**Collectively between the following Parties:**

|  |  |  |
| --- | --- | --- |
| **Organisation 1 [ShortName]**  **Address**  **Address**  **ABN: 00 000 000 000** |  | **Organisation 2 [ShortName]**  **Address**  **Address**  **ABN: 00 000 000 000** |
|  |  |  |

*All parties to this agreement commit to ensuring that they provide safe, inclusive, and affirming services free from judgement and discrimination for everyone regardless of ability, age, culture, gender, race, sexual identity or intersex status. We recognise and support the rights of Aboriginal and Torres Strait Islander people, culturally and linguistically diverse people, and the LGBTI+ community.*

*This commitment is underpinned by the belief that ‘everyone is welcome; everyone belongs’ to ensure everyone who interacts with all parties to this agreement feels included and valued for who they are, is welcomed and treated with respect and their culture and identity are celebrated.*

**BACKGROUND**

1. The Parties are Companies Limited by Guarantee under the Corporations Act 2001(Cth) [AND/OR] Incorporated under the Incorporated Associations Act 2015 (WA). The Parties are broadly involved with delivering any community services and support for people including, but not limited to, those experiencing homelessness, family and domestic violence, and/or mental health issues, amongst other circumstances (collectively referred to ‘community services’).
2. The Parties anticipates serious consequence for vulnerable people in the community as a result of COVID-19 as having a direct impact on their health and wellbeing, and as a reduction of services is experienced.
3. The Parties have been established under this Memorandum of Understanding (MOU) in the interest of providing continuity for community service outcomes under strained workforce conditions, namely the furloughing of staff as a result of isolation requirements or COVID-19 illness, and as they pertain to reduction of service delivery to vulnerable people.
4. WACOSS was funded to develop and implement a Community Service Surge Pool (CSSP) to mitigate the impact on the community sector as a result of staff furloughing due to COVID. This Memorandum of Understanding was initiated by WACOSS and developed in collaboration with sector representatives. This MOU is offered as a template and is flexible to be adjusted by the sector to assist their specific needs and conditions.

**INTENT**

# INTERPRETATION / DEFINITIONS

## In this MOU, unless the context otherwise requires:

1. **MOU** means this Memorandum of Understanding.
2. **Parties** (or Party in the singular) mean the parties to this MOU, including their representative contact, as listed below:
   1. Organisation 1 [representative] (parent company, or parent); and
   2. Organisation 2 [representative] (receiving company, or receiver).

# DATE OF MOU

## This MOU was signed on the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

# OBJECTIVES

## The purpose of this MOU is to set out the terms of a shared human resource (employee or staff) surge pool that will be constituted by, and drawn from, the Parties. This will occur by way of secondment of employees between the Parties’, as outlined within the terms of this MOU.

## This will provide an opportunity for a Party with positive resource capacity (parent) to support the other Party (receiver) that is experiencing critical and unsustainable resource shortages, ensuring that vulnerable people (‘clients’) in the community continue to be supported during a period of high COVID-19 viral transmission in the wider community.

# PRINCIPLES OF THE COLLABORATION

* 1. Purpose

1. To protect vulnerable people.
2. To ensure the continuity of critical community services.
3. To protect and support the community and community service workforce.
   1. Triage
4. While all services provided by the sector are essential, there are certain critical services that if disrupted, may have immediate serious negative impacts on the physiological needs and safety of vulnerable people.
   1. Self-nomination
5. No staff member will be forced to participate or be required to explain why they are not participating.
   1. No worse off
6. Staff on secondment will continue to be paid at the same rate (or level) by their main employer.
7. If asked to undertake higher duties or additional hours at receiving company, an agreement will be obtained between the employee, parent and receiver on a case-by-case basis.  
   1. No disruption to employment
8. Staff are still employed by the parent company, who will invoice the receiver they are supporting, through a secondment arrangement.
9. Entitlements with their employer will continue to be accrued while on secondment.
   1. Record keeping
10. Organisations will maintain records of employees who are willing to participate, including skills, required clearances and availability (such as employees who work part-time and are willing to increase hours).
11. The MOU is to be signed by organisations willing to participate.
12. A ‘Secondment Agreement’ is to be signed by the employee willing to participate.  
    1. Occupational Health and Safety (see clause 5.1 b)
13. The use of Critical Worker employees who are designated close contacts in accordance with WA Health orders must be a last resort.
14. Mandatory induction for seconded employees will be provided.
15. Appropriate PPE will be supplied by receiving organisation, or as otherwise negotiated.
16. Appropriate COVID-19 protocols are to be followed at all times.

# OPERATING REQUIREMENTS OF EACH PARTY

## The Parties agree that:

1. The seconded employee will remain employed with their parent company, who will continue to pay their salary for the duration of the secondment and invoice the receiving organisation each month (or as mutually agreed) for the duration of the secondment, or at the conclusion of the secondment, whichever occurs first.
2. The receiving organisation will provide any and all necessary briefings, awareness, guidance, training, information and personal protective equipment (PPE) such that the seconded employee can reasonably complete the assigned work in a manner that meets work safety and health requirements.
3. The parent company will allocate a key contact for the seconded staff for matters of the MOU and Secondment Agreement, while the receiving company will assign a supervisor for task related matters.
4. The secondment arrangement can be discontinued at any point, with appropriate rationale provided, subject to the terms in the Secondment Agreement and as illustrated in Clause 12.1.

## The Parties agree to fulfil the responsibilities and obligations as set out in this MOU and undertake to maintain open, transparent and accountable communication and processes to ensure the outcomes of the MOU as outlined above.

# STATUS OF THE PARTIES

## The Parties will act independently of each other and shall achieve their respective operating outcomes in their own names and for their own account for all purposes and at all times. This MOU is not intended as, nor shall it be construed to create a partnership or joint venture between the Parties. No Party, in any situation, whether within or outside the parameters of the MOU, shall be deemed to be the spokesperson for, or the representative, of any other Party.

# TERMS OF THE AGREEMENT

## This MOU presents the conditions for \_\_\_\_\_\_(number) workers willing to second in this round.

## This MOU will operate for a temporary period of up to\_\_\_\_\_\_\_\_, commencing on \_\_\_\_/\_\_\_\_ 2022 unless ceased earlier under the terms of this MOU.

# FINANCIAL

## Monthly fees may vary depending upon the hours worked by the seconded employee, as agreed by both Parties and the employee.

## The receiving company will pay a \_\_\_\_\_\_\_\_\_\_ (fortnightly/monthly) tax invoice submitted by the parent company, along with the recorded hours of work and/or any other reconciling information and materials.

## The receiving company may elect to wholly or partly suspend payment of any tax invoice in circumstances where in the opinion of the receiver, the employee or their parent company is in breach of the conditions under this MOU.

## The tax invoice will consist of: a) the gross salary of the surge employee(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ b) administration fee \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ c) any associated costs \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Ethos and conduct of cooperation

## The Parties undertake to:

1. Contribute to and, if required draw from, the shared resource pool in an open, transparent, ethical and professional manner.
2. Provide support and access to services in a culturally sensitive and respectful manner.
3. Notify the other Parties as soon as possible of any major concerns, issues or opportunities relating to the support provided.
4. Negotiate and resolve any difficulties in a cooperative and practical manner.

# DISCLOSURES & CONFIDENTIALITY

## Confidential Information of a party (Disclosing Party) means all information disclosed by the Disclosing Party to the other party or otherwise acquired by the other party which is marked as confidential, treated by the Disclosing Party as confidential or otherwise by its nature confidential, but excluding information that the other party creates (whether alone or jointly with any third person) independently of the Disclosing Party; or that is public knowledge (otherwise than as a result of a breach of confidentiality by the other party or any of its permitted disclosees).

## Each party (Recipient) must keep the Confidential Information secret and confidential, may use Confidential Information only for the purposes of this MOU and must establish and maintain effective security measures to safeguard Confidential Information from access or use not authorised under this MOU.

## The Recipient must immediately notify the Disclosing Party of any suspected or actual unauthorised use, copying or disclosure of Confidential Information.

## The Recipient may disclose Confidential Information of the Disclosing Party:

1. to officers or employees of the Recipient who have a need to know for the purposes of this document (and only to the extent that each has a need to know) and before disclosure, have been directed by the Recipient to keep confidential all Confidential Information of each Disclosing Party; and
2. where it is required by law to do so, provided that the Recipient must before doing so notify the Disclosing Party, give the Disclosing Party a reasonable opportunity to take any steps that the Disclosing Party considers necessary to protect the confidentiality of that information and notify the third person that the information is confidential information of the Disclosing Party.

# NOTICES

## Any notice required or permitted to be given under this MOU shall be in writing and shall be sufficiently given and deemed effective when emailed, delivered personally, or posted by mail and addressed to the respective representatives listed under clause 1.1.

# TERMINATION OF THE MEMORANDUM OF UNDERSTANDING

## Any party may terminate their participation in this MOU with immediate effect in the event that another party has materially breached or defaulted on the performance of any of its obligations, or in the circumstance that the seconded employee is no longer required. Any termination shall have immediate effect and there will be no penalties or costs levied by either party as a consequence of the termination excluding the making of final payments between respective parties such as to resolve any outstanding monies for services under this MOU (if any).

# INDEMNITY AND INSURANCE

## The parent company will continue to hold the indemnity and associated insurances for the seconding staff, including Workers Compensation and Professional Indemnity Insurance, if required by the law.

## The receiving company will provide proof of holding Public Liability Insurance to cover liability to third parties for loss or damage to property and death or injury to any person with a limit not less than $5,000,000.

## All Parties acknowledge that any limit under any Insurance Policy is not a limit on the liability of any Party.

## Evidence of current insurance must be provided to all parties if and when requested.

# DISPUTE RESOLUTION

## Where other guidelines, protocols or policies may apply to the operation of this MOU, and there is inconsistency between these and this agreement in relation to the operation of any provisions of this MOU, a process of resolution will be commenced in the first instance between the representatives listed in Clause 1.1.

## If the dispute is not able to be resolved through this process, a brief will be prepared and a formal request made to resolve the dispute via an external mediator agreed by both Parties.

# STATUS OF THIS MEMORANDUM OF UNDERSTANDING

## The Parties agree that the MOU constitutes a statement of mutual intentions with respect to its content and in not intended to be legally binding.

## This MOU does not release party from any obligations imposed on, or protections provided to, the Parties by legislation or common law.

# GOVERNING LAW

## This Memorandum is governed by the law applicable in Western Australia and each party irrevocably and unconditionally submits to the non‑exclusive jurisdiction of the courts of Western Australia.

# AMENDMENTS

## Amendments to the agreement may be proposed at any time by either party but will not take effect until the Parties have approved the amendments.

# SIGNATORIES TO THE MEMORANDUM OF UNDERSTANDING

Signed as a **Memorandum of Understanding** by

|  |  |  |
| --- | --- | --- |
| **(signed) DATE**  **Name**  **Position**  **Organisation** |  | **(signed) DATE**  **Name**  **Position**  **Organisation** |