reproduce and distribute the Australia Day Designs and the Australia Day Logo for the purpose of the Grantee's Australia Day 2021 event/s.

13. Privacy

- (a) When dealing with Personal Information in carrying out the Activity, the Grantee agrees:
 - (i) to comply with the requirements of the *Privacy Act 1988* (Cth); and
 - (ii) not to do anything which, if done by the NADC, would be a breach of an Australian Privacy Principle under the *Privacy Act 1988* (Cth).
- (b) The Grantee must notify the NADC in writing of any breach or possible breach of this clause 13.

14. Confidentiality

- (a) Confidential Information means:
 - (i) information that the Grantee knows, or ought to know is confidential; or
 - (ii) is notified by the NADC to the Grantee in writing.
- (b) The Grantee agrees not to disclose the Confidential Information without prior written consent from the NADC unless required by law or Parliament.

15. Conflict of interest

Other than those which have already been disclosed to the NADC, the Grantee warrants that, to the best of its knowledge, at the date of this Agreement neither it nor its officers have any actual, perceived or potential conflicts of interest in relation the Activity.

16. Insurance

The Grantee agrees to have and maintain:

- (a) the insurances specified in item 10 of the Agreement Details for the duration of this Agreement and to provide the NADC with proof, to the satisfaction of the NADC, on request; and
- (b) public liability insurance, in the amount set out at item 10 of the Agreement Details for a period of at least 7 years following the Grantee's Australia Day 2021 event/s.

17. Indemnities

The Grantee indemnifies the NADC, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.

18. Notices

- (a) A notice under this Agreement must be in writing and addressed to the other Party's representative as specified in item 1 or 2 (as applicable) of the Agreement Details or as most recently updated by notice given in accordance with this clause.
- (b) A notice is deemed to be effected:
 - (i) if delivered by hand - upon delivery to the relevant address;
 - (ii) if sent by post - upon delivery to the relevant address; or
 - (iii) if transmitted electronically - upon actual receipt by the addressee.
- (c) A notice received after 5.00 pm, or on a day that is a Saturday, Sunday or public holiday, in the place of receipt, is deemed to be effected on the next day that is not a Saturday, Sunday or public holiday in that place.

19. Dispute Resolution

- (a) The Parties agree not to initiate legal proceedings in relation to a dispute unless they have tried and failed to resolve the dispute by negotiation.
- (b) The Grantee agrees to continue to perform its obligations under this Agreement where a dispute exists.
- (c) The procedure for dispute resolution does not apply to action relating to termination or urgent interlocutory relief.

20. Termination for default

- (a) The NADC may terminate this Agreement by notice where the Grantee has:
 - (i) breached this Agreement and the NADC considers the breach cannot be rectified;

- (ii) breached this Agreement and the Grantee does not rectify the breach within 10 business days after the NADC gives notice;
- (iii) provided false or misleading statements in relation to the Funds; or
- (iv) becomes bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration.

- (b) The Grantee agrees, on receipt of a notice under this clause to report on, and return any part of, the Funds to the NADC, or otherwise deal with the Funds, as directed by the NADC.

21. Termination for convenience

- (a) Without limiting the NADC's rights or remedies under or in connection with this Agreement, the NADC may terminate or reduce the scope of this Agreement by written notice.
- (b) The Grantee agrees on receipt of a notice of termination or reduction under this clause to:
 - (i) take all available steps to minimise loss resulting from that termination or reduction; and
 - (ii) in the case of a reduction in scope, continue to undertake any part of the Activity not affected by the notice.
- (c) If this Agreement is terminated under this clause 21, the NADC is liable only for:
 - (i) payment of any part of the Funds due and owing to the Grantee under this Agreement at the date of the notice; and
 - (ii) reimbursement of reasonable expenses the Grantee unavoidably incurs that relate directly to the termination and are not covered by clause 21(c)(i), provided the Grantee has otherwise complied with this Agreement.
- (d) The NADC is not liable to pay any amount under this clause 21 which would, in addition to any amounts paid or due, or becoming due, exceed the total amount of the Funds specified in item 6 of the Agreement Details.

22. Variation

This Agreement may be only be varied in writing, signed by both Parties.

Signing page

EXECUTED as an agreement.

Signed for and on behalf of the **National Australia Day Council Limited** by its duly authorised delegate in the presence of

Signature of witness

Signature of delegate

Name of witness (print)

Name of delegate (print)

Date

Position of delegate (print)

Signed for and on behalf of [*insert full name of relevant entity, including ABN*] by its duly authorised representative/delegate in the presence of

Signature of witness

Signature of delegate

Name of witness (print)

Name of delegate (print)

Date

Position of delegate (print)

Sample

Sample