Agreement for General Donations

# Parties

First party

**Name** Australian Neighbourhood Houses and Centres Association

**ABN** 47 588 370 196

**Address** Shop B41, Level 4 - 744 Bourke Street DOCKLANDS VIC 3008

**Contact** Emily Harnett

**Telephone** 0428 964 817

**Email** emily@anhca.org

Second party

**Name** Insert name of house

**ABN** Insert ABN

**Address** Insert full address

**Contact** Insert Contact details

**Telephone** Insert Phone number

**Email** Insert email address

# Background

1. ANHCA operates a public fund known as the ANHCA Public Fund to support the purposes of ANHCA, which includes supporting the activity and work of the Neighbourhood House and Centre Sector in Australia.
2. The Recipient is a neighbourhood house or centre and a not-for-profit organisation or charity that wishes to attract and receive donations of money or property to be applied for the Agreed Purposes.
3. ANHCA accepts Donations to the ANHCA Public Fund.
4. The Recipient agrees to use the Donations for the Agreed Purposes pursuant to the terms of this agreement.

# Definitions

1. **Agreed Purposes** means [The purpose for which the donation has been made to support the activities and the work of the Neighbourhood and Community House or centre.]
2. **ANHCA** means the first party to this agreement.
3. **Donation** means a tax deductible gift or donation as described in the *Income Tax Assessment Act 1997* (Cth) made by a Donor where that Donor requests that the gift or donation be distributed to the Recipient for the Agreed Purposes.
4. **Donor** means the maker of a Donation to the ANHCA Public Fund.
5. **Parties** means both ANHCA and the Recipient, and **Party** means any one of them.
6. **Recipient** means the second party to this agreement.
7. **Term** means the period of time referred to in clause 2.

# Term of Agreement

## This agreement commences on the date on which it is executed and continues for the period:

### until terminated by either Party for its convenience by 30 days written notice to the other Party; or

### until the agreement is terminated under clause 9.

# Donation Administration

## The Parties acknowledge and agree that ANHCA receives Donations and other donations to the ANHCA Public Fund from time to time.

## ANHCA will operate a management account for the Donations. The management account forms part of the ANHCA Public Fund.

## The Recipient accepts that the ANHCA will respect the wishes of each Donor to distribute their Donations to the Recipient to be applied for the Agreed Purposes, however, ANHCA is not legally bound by these wishes or directions.

## The Recipient acknowledges that the ANHCA will receive other gifts or donations, in addition to the Donations, and that those other gifts or donations will be managed in separate accounts and are not subject to the terms of this agreement.

## Within 14 days of receipt of each Donation, the ANHCA Public Fund must issue a receipt to the Donor that complies with the requirements under the *Income Tax Assessment Act 1997* (Cth) for the operation of public funds.

## The Recipient agrees that:

### ANHCA will:

#### deduct an administration fee of five percent (5%) from each Donation; and

#### the fee referred to in paragraph (i) will be withdrawn from the management account established pursuant to clause 3.2 above; and

### no interest is payable by ANHCA to the Recipient on any Donation to the ANHCA Public Fund.

## ANHCA will distribute to the Recipient the remainder of each Donation (being 95% of the amount of each Donation) held in the ANHCA Public Fund management account established pursuant to clause 3.2 above:

### every three (3) months during the Term of this agreement; or

### within 14 days of a request made in writing by the Recipient to ANHCA.

# Responsibilities of the Recipient

The Recipient must:

### apply the Donations paid to it pursuant to this agreement for the Agreed Purposes;

### seek written approval from ANHCA if it wishes to apply any part of a Donation paid to it pursuant to this agreement for purposes other than the Agreed Purposes;

### notify ANHCA of any material changes to its purposes, organisation structure or financial position;

### On request, provide ANHCA and the relevant Donor with a report on the use of any Donation over $1,000;

### in a prompt and timely manner complete and provide to ANHCA such written reports and acquittals as requested by the ANHCA from time to time;

### comply with the following in connection with its rights and obligations under this agreement:

#### all applicable laws; and

#### the applicable requirements of the policies of ANHCA as provided by ANHCA to the Recipient from time to time.

### not represent that they are an agent for ANHCA or that they have the capacity to bind ANHCA.

# Warranties

The Recipient warrants to ANHCA that:

### the Recipient is a not-for-profit organisation that operates within the neighbourhood house and centre sector in Australia;

### the Recipient has the technical and financial resources to carry out the Agreed Purposes;

### the Recipient holds all necessary permits, licences, authorisations and accreditations in order to enter into this agreement and perform its obligations under this agreement;

### none of its committee members or directors (as applicable) are listed on the ASIC banned and disqualified register or have a criminal record;

### the Recipient will comply with all legislation applicable to the use of the Donations for the Agreed Purposes;

### any Donor will not be provided with any material benefit in return for his/her/its Donation; and

### the Recipient will comply with the terms and conditions of this agreement.

# Indemnity

## The Recipient indemnifies ANHCA from and against any and all loss, damage or liability suffered, whether criminal or civil, and legal fees and costs incurred by ANHCA to the extent resulting from or in any way directly connected with any act, neglect or default on the part of the Recipient or its officers, employees or authorised agents in breach of this agreement.

## It is not necessary for ANHCA to incur expense or make payment before enforcing a right of indemnity conferred by this agreement.

# Liability

## The Recipient agrees not to hold ANHCA liable for any loss of capital that may occur in the ordinary course of investment of the Donations within the ANHCA Public Fund.

## Subject to clause 7.1, each Party’s liability to pay costs incurred due to any loss, damage or liability suffered to the other Party is reduced to the extent the liability was caused by the other Party or any of its personnel.

## The Parties exclude the operation of Part 4 of the *Civil Liability Act 2002* (NSW) and equivalent State and Territory legislation.

## Despite any other provision in this agreement and to the fullest extent permitted by law, ANHCA’s total liability to the Recipient under this agreement is limited to an amount equivalent to $10,000. This clause 7.4 does not apply in the circumstances where ANHCA has breached its obligation to disburse a Donation to the Recipient in accordance with this agreement.

# Insurance

The Recipient warrants that it has in place and will maintain adequate policies of insurance to cover all liability or any claim, demand, proceeding or complaint of any nature or kind against it that may arise out of or in connection with its obligations under this agreement. This includes the Recipient’s obligation to indemnify the ANHCA under clause 6.1 of this agreement.

# Termination

## Termination by the Recipient:

### The Recipient may terminate this agreement immediately by notice in writing to ANHCA if ANHCA is more than 4 weeks late in making payment under clause 3.7.

### The Recipient may terminate this agreement if ANHCA is in breach of any of its obligations under this agreement. The Recipient must give written notification of such breach to ANHCA which will have two weeks or such other time as agreed by the Recipient and ANHCA in writing within which to remedy the breach.

## Termination by ANHCA:

### ANHCA may by written notice to the Recipient terminate this agreement if the Recipient being in breach of any of its obligations under clause 4 or warranties under clause 5 of this agreement and has failed to remedy such breach within two weeks of the Recipient’s receipt of ANHCA’s notice of such breach or such further time as agreed in writing by ANHCA.

### ANHCA may terminate this agreement immediately in the event that the Recipient is insolvent as defined under the *Associations Incorporation Reform Act 2012* (Vic), or is subject to an insolvency event.

# Consequences of Termination

## If this agreement is terminated in accordance with clauses 2.1(a) or 9.1, ANHCA must pay all remaining Donations in its control to the Recipient within 14 days after the date this agreement ends.

## If this agreement is terminated in accordance with clause 9.2, ANHCA will keep all remaining Donations in its control and transfer these remaining Donations into the general account of the ANHCA Public Fund within 14 days after the date this agreement ends. These remaining Donations may then be applied by ANHCA for the purposes of the ANHCA Public Fund as outlined in ANHCA’s constitution.

## Where a written notice has been issued by ANHCA to the Recipient pursuant to clause 9.2(a), ANHCA is under no obligation to disburse any Donations remaining in its control to the Recipient pursuant to this agreement, unless and until the breach has been remedied by the Recipient to the satisfaction of ANHCA.

# General

## Neither this agreement nor any of the benefits or obligations may be assigned, subcontracted or otherwise divested by either Party without the other Party’s written consent.

## This agreement may be amended only by a written document signed by all the Parties.

## This agreement is the entire agreement between the Parties about its subject matter. Any previous understanding, agreement (including a memorandum of understanding), representation or warranty relating to this subject matter is replaced by this agreement and has no further effect.

## This agreement is governed by the law in force in Victoria, Australia and each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria.

## The Parties agree that clauses 6, 7, 10 and 11 survive termination of this agreement.

Executed as an agreement

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| --- | --- | --- |
| **Executed** by **Australian Neighbourhood Houses and Centres Association** in accordance with section 38 of the *Associations Incorporation Reform Act 2012* (Vic) by: | )  )  ) |  |
| Signature of Committee Member |  | Signature of Committee Member/Secretary |
| Print name of Committee Member    Date of signature |  | Print name of Committee Member/Secretary    Date of signature |
| **Executed** by  **(insert name)**  by: | )  )  ) |  |
| Signature of Committee Member |  | Signature of Committee Member/Secretary |
| Print name of Committee Member    Date of signature |  | Print name of Committee Member/Secretary    Date of signature |