



Our ref: CORP F2017/000649
CORP F2017/000656, 17MAFF/FOI021

RECORDS & INFORMATION
MANAGEMENT
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25 Grenfell Street
Adelaide SA 5000
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Adelaide SA 5001
DX 667
Tel 8429 0422
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11 January 2018

Hon David Ridgway MLC
Member of the Legislative Council
Parliament House
DX 56506
ADELAIDE

Dear Mr Ridgway

Determination under the *Freedom of Information Act 1991*

I refer to your application made under the *Freedom of Information Act 1991* which was received by Primary Industries and Regions SA (PIRSA) on 11 December 2017, seeking access to the following:

"Copies of all contracts held between RecFish SA and the Department."

This determination also addresses your application transferred from the Office of the Minister for Agriculture, Food and Fisheries to PIRSA on 13 December 2017 seeking access to the following:

"Copies of all contracts held between RecFish SA and the Office of the Minister for Agriculture, Food and Fisheries."

Accordingly, the following determination has been finalised.

I have located eight documents that are captured within the scope of your request.

Determination

I have determined that access to the following documents is **granted in full**:

Doc No.	Description of document	No. of Pages
1	Funding Agreement (2017/2018 and 2018/2019 Financial Years) between Minister for Agriculture, Food and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated ("RecFish SA") dated 15/9/2017	15
2	Instrument to Vary Funding Agreement – Minister for Agriculture, Food and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated dated 28/6/2017	6

3	Funding Agreement (2016/2017 Financial Year) between Minister for Agriculture, Food and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated ("RecFish SA") signed 29/9/2016	17
4	Funding Agreement (2015/2016 Financial Year) between Minister for Agriculture, Food and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated ("RecFish SA") dated 24/11/2015	17
5	Funding Agreement (2013/2014 and 2014/2015 Financial Years) between Minister for Agriculture, Food and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated ("RecFish SA") dated 28/6/2013	17
6	Funding Agreement (2011/2012 and 2012/2013 Financial Years) between Minister for Agriculture and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated ("SARFAC") dated 21/7/2011	17
7	Funding Agreement (2010-2011 Financial Year) between Minister for Agriculture, Food and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated ("SARFAC") dated 6/7/2010	16
8	Funding Agreement (2009-2010 Financial Year) between Minister for Agriculture, Food and Fisheries and South Australian Recreational Fishing Advisory Council Incorporated ("SARFAC") dated 6/7/2009	16

If you are dissatisfied with this determination, you are entitled to exercise your right of review and appeal as outlined in the attached documentation, by completing the "Application for Review of Determination" and returning the completed form to:

Freedom of Information Principal Officer
Primary Industries and Regions SA
GPO Box 1671
ADELAIDE SA 5001

In accordance with the requirements of Premier and Cabinet Circular PC045, details of your application, and the document to which you are given access, will be published in PIRSA's disclosure log. A copy of PC045 can be found at http://dpc.sa.gov.au/data/assets/pdf_file/0019/20818/PC045-Disclosure-Log-Policy.pdf

Should you require further information or clarification with respect to this matter, please contact Ms Lisa Farley, Freedom of Information and Privacy Officer on 8429 0422 or email PIRSA.FOI@sa.gov.au.

Yours sincerely



Deanna Fleming
Accredited Freedom of Information Officer
PRIMARY INDUSTRIES AND REGIONS SA

DATED TUE 15th DAY OF SEPTEMBER 2017

FUNDING AGREEMENT

(2017/2018 and 2018/2019 Financial Years)

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES
(“Minister”)

- AND -

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL
INCORPORATED (ABN 68 697 409 693)
(“RecFish SA”)

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SCHEDULE

AGREEMENT dated the 15th day of September 2017

PARTIES:

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES a body corporate pursuant to the Administrative Arrangements Act, 1994 of Level 10, 1 King William Street, Adelaide, South Australia, 5000 ("Minister")

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL INCORPORATED an incorporated association of 6 Mary Street, Hindmarsh, South Australia 5007 (ABN 68 697 409 693) ("RecFish SA").

BACKGROUND:

- A. RecFish SA is the recognised Peak Industry Body representing the interests of Recreational Anglers. RecFish SA's objectives are to develop, promote and support recreational fishing in this State.
- B. RecFish SA has requested and the Minister has agreed to provide funding to RecFish SA for the purposes contemplated by this Agreement.
- C. The Minister has agreed to provide financial assistance on the terms and conditions contained in this Agreement.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

In this Agreement where the context so requires or admits:

- 1.1 Reference to any Act regulation or by-law will be deemed to include all amendments thereto and to all statutory or other provisions from time to time substituted thereafter;
- 1.2 Words importing the singular number will include the plural and vice versa and words importing one gender will include the others;
- 1.3 "ABN" has the meaning attributed in the A New Tax System (Australian Business Number) Act 1999;
- 1.4 "Activities" means those activities undertaken by RecFish SA in furtherance of the Purpose and described in the Schedule;
- 1.5 "Agreement" means this Agreement between the parties and includes the Schedules to this Agreement;
- 1.6 "ANTS GST Act" means the A New Tax System (Goods and Services Tax) Act 1999;

- 1.7 **"Authorised Officer"** means any person notified in writing to the Minister as an authorised officer of RecFish SA for the purposes of this Agreement;
- 1.8 **"Business Day"** means any day that is not a Saturday or a Sunday or a public holiday in Adelaide under the Holidays Act 1910(South Australia);
- 1.9 **"Commencement Date"** means 1 July 2017;
- 1.10 **"Disqualifying Event"** means an event as described in Clause 11;
- 1.11 **"Drawdown Date"** means the date specified in the Schedule for payment of the Funds;
- 1.12 **"Execution Date"** means the date of last party signing;
- 1.13 **"Financial Year"** means the financial year commencing on 1 July and ending on 30 June;
- 1.14 **"the Funds"** means the monetary amount specified in the Schedule;
- 1.15 **"GST"** means the tax imposed by the GST law;
- 1.16 **"GST law"** has the meaning attributed in the A New Tax System (Goods and Services Tax) Act;
- 1.17 **"GST Rate"** means, at any particular time, the rate (expressed as a fraction of the Value of a supply) at which GST is payable by a supplier on Taxable Supply;
- 1.18 **"Input Tax Credit"** has the meaning attributed in the A New Tax System (Goods and Services Tax) Act;
- 1.19 **"Insolvency Administration"** means:
 - 1.19.1 RecFish SA appoints a liquidator to wind up its affairs;
 - 1.19.2 RecFish SA resolves to be wound up voluntarily;
 - 1.19.3 an application is made to a court that RecFish SA be wound up (whether on grounds of insolvency or otherwise);
 - 1.19.4 RecFish SA ceases to carry on business;
 - 1.19.5 RecFish SA is wound up by a court, voluntarily or otherwise;
 - 1.19.6 RecFish SA ceases to carry on business; or
 - 1.19.7 RecFish SA is or states that it is unable to pay its debts when they fall due.
- 1.20 **"Minister's Representative"** means the person nominated in Item 3.1 of the Schedule;
- 1.21 **"Outstanding Moneys"** means the portion of the Funds which has not been paid by the Minister to RecFish SA;
- 1.22 **"PIRSA"** means the Department of Primary Industries and Regions, an administrative unit established pursuant to the Public Sector Act 2009 (South Australia);
- 1.23 **"Purpose"** means the purpose specified in the Schedule or such other purpose as the Minister may approve from time to time;
- 1.24 **"Recreational Fishing Committees"** means the regionally based committees which are established by the recreational fishing industry to represent the interests of the recreational fishing sector;

- 1.25 **"RecFish SA"** means the South Australian Recreational Fishing Advisory Council Incorporated;
- 1.26 **"RecFish SA's Representative"** means the person nominated in Item 3.2 of the Schedule;
- 1.27 **"Tax Invoice"** has the meaning attributed in the A New Tax System (Goods and Services Tax) Act;
- 1.28 **"Tax Period"** has the meaning attributed in the A New Tax System (Goods and Services Tax) Act;
- 1.29 **"Taxable Supply"** has the meaning attributed in the A New Tax System (Goods and Services Tax) Act;
- 1.30 **"the Term"** means the period of two (2) years commencing from the Commencement Date and ending on the Termination Date unless varied in accordance with this Agreement;
- 1.31 **"Termination Date"** means the earlier of the following:
 - 1.31.1 1.31.1 30 June 2019; or
 - 1.31.2 1.31.2 the date on which a Disqualifying Event occurs;
- 1.32 **"Value"** of a Taxable Supply has the meaning attributed in the A New Tax System (Goods and Services Tax) Act.

2. FUNDS

- 2.1 Subject to this Agreement, the Minister will make the Funds available to RecFish SA for the Purpose in the amount and on the date specified in the Schedule.
- 2.2 Any part of the Funds advanced to RecFish SA and not expended by RecFish SA upon the Purpose by the end of the Term or in relation to which a legally binding obligation has not been incurred by the end of the Term to expend upon the Purpose must be repaid to the Minister, unless the Minister otherwise agrees.
- 2.3 A certificate given under the hand of the Minister from time to time stating the amount of moneys provided under this Agreement at the date mentioned in the certificate will be conclusive evidence of such fact.

3. CONDITIONS PRECEDENT

- 3.1 The provision of the Funds to RecFish SA will be subject to the conditions precedent that:
 - 3.1.1 prior to the Execution Date:
 - (a) the Minister will have received, upon request, a copy of extracts of all minutes of meeting and other authorisations of RecFish SA required for the execution, delivery and performance of its obligations under this Agreement and authorising a named person or persons to sign this Agreement; and
 - (b) the Minister will have received such other documents as the Minister may reasonably require; and

- 3.1.2 no Disqualifying Event, or event which, with the giving of notice, lapse of time or fulfilment of any condition would be likely to become a Disqualifying Event will have occurred and will be subsisting as at the date of the relevant Drawdown Date.
- 3.2 In the event that the conditions precedent specified in this Clause are not satisfied or waived by the Minister this Agreement will terminate immediately.

4. REPRESENTATIONS BY RECFISH SA

- 4.1 RecFish SA represents and warrants to the Minister as follows:
 - 4.1.1 the execution, delivery and performance by RecFish SA of this Agreement is within the powers of RecFish SA and is valid and enforceable and RecFish SA has been duly authorised by all necessary action and does not and will not contravene or result in any breach of any law or contractual arrangement or agreement by which RecFish SA or any of its assets are bound;
 - 4.1.2 All authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to RecFish SA of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by RecFish SA of this Agreement have been obtained or effected or will be obtained or effected within any relevant time or statutory period and are or will be in full force and effect and there has been no default by RecFish SA in the performance of any of those terms or conditions;
 - 4.1.3 No Disqualifying Event or event which with the giving of notice or lapse of time or both would if it continued become a Disqualifying Event, has occurred and is continuing;
 - 4.1.4 The information contained in all financial statements, accounts, certificates, balance sheets, financial projections, schedules and other documents, accounting and financial information supplied to the Minister relating to RecFish SA or any matter related to the Funds, is a true and fair view of the financial position of RecFish SA as of the commencement of the Term and is true and correct and not misleading in any material respect and the financial statements have been prepared in accordance with generally accepted accounting principles;
 - 4.1.5 Each of the above representations and warranties will survive the execution of this Agreement and the provision of the Funds and will be correct and complied with in all material respects on each Drawdown Date as if repeated then by reference to the then existing circumstances;
- 4.2 RecFish SA indemnifies the Minister against all losses, liabilities, costs, claims, charges, expenses, actions or demands which it may incur or which may be made against her as a result of, or in relation to, or in connection with, any misrepresentation by RecFish SA or any breach of the representations and warranties made by RecFish SA.

5. OBLIGATIONS OF RECFISH SA

RecFish SA agrees that:

- 5.1 RecFish SA will not, except with the prior consent in writing of the Minister, apply the Funds for purposes other than the Purpose;
- 5.2 RecFish SA will during the Term provide at all reasonable times such information and particulars as the Minister reasonably requires to establish that the Funds are being applied to the Purpose and that a Disqualifying Event has not occurred;
- 5.3 RecFish SA will during the Term carry out the Activities, and
- 5.4 RecFish SA will during the Term give the Minister notice in writing immediately upon becoming aware of the occurrence of any Disqualifying Event or other event which, with the giving of notice or lapse of time or upon the Minister making the relevant determination would constitute a Disqualifying Event.

6. FURTHER INFORMATION

If at any time during the Term the Minister requests further information about any aspect of the operations of RecFish SA, RecFish SA will provide that information as soon as reasonably practicable after the Minister has made the request.

7. REPAYMENT OF FUNDS

- 7.1 If at any time a Repayment Event occurs, RecFish SA must, if requested by the Minister pay to the Minister the Repayment Amount.
- 7.2 The occurrence of any of the following events are Repayment Events;
 - 7.2.1 If RecFish SA becomes subject to any form of Insolvency Administration; or
 - 7.2.2 If RecFish SA applies any part of the Funds for purposes other than the Purpose without the prior consent in writing of the Minister.
- 7.3 For the purposes of this clause 7:
 - 7.3.1 "Repayment Amount" means:
 - (a) the amount of the Funds (if any) expended upon any purpose other than the Purpose without the prior consent in writing of the Minister; and
 - (b) interest on that amount (or so much of it as remains unpaid for the time being) calculated at the Prescribed Rate from the date upon which the Minister makes demand upon RecFish SA for payment of the amount to the date upon which the amount is paid in full;
 - 7.3.2 "Prescribed Rate" means:
 - (a) the Reserve Bank of Australia official daily cash rate;
 - (b) plus 1% per annum.

8. ANNUAL ACCOUNTS

- 8.1 RecFish SA will maintain proper books of account and other appropriate records to be kept in accordance with usual and accepted accounting or other applicable standards and such books of account and other records will be maintained at the office of RecFish SA and the Minister's servants or agents authorised for that purpose by the Minister will have free access to such books of account and other records and will be at liberty to make copies and take extracts thereof.
- 8.2 RecFish SA will promptly provide the Minister with such information in respect of its accounts as the Minister may from time to time request.

9. REPORTING REQUIREMENTS

- 9.1 RecFish SA's Representative shall provide a six (6) monthly written report to the Minister's Representative, and shall within that period meet with the Minister's Representative to discuss the report, by the 10th of January 2018 and 10th of January 2019.
- 9.2 The six (6) monthly reports referred to in clause 9.1 shall contain:
- 9.2.1 A description of the Activities undertaken by RecFish SA during the previous six (6) months for the Purpose;
 - 9.2.2 A statement as to the expenditure of the Funds by RecFish SA during the previous six (6) months;
 - 9.2.3 A summary of the activities of the Recreational Fisheries Committees and the expenditure of the Funds to support the Recreational Fisheries Committees during the previous six (6) months;
 - 9.2.4 A statement as to any changes to the membership of the Recreational Fishing Committees; and
 - 9.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

10. ANNUAL REPORT

- 10.1 RecFish SA's Representative must within ninety (90) days of the end of the Financial Year provide a written report to the Minister relating to that Financial Year:
- 10.2 The Annual Report referred to in clause 10.1 shall contain:
- 10.2.1 A statement as to the costs incurred by RecFish SA in relation to undertaking the Activities, together with particulars as to any funds or revenue raised by RecFish SA for conducting the Activities other than the Funds, including details of sponsorship, donations and any other income;
 - 10.2.2 Details of any of the Funds paid to RecFish SA for the Financial Year which have not been expended by RecFish SA upon the Purpose, or in relation to which a legally binding commitment has not been entered into by RecFish SA during that Financial Year for the expenditure of the Funds upon the Purpose;

- 10.2.3 A statement as to the membership of RecFish SA's governing body and membership of its staff for the Financial Year;
- 10.2.4 Audited annual financial reports (including balance sheet and profit and loss statement) for RecFish SA for the Financial Year certified by an Authorised Officer to be true and correct;
- 10.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

11. DISQUALIFYING EVENTS

11.1 The following are Disqualifying Events:

- 11.1.1 If any representation, warranty, statement or report given under this Agreement is proven at any time to have been or to be incorrect inaccurate or misleading in any material respect;
- 11.1.2 If RecFish SA is substantially in breach of any provision of this Agreement and does not remedy the breach or take effective measures to remedy the breach within five (5) Business Days from the receipt of notice in writing by the Minister requiring RecFish SA to remedy that breach;
- 11.1.3 if RecFish SA enters into any form of Insolvency Administration; or
- 11.1.4 if there occurs any material adverse change in the condition or stability of RecFish SA which in the reasonable opinion of the Minister could result in RecFish SA being unable to perform its obligations under this Agreement.

11.2 If at any time before the Minister has paid the Funds to RecFish SA in full a Disqualifying Event occurs, the Minister may terminate this Agreement and the Minister's obligation under this Agreement to pay RecFish SA the unpaid part of the Funds ("Outstanding Moneys") will cease.

11.3 Termination of this Agreement by the Minister shall not prejudice any other rights or remedies that the Minister may have under this Agreement.

12. MINISTER MAY AUTHORISE

- 12.1 The Minister may authorise any person whom it selects to exercise any of its powers or rights under this Agreement.
- 12.2 The Minister may vary or revoke an authorisation at will.

13. PUBLICITY

- 13.1 Subject to this Agreement, and subject to any requirement at law, RecFish SA must not, without the prior written approval of the Minister, issue or participate in any media release or publicity in relation to:
 - 13.1.1 the amount and specific nature of the Funds; and
 - 13.1.2 the terms and conditions on which the Funds were made available.
- 13.2 RecFish SA must on its business publications and in respect of publicity for every event or exhibition staged by RecFish SA as part of the Activities acknowledge the Minister's funding.

- 13.3 RecFish SA will participate in all promotional or publicity activities in relation to this Agreement as reasonably required by the Minister.
- 13.4 RecFish SA must ensure that RecFish SA's employees, agent and sub-contractors are aware of and comply with the provisions of this Clause.
- 13.5 The obligations pursuant to this Clause will survive any expiry or termination of this Agreement.

14. NO MUTUAL LIABILITY

Nothing in this Agreement constitutes a partnership, joint venture or association of any kind between RecFish SA and the Minister or renders them liable for the debts or liabilities incurred by each other.

15. NO ASSIGNMENT

RecFish SA may not assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Minister.

16. PROPER LAW

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

17. JURISDICTION OF COURTS

- 17.1 The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.
- 17.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.
- 17.3 The Consultant undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

18. COMPLIANCE WITH LAWS

The Consultant must comply with the laws in force in South Australia in the course of performing this Agreement.

19. NOTICES

- 19.1 A "notice" means:
 - 19.1.1 a notice; or
 - 19.1.2 a consent, approval or other communication required to be in writing under this Agreement.
- 19.2 A notice must in writing and signed by or on behalf of the sender addressed to the recipient and:
 - 19.2.1 delivered to the recipient's address;
 - 19.2.2 sent by pre-paid mail to the recipient's address; or
 - 19.2.3 transmitted by facsimile to the recipient's address; or

- 19.2.4 sent by electronic mail to the recipient's email address.
 - 19.3 A notice given to a person in accordance with this clause is treated as having been given and received:
 - 19.3.1 on the day of delivery if delivered before 5.00 p.m. on a Business Day, otherwise on the next Business Day;
 - 19.3.2 if sent by pre-paid mail, on the third Business Day after posting;
 - 19.3.3 if transmitted by facsimile and a correct and complete transmission report is received on the day of transmission; on that day if the report states that transmission was completed before 5.00 p.m. on a Business Day, otherwise on the next Business Day;
 - 19.3.4 if sent by electronic mail and the sender does not receive a message from its internet service provider or the recipient's mail server indicating that it has not been successfully transmitted, on the day of sending it if before 5.00 p.m. on a Business Day, otherwise on the next Business Day.
 - 19.4 The address, facsimile number and email address of a person are those set out below that person's name in the Schedule.
 - 19.5 A person may from time to time notify its address, facsimile number or email address by written notice to the other party.
20. **SEVERANCE**
- 20.1 If any part of this Agreement is or becomes void or unenforceable or if this Agreement would, if any part were not omitted, be or become void or unenforceable then:
 - 20.1.1 that part will be severable without affecting the remainder of this Agreement and this Agreement will then be read as if that part was not contained in it; and
 - 20.1.2 the parties will attempt to renegotiate that part in good faith.
21. **WAIVER**
- 21.1 Any waiver of any provision of this Agreement is ineffective unless it is in writing and signed by the party waiving its rights.
 - 21.2 A waiver by either party in respect of a breach of a provision of this Agreement by the other party is not a waiver in respect of any other breach of that or any other provision.
 - 21.3 The failure of either party to enforce at any time any of the provisions of this Agreement must not be interpreted as a waiver of such provision.
22. **MODIFICATION**
- Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

23. ENTIRE AGREEMENT

- 23.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.
- 23.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

24. TIME OF THE ESSENCE

Time is of the essence in respect of any time, date, or period specified either in this Agreement or in any notice served under this Agreement.

25. GST

- 25.1 The parties acknowledge that compliance with obligations or the grant of rights under this Agreement by RecFish SA will be a Taxable Supply as defined in the GST Law and RecFish SA will be liable to pay GST on the Taxable Supply.
- 25.2 In addition to the Funding the Minister will pay an amount calculated by multiplying the Funding by the rate at which GST is levied at the time of this deed (GST payment).
- 25.3 If the Funds are payable in instalments, the GST payment will be payable in proportionate instalments.
- 25.4 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless RecFish SA has delivered to the Minister a valid Tax Invoice under GST Law, referable to the Funding (or instalment of the Funding) and associated GST payment.
- 25.5 For the purpose of this clause, GST Law has the meaning attributed to it in the A New Tax System (Goods and Services Tax) Act 1999.

26. DISCLOSURE OF CONTRACT

The Minister may disclose this Agreement and/or information relating to this Agreement in accordance with the Department of Premier and Cabinet Circular 27 in either printed or electronic format either generally to the public or to a particular person as a result of a specific request. Nothing in this clause derogates from the provisions of the *Freedom of Information Act 1991*.

27. AUDIT

The parties acknowledge and agree that nothing in this Agreement derogates from the powers of the Auditor - General under the *Public Finance and Audit Act, 1987* (South Australia).

EXECUTED AS AN AGREEMENT

SIGNED for and on behalf of the MINISTER)
FOR AGRICULTURE, FOOD AND)
FISHERIES by Sean Sloan, Acting Executive)
Director, Department of Primary Industries)
and Regions, duly authorised in that regard,)

in the presence of:)

S. Smart
.....

Witness

[Print Name: Sharon Smart]

SIGNED for and on behalf of the SOUTH)
AUSTRALIAN RECREATIONAL FISHING)
ADVISORY COUNCIL INCORPORATED)
by its Chair and Public Officer, duly)
authorised in that regard, in the presence)
of:

[Signature]
.....
Chair Exec. Div

[Signature]
.....
Public Officer Director

[Signature]
.....
Witness WENDY BEGG
[Print Name:]

[Signature]
.....
Witness WENDY BEGG
[Print Name:]

SCHEDULE

1. FUNDS AND PAYMENT

1.1 The Funds shall comprise a monetary amount of \$272,776 (GST incl).

1.2 The Funds will be payable by the Minister, as follows:

2017/18

- \$67,452 (GST incl) will be paid on execution of this Agreement, following receipt of a tax compliant invoice.
- \$67,452 (GST incl) will be paid upon receipt of the 2016/17 annual financial report and a tax compliant invoice. The 2016/17 annual financial report is due within ninety (90) days of the end of the Financial Year, as per clause 10 of this agreement.

2018/19

- \$68,936 (GST incl) will be paid on 1 July 2018, following receipt of a tax compliant invoice.
- \$68,936 (GST incl) will be paid upon receipt of the 2017/18 annual financial report and a tax compliant invoice. The 2017/18 annual financial report is due within 90 days of the end of the Financial Year, as per clause 10 of this agreement.

The release of Funds shall be released subject to the performance of the Activities by RecFish SA to the satisfaction of the Minister (acting reasonably).

2. PURPOSE

- 2.1 RecFish SA will provide support for management and research programs relevant to recreational fisheries.
- 2.2 RecFish SA will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
- 2.3 RecFish SA will provide extension services to all regional Recreational Fisheries Committees, through ex-officio membership on these committees.
- 2.4 RecFish SA will coordinate the functioning of all Recreational Fishing Committees through the provision of reasonable support services to such committees.
- 2.5 RecFish SA will communicate to all Recreational Fishing Committees relevant information relating to the activities of RecFish SA.
- 2.6 RecFish SA will represent, develop and coordinate involvement in issues relating to Recreational Fishing Committees, its members and the broader recreational fishing community for input and communication on recreational fishing matters to the Fisheries and Aquaculture Division, PIRSA.

- 2.7 RecFish SA will provide the Minister's Representative with a six (6) monthly report on its performance in respect of the Activities.

3. **NOTICES**

3.1 **Minister Representative**

Jon Presser
General Manager, Fisheries Policy and Management Unit
Fisheries and Aquaculture Division
Department of Primary Industries and Regions
GPO Box 1625
Adelaide SA 5001

Phone: (08) 8429 0588
Email: Jon.Presser@sa.gov.au

3.2 **RecFish SA Representative**

Danny Simpson
Executive Officer
RecFish SA 6 Mary Street
Hindmarsh SA 5007

Phone: 0400 774 447
Email: ed@recfishsa.org.au

DATED 28TH DAY OF JUNE 2017

INSTRUMENT TO VARY FUNDING AGREEMENT

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES

(ABN 53 763 159 658)

("Minister")

AND

**SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL
INCORPORATED**

("Recipient")

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ANNEXURE A (Schedule)

PARTIES:

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES a body corporate pursuant to the *Administrative Arrangements Act 1994* (SA) (ABN 53 763 159 658) of Level 10, 1 King William Street, Adelaide, South Australia 5000 ("Minister")

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL INCORPORATED of 6 Mary Street, Hindmarsh, South Australia 5007 ("Recipient").

BACKGROUND:

- A. The Minister and the Recipient entered into a Funding Agreement on about 29 September 2016 for the purpose of the Recipient undertaking certain activities as described therein ("Funding Agreement").
- B. The Minister and the Recipient have now agreed to vary the terms of the Schedule to the Funding Agreement in accordance with this Instrument to Vary.

IT IS AGREED:

1. VARIATION OF THE FUNDING AGREEMENT

The Schedule to the Funding Agreement is deleted and replaced with the Schedule Annexed to this Instrument to Vary and marked "Annexure A".

2. OPERATION OF THIS INSTRUMENT TO VARY

The variations effected by this Instrument to Vary shall operate from the date of execution of this Instrument to Vary.

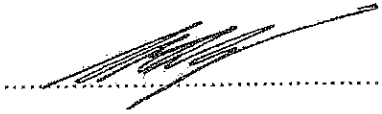
3. CONFIRMATION OF THE FUNDING AGREEMENT

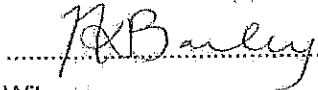
Subject only to the variations contained in this Instrument to Vary and such other alterations (if any) as made necessary to make the Funding Agreement consistent with this Instrument to Vary, the Funding Agreement remains in full force and effect

and will be read and construed and be enforceable as if the terms of this Instrument to Vary were inserted therein by way of addition or substitution (as the case may be).

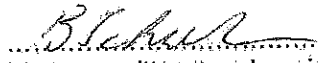
EXECUTED AS A DEED

SIGNED for and on behalf of the)
MINISTER FOR AGRICULTURE, FOOD)
AND FISHERIES by his duly constituted)
Attorney, pursuant to Power of Attorney, who)
has not received a notice of the revocation)
of that Power of Attorney, in the presence of:)

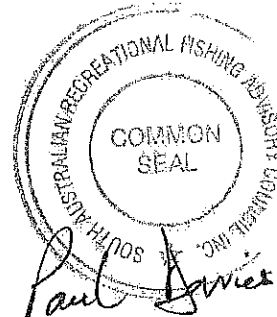

Print Name: SCOTT ASHBY

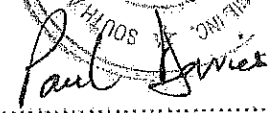

Witness
Print Name: NAOMI BAILEY

THE COMMON SEAL of **SOUTH**)
AUSTRALIAN RECREATIONAL FISHING)
ADVISORY COUNCIL INCORPORATED)
was hereunto affixed in accordance with its)
rules in the presence of:)


First committee member signature

BRENTON SCHAHINGER
First committee member name




Second committee member signature

PAUL DAVIES
Second committee member name

ANNEXURE A

(Schedule)

ITEM 1 Funds and Payment

The Funds will be payable by the Minister in two instalments as set out below:

First Instalment

- 1.1 The First Instalment of Funds shall comprise a monetary amount of \$120,000 (GST exclusive).
- 1.2 The First Instalment of Funds will be payable by the Minister to RecFish SA within ninety (90) Business Days of the receipt by the Minister of a Tax Invoice rendered by RecFish SA for that amount, subject to the performance of the Activities numbered 2.1 to 2.7 in the Purpose by RecFish SA to the satisfaction of the Minister (acting reasonably).

Second Instalment

- 1.3 The Second Instalment of Funds shall comprise a monetary amount of \$44,557.73 (GST exclusive).
- 1.4 The Second Instalment of Funds will be payable by the Minister to RecFish SA upon execution of an Instrument to Vary the Funding Agreement and receipt by the Minister of a Tax Invoice rendered by RecFish SA for that amount, subject to the performance of the Activities numbered 2.8 to 2.15 in the Purpose by RecFish SA to the satisfaction of the Minister (acting reasonably).

ITEM 2 Purpose

- 2.1 RecFish SA will provide support for management and research programs relevant to recreational fisheries.
- 2.2 RecFish SA will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
- 2.3 RecFish SA will provide extension services to all regional Recreational Fisheries Committees, through ex-officio membership on these committees.
- 2.4 RecFish SA will coordinate the functioning of all Recreational Fishing Committees through the provision of reasonable support services to such committees.
- 2.5 RecFish SA will communicate to all Recreational Fishing Committees relevant information relating to the activities of RecFish SA including outcomes of RecFish SA Board meetings, activities of Individual Recreational Fishing Committees and matters arising from Recreational Fisheries Committees.

- 2.6 RecFish SA will represent, develop and coordinate involvement in issues relating to Recreational Fishing Committees and its association members for input and communication on recreational fishing matters to the Fisheries and Aquaculture Division, PIRSA.
- 2.7 RecFish SA will provide the Director, Fisheries and Aquaculture Policy, Fisheries and Aquaculture Division, PIRSA, with a quarterly report on its performance in respect of the Activities.
- 2.8 RecFish SA will undertake consultation with the broader recreational fishing sector through a recreational fishing review, and consolidate the responses to this review into a submission to PIRSA which is informed by 1,500 individual submissions to RecFish SA.
- 2.9 RecFish SA will provide in-kind support of the South Australian Research and Development Institute citizen science project to facilitate the collection of King George Whiting frames as part of a Fisheries Research and Development Corporation project to increase the understanding of King George Whiting reproduction and stock status.
- 2.10 RecFish SA will provide in-kind support through leading discussions with Local Government Councils and stakeholders regarding Murray Cod stocking, including facilitation of site selection and logistics and stocking activities.
- 2.11 RecFish SA will support co-management by participating in a PIRSA working group to look at Murray Cod stock enhancement and legislation regarding handling of Murray Cod.
- 2.12 RecFish SA will provide technical support and stakeholder feedback regarding access to offline reservoirs.
- 2.13 RecFish SA will facilitate stocking applications and activities in offline reservoirs, including the development of an online permit system to enable recreational fishing access.
- 2.14 RecFish SA will participate in a working group to guide implementation of the South Australian Oyster Reef Restoration project.
- 2.15 RecFish SA will participate in a committee to support the review of the Blue Crab Fishery management plan.

ITEM 3 **Notices**

- 3.1 **Minister Representative**
Jon Presser
General Manager, Fisheries Policy and Management Unit
Fisheries and Aquaculture Division
Department of Primary Industries and Regions
GPO Box 1625, Adelaide, SA 5001
Email: Jon.Presser@sa.gov.au
- 3.2 **RecFish SA Representative**
Danny Simpson
Executive Director, RecFish SA
6 Mary Street, Hindmarsh, SA 5007
Email: ed@recfishsa.org.au

DATED _____ **DAY OF** _____ **2016**

FUNDING AGREEMENT

(2016/2017 Financial Year)

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES

("Minister")

-AND-

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL

INCORPORATED

(ABN 68 697 409 693)

("RecFish SA")

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SCHEDULE

FUNDING AGREEMENT

THIS AGREEMENT is made the day of 2016

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES a body corporate pursuant to the Administrative Arrangements Act, 1994 of Level 10, 1 King William Street, Adelaide, South Australia, 5000 ("**Minister**")

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL
INCORPORATED an incorporated association of 6 Mary Street, Hindmarsh, South Australia 5007 (ABN 68 697 409 693) ("**RecFish SA**").

RECITALS

- A. RecFish SA is the recognised Peak Industry Body representing the interests of Recreational Anglers. RecFish SA's objectives are to develop, promote and support recreational fishing in this State.
 - B. RecFish SA has requested and the Minister has agreed to provide funding to RecFish SA for the purposes contemplated by this Agreement.
 - C. The Minister has agreed to provide financial assistance on the terms and conditions contained in this Agreement.
-

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

In this Agreement where the context so requires or admits:

- 1.1 Reference to any Act regulation or by-law will be deemed to include all amendments thereto and to all statutory or other provisions from time to time substituted thereafter;
 - 1.2 Words importing the singular number will include the plural and vice versa and words importing one gender will include the others;
 - 1.3 "ABN" has the meaning attributed in the A New Tax System (Australian Business Number) Act 1999;
 - 1.4 "Activities" means those activities undertaken by RecFish SA in furtherance of the Purpose and described in the Schedule;
 - 1.5 "Agreement" means this Agreement between the parties and includes the Schedules to this Agreement;
 - 1.6 "ANTS GST Act" means the A New Tax System (Goods and Services Tax) Act 1999;
 - 1.7 "Authorised Officer" means any person notified in writing to the Minister as an authorised officer of RecFish SA for the purposes of this Agreement;
 - 1.8 "Business Day" means any day that is not a Saturday or a Sunday or a public holiday in Adelaide under the Holidays Act 1910 (South Australia);
 - 1.9 "Commencement Date" means 1 July 2016;
 - 1.10 "Disqualifying Event" means an event as described in Clause 11;
 - 1.11 "Drawdown Date" means the date specified in the Schedule for payment of the Funds;
 - 1.12 "Execution Date" means the date of last party signing;
 - 1.13 "Financial Year" means the financial year commencing on 1 July 2016 and ending of 30 June 2017;
 - 1.14 "the Funds" means the monetary amount specified in the Schedule;
 - 1.15 "GST" means the tax imposed by the GST law;
 - 1.16 "GST law" has the meaning attributed in the ANTS GST Act;
 - 1.17 "GST Rate" means, at any particular time, the rate (expressed as a fraction of the Value of a supply) at which GST is payable by a supplier on a Taxable Supply;
 - 1.18 "Input Tax Credit" has the meaning attributed in the ANTS GST Act;
-

1.19 **"Insolvency Administration"** means:

- 1.19.1 RecFish SA appoints a liquidator to wind up its affairs;
- 1.19.2 RecFish SA resolves to be wound up voluntarily;
- 1.19.3 an application is made to a court that RecFish SA be wound up (whether on grounds of insolvency or otherwise);
- 1.19.4 RecFish SA ceases to carry on business;
- 1.19.5 RecFish SA is wound up by a court, voluntarily or otherwise;
- 1.19.6 RecFish SA ceases to carry on business; or
- 1.19.7 RecFish SA is or states that it is unable to pay its debts when they fall due.

1.20 **"Minister's Representative"** means the Director of Fisheries;

1.21 **"Outstanding Moneys"** means the portion of the Funds which has not been paid by the Minister to RecFish SA;

1.22 **"PIRSA"** means the Department of Primary Industries and Regions, an administrative unit established pursuant to the Public Sector Act 2009 (South Australia);

1.23 **"Purpose"** means the purpose specified in the Schedule or such other purpose as the Minister may approve from time to time;

1.24 **"Quarter"** means each three month period of the Term commencing on the first day of January, April, July and October in the Financial Year;

1.25 **"Recreational Fishing Committees"** means the regionally based committees which are established by the recreational fishing industry to represent the interests of the recreational fishing sector;

1.26 **"RecFish SA"** means the South Australian Recreational Fishing Advisory Council Incorporated;

1.27 **"RecFish SA's Representative"** means a person nominated in writing by the members of RecFish SA;

1.28 **"Tax Invoice"** has the meaning attributed in the ANTS GST Act;

1.29 **"Tax Period"** has the meaning attributed in the ANTS GST Act;

1.30 **"Taxable Supply"** has the meaning attributed in the ANTS GST Act;

1.31 **"the Term"** means the period of one (1) year commencing from the Commencement Date and ending on the Termination Date unless varied in accordance with this Agreement;

1.32 "Termination Date" means the earlier of the following:

1.32.1 30 June 2017 ; or

1.32.2 the date on which a Disqualifying Event occurs;

1.33 "Value" of a Taxable Supply has the meaning attributed in the ANTS GST Act.

2. **FUNDS**

2.1 Subject to this Agreement, the Minister will make the Funds available to RecFish SA for the Purpose in the amount and on the date specified in the Schedule.

2.2 Any part of the Funds advanced to RecFish SA and not expended by RecFish SA upon the Purpose by the end of the Term or in relation to which a legally binding obligation has not been incurred by the end of the Term to expend upon the Purpose must be repaid to the Minister, unless the Minister otherwise agrees.

2.3 A certificate given under the hand of the Minister from time to time stating the amount of moneys provided under this Agreement at the date mentioned in the certificate will be conclusive evidence of such fact.

3. **CONDITIONS PRECEDENT**

3.1 The provision of the Funds to RecFish SA will be subject to the conditions precedent that:

3.1.1 prior to the Execution Date:

(a) the Minister will have received, upon request, a copy of extracts of all minutes of meeting and other authorisations of RecFish SA required for the execution, delivery and performance of its obligations under this Agreement and authorising a named person or persons to sign this Agreement; and

(b) the Minister will have received such other documents as the Minister may reasonably require; and

3.1.2 no Disqualifying Event, or event which, with the giving of notice, lapse of time or fulfilment of any condition would be likely to become a Disqualifying Event will have occurred and will be subsisting as at the date of the relevant Drawdown Date.

3.2 In the event that the conditions precedent specified in this Clause are not satisfied or waived by the Minister this Agreement will terminate immediately.

4. REPRESENTATIONS BY RECFISH SA

4.1 RecFish SA represents and warrants to the Minister as follows:

4.1.1 the execution, delivery and performance by RecFish SA of this Agreement is within the powers of RecFish SA and is valid and enforceable and RecFish SA has been duly authorised by all necessary action and does not and will not contravene or result in any breach of any law or contractual arrangement or agreement by which RecFish SA or any of its assets are bound;

4.1.2 All authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to RecFish SA of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by RecFish SA of this Agreement have been obtained or effected or will be obtained or effected within any relevant time or statutory period and are or will be in full force and effect and there has been no default by RecFish SA in the performance of any of those terms or conditions;

4.1.3 No Disqualifying Event or event which with the giving of notice or lapse of time or both would if it continued become a Disqualifying Event, has occurred and is continuing;

4.1.4 The information contained in all financial statements, accounts, certificates, balance sheets, financial projections, schedules and other documents, accounting and financial information supplied to the Minister relating to RecFish SA or any matter related to the Funds, is a true and fair view of the financial position of RecFish SA as of the commencement of the Term and is true and correct and not misleading in any material respect and the financial statements have been prepared in accordance with generally accepted accounting principles;

4.1.5 Each of the above representations and warranties will survive the execution of this Agreement and the provision of the Funds and will be correct and complied with in all material respects on each Drawdown Date as if repeated then by reference to the then existing circumstances;

4.2 RecFish SA indemnifies the Minister against all losses, liabilities, costs, claims, charges, expenses, actions or demands which it may incur or which may be made against her as a result of, or in relation to, or in connection with, any misrepresentation by RecFish SA or any breach of the representations and warranties made by RecFish SA.

5. OBLIGATIONS OF RECFISH SA

RecFish SA agrees that:

5.1 RecFish SA will not, except with the prior consent in writing of the Minister, apply the Funds for purposes other than the Purpose;

- 5.2 RecFish SA will during the Term provide at all reasonable times such information and particulars as the Minister reasonably requires to establish that the Funds are being applied to the Purpose and that a Disqualifying Event has not occurred;
- 5.3 RecFish SA will during the Term carry out the Activities, and
- 5.4 RecFish SA will during the Term give the Minister notice in writing immediately upon becoming aware of the occurrence of any Disqualifying Event or other event which, with the giving of notice or lapse of time or upon the Minister making the relevant determination would constitute a Disqualifying Event.

6. **FURTHER INFORMATION**

If at any time during the Term the Minister requests further information about any aspect of the operations of RecFish SA, RecFish SA will provide that information as soon as reasonably practicable after the Minister has made the request.

7. **REPAYMENT OF FUNDS**

- 7.1 If at any time a Repayment Event occurs, RecFish SA must, if requested by the Minister pay to the Minister the Repayment Amount.
 - 7.2 The occurrence of any of the following events are Repayment Events;
 - 7.2.1 if RecFish SA becomes subject to any form of Insolvency Administration;
or
 - 7.2.2 if RecFish SA applies any part of the Funds for purposes other than the Purpose without the prior consent in writing of the Minister.
 - 7.3 For the purposes of this clause 7:
 - 7.3.1 "Repayment Amount" means:
 - (a) the amount of the Funds (if any) expended upon any purpose other than the Purpose without the prior consent in writing of the Minister;
and
 - (b) interest on that amount (or so much of it as remains unpaid for the time being) calculated at the Prescribed Rate from the date upon which the Minister makes demand upon RecFish SA for payment of the amount to the date upon which the amount is paid in full;
 - 7.3.2 "Prescribed Rate" means:
 - (a) the Reserve Bank of Australia official daily cash rate;
 - (b) plus 1% per annum.
-

8. **ANNUAL ACCOUNTS**

- 8.1 RecFish SA will maintain proper books of account and other appropriate records to be kept in accordance with usual and accepted accounting or other applicable standards and such books of account and other records will be maintained at the office of RecFish SA and the Minister's servants or agents authorised for that purpose by the Minister will have free access to such books of account and other records and will be at liberty to make copies and take extracts thereof.
- 8.2 RecFish SA will promptly provide the Minister with such information in respect of its accounts as the Minister may from time to time request.

9. **QUARTERLY REPORTING**

- 9.1 RecFish SA's Representative shall within five (5) Business Days after the expiry of each Quarter during the Term provide a written report to the Minister's Representative, and shall within that period meet with the Minister's Representative to discuss the report.
- 9.2 The Quarterly reports referred to in clause 9.1 shall contain:
- 9.2.1 A description of the Activities undertaken by RecFish SA during the Quarter for the Purpose;
 - 9.2.2 A statement as to the expenditure of the Funds by RecFish SA during the Quarter;
 - 9.2.3 A summary of the activities of the Recreational Fisheries Committees and the expenditure of the Funds to support the Recreational Fisheries Committees during the Quarter, including, but not limited to the expenses incurred by members for attendance at meetings of the Recreational Fisheries Committees, and the costs necessarily incurred for postage, secretarial services, advertising, travel, accommodation, telephone, photocopying and stationery by the Recreational Fishing Committees;
 - 9.2.4 A statement as to any changes to the membership of the Recreational Fishing Committees; and
 - 9.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

10. **ANNUAL REPORT**

- 10.1 RecFish SA's Representative must within ninety (90) Business Days of the end of the Financial Year provide a written report to the Minister relating to that Financial Year:
- 10.2 The Annual Report referred to in clause 10.1 shall contain:
-

- 10.2.1 A statement as to the costs incurred by RecFish SA in relation to undertaking the Activities, together with particulars as to any funds or revenue raised by RecFish SA for conducting the Activities other than the Funds, including details of sponsorship, donations and any other income;
- 10.2.2 Details of any of the Funds paid to RecFish SA for the Financial Year which have not been expended by RecFish SA upon the Purpose, or in relation to which a legally binding commitment has not been entered into by RecFish SA during that Financial Year for the expenditure of the Funds upon the Purpose;
- 10.2.3 A statement as to the membership of RecFish SA's governing body and membership of its staff for the Financial Year;
- 10.2.4 Audited annual financial reports (including balance sheet and profit and loss statement) for RecFish SA for the Financial Year certified by an Authorised Officer to be true and correct;
- 10.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

11. DISQUALIFYING EVENTS

11.1 The following are Disqualifying Events:

- 11.1.1 if any representation, warranty, statement or report given under this Agreement is proven at any time to have been or to be incorrect inaccurate or misleading in any material respect;
- 11.1.2 if RecFish SA is substantially in breach of any provision of this Agreement and does not remedy the breach or take effective measures to remedy the breach within five (5) Business Days from the receipt of notice in writing by the Minister requiring RecFish SA to remedy that breach;
- 11.1.3 if RecFish SA enters into any form of Insolvency Administration; or
- 11.1.4 if there occurs any material adverse change in the condition or stability of RecFish SA which in the reasonable opinion of the Minister could result in RecFish SA being unable to perform its obligations under this Agreement.

11.2 If at any time before the Minister has paid the Funds to RecFish SA in full a Disqualifying Event occurs, the Minister may terminate this Agreement and the Minister's obligation under this Agreement to pay RecFish SA the unpaid part of the Funds ("Outstanding Moneys") will cease.

11.3 Termination of this Agreement by the Minister shall not prejudice any other rights or remedies that the Minister may have under this Agreement.

12. **MINISTER MAY AUTHORISE**

12.1 The Minister may authorise any person whom it selects to exercise any of its powers or rights under this Agreement.

12.2 The Minister may vary or revoke an authorisation at will.

13. **PUBLICITY**

13.1 Subject to this Agreement, and subject to any requirement at law, RecFish SA must not, without the prior written approval of the Minister, issue or participate in any media release or publicity in relation to:

13.1.1 the amount and specific nature of the Funds; and

13.1.2 the terms and conditions on which the Funds were made available.

13.2 RecFish SA must on its business publications and in respect of publicity for every event or exhibition staged by RecFish SA acknowledge the Minister's funding.

13.3 RecFish SA will participate in all promotional or publicity activities in relation to this Agreement as reasonably required by the Minister.

13.4 RecFish SA must ensure that RecFish SA's employees, agent and sub-contractors are aware of and comply with the provisions of this Clause.

13.5 The obligations pursuant to this Clause will survive any expiry or termination of this Agreement.

14. **NO MUTUAL LIABILITY**

Nothing in this Agreement constitutes a partnership, joint venture or association of any kind between RecFish SA and the Minister or renders them liable for the debts or liabilities incurred by each other.

15. **NO ASSIGNMENT**

RecFish SA may not assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Minister.

16. **PROPER LAW**

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

17. **JURISDICTION OF COURTS**

- 17.1 The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.
- 17.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.
- 17.3 The Consultant undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

18. **COMPLIANCE WITH LAWS**

The Consultant must comply with the laws in force in South Australia in the course of performing this Agreement.

19. **NOTICES**

19.1 A "notice" means:

19.1.1 a notice; or

19.1.2 a consent, approval or other communication required to be in writing under this Agreement.

19.2 A notice must in writing and signed by or on behalf of the sender addressed to the recipient and:

19.2.1 delivered to the recipient's address;

19.2.2 sent by pre-paid mail to the recipient's address; or

19.2.3 transmitted by facsimile to the recipient's address; or

19.2.4 sent by electronic mail to the recipient's email address.

19.3 A notice given to a person in accordance with this clause is treated as having been given and received:

19.3.1 on the day of delivery if delivered before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.2 if sent by pre-paid mail, on the third Business Day after posting;

19.3.3 if transmitted by facsimile and a correct and complete transmission report is received on the day of transmission: on that day if the report states that transmission was completed before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.4 If sent by electronic mail and the sender does not receive a message from its internet service provider or the recipient's mail server indicating that it has not been successfully transmitted, on the day of sending it if before 5.00 p.m. on a Business Day, otherwise on the next Business Day.

19.4 The address, facsimile number and email address of a person are those set out below that person's name in the Schedule.

19.5 A person may from time to time notify its address, facsimile number or email address by written notice to the other party.

20. **SEVERANCE**

20.1 If any part of this Agreement is or becomes void or unenforceable or if this Agreement would, if any part were not omitted, be or become void or unenforceable then:

20.2 that part will be severable without affecting the remainder of this Agreement and this Agreement will then be read as if that part were not contained in it; and

20.3 the parties will attempt to renegotiate that part in good faith.

21. **WAIVER**

21.1 Any waiver of any provision of this Agreement is ineffective unless it is in writing and signed by the party waiving its rights.

21.2 A waiver by either party in respect of a breach of a provision of this Agreement by the other party is not a waiver in respect of any other breach of that or any other provision.

21.3 The failure of either party to enforce at any time any of the provisions of this Agreement must not be interpreted as a waiver of such provision.

22. **MODIFICATION**

Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

23. **ENTIRE AGREEMENT**

23.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.

23.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

24. **TIME OF THE ESSENCE**

Time is of the essence in respect of any time, date, or period specified either in this Agreement or in any notice served under this Agreement.

25. **GST**

25.1 The parties acknowledge that compliance with obligations or the grant of rights under this Agreement by RecFish SA will be a Taxable Supply as defined in the GST Law and RecFish SA will be liable to pay GST on the Taxable Supply.

25.2 In addition to the Funding the Minister will pay an amount calculated by multiplying the Funding by the rate at which GST is levied at the time of this deed (GST payment).

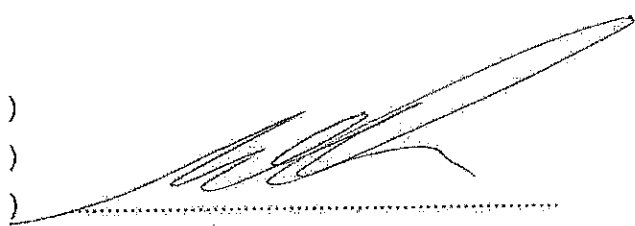
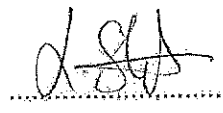
25.3 If the Funds are payable in instalments, the GST payment will be payable in proportionate instalments.

25.4 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless RecFish SA has delivered to the Minister a valid Tax Invoice under GST Law, referable to the Funding (or instalment of the Funding) and associated GST payment.

25.5 For the purpose of this clause, GST Law has the meaning attributed to it in the A New Tax System (Goods and Services Tax) Act 1999.

EXECUTED AS AN AGREEMENT

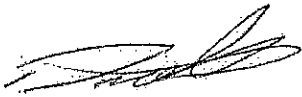
SIGNED for and on behalf of the **MINISTER**)
FOR AGRICULTURE, FOOD AND)
FISHERIES by Sean Sloan, Director,)
Fisheries and Aquaculture Division,)
Department of Primary Industries and)
Regions, duly authorised in that regard and)
in the presence of:)


29/9/16

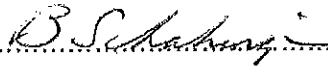
Witness

[Print Name: Lucy STARK]

SIGNED for and on behalf of the)
SOUTH AUSTRALIAN RECREATIONAL)
FISHING ADVISORY COUNCIL)
INCORPORATED by its Chair and Public)
Officer, duly authorised in that regard, in the)
presence of:)



Chair Executive Director/
Secretary



Public Officer

WENDY BEGG

Witness

[Print Name:

WENDY BEGG

Witness

[Print Name:

]

SCHEDULE

ITEM 1 **Funds and Payment**

- 1.1 The Funds shall comprise a monetary amount of \$120,000.00 (GST exclusive).
- 1.2 The Funds will be payable by the Minister to RecFish SA within ninety (90) Business Days of the receipt by the Minister of a Tax Invoice rendered by RecFish SA for that amount, subject to the performance of the Activities by RecFish SA to the satisfaction of the Minister (acting reasonably).

ITEM 2 **Purpose**

- 2.1 RecFish SA will provide support for management and research programs relevant to recreational fisheries.
 - 2.2 RecFish SA will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
 - 2.3 RecFish SA will provide extension services to all regional Recreational Fisheries Committees, through ex-officio membership on these committees.
 - 2.4 RecFish SA will coordinate the functioning of all Recreational Fishing Committees through the provision of reasonable support services to such committees.
 - 2.5 RecFish SA will communicate to all Recreational Fishing Committees relevant information relating to the activities of RecFish SA including outcomes of RecFish SA Board meetings, activities of individual Recreational Fishing Committees and matters arising from Recreational Fisheries Committees.
 - 2.6 RecFish SA will represent, develop and coordinate involvement in issues relating to Recreational Fishing Committees and its association members for input and communication on recreational fishing matters to the Fisheries and Aquaculture Division, PIRSA.
 - 2.7 RecFish SA will provide the Director, Fisheries and Aquaculture Policy, Fisheries and Aquaculture Division, PIRSA, with a quarterly report on its performance in respect of the Activities.
-

ITEM 3: **Notices**

3.1 Minister

Keith Rowling
A/Manager
Fisheries Policy and Management Unit
Fisheries and Aquaculture Division
Department of Primary Industries and Regions
GPO Box 1625
Adelaide SA 5001

Phone: (08) 8429 0513
Email: Keith.Rowling@sa.gov.au

3.2 RecFish SA

David Ciaravolo
Executive Director
RecFish SA
6 Mary Street
Hindmarsh SA 5007

Phone: 0400 774 447
Email: oa@recfishsa.com.au

DATED 24 DAY OF November 2015

FUNDING AGREEMENT
(2015/2016 Financial Year)

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES
("Minister")

-AND-

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL
INCORPORATED
(ABN 68 697 409 693)
("RecFish SA")



CROWN SOLICITOR

Level 9, 45 Pirie Street, Adelaide SA 5000

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SCHEDULE

FUNDING AGREEMENT

THIS AGREEMENT is made the 24 day of November 2015

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES a body corporate pursuant to the Administrative Arrangements Act, 1994 of Level 12, Terrace Towers, 178 North Terrace, Adelaide, South Australia, 5000 ("Minister")

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL

INCORPORATED an incorporated association of 300 Morphett Street, Adelaide, South Australia 5000 (ABN 68 697 409 693) ("RecFish SA").
6 MARY ST. HINDMARSH
S.A. 5007

RECITALS

- A. RecFish SA is the recognised Peak Industry Body representing the interests of Recreational Anglers. RecFish SA's objectives are to develop, promote and support recreational fishing in this State.
- B. RecFish SA has requested and the Minister has agreed to provide funding to RecFish SA for the purposes contemplated by this Agreement.
- C. The Minister has agreed to provide financial assistance on the terms and conditions contained in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

DEFINITIONS AND INTERPRETATION

In this Agreement where the context so requires or admits:

- 1.1 Reference to any Act regulation or by-law will be deemed to include all amendments thereto and to all statutory or other provisions from time to time substituted thereafter;
- 1.2 Words importing the singular number will include the plural and vice versa and words importing one gender will include the others;
- 1.3 "ABN" has the meaning attributed in the A New Tax System (Australian Business Number) Act 1999;
- 1.4 "Activities" means those activities undertaken by RecFish SA in furtherance of the Purpose and described in the Schedule;
- 1.5 "Agreement" means this Agreement between the parties and includes the Schedules to this Agreement;
- 1.6 "ANTS GST Act" means the A New Tax System (Goods and Services Tax) Act 1999;
- 1.7 "Authorised Officer" means any person notified in writing to the Minister as an authorised officer of RecFish SA for the purposes of this Agreement;
- 1.8 "Business Day" means any day that is not a Saturday or a Sunday or a public holiday in Adelaide under the Holidays Act 1910 (South Australia);
- 1.9 "Commencement Date" means 1 July 2015;
- 1.10 "Disqualifying Event" means an event as described in Clause 11;
- 1.11 "Drawdown Date" means the date specified in the Schedule for payment of the Funds;
- 1.12 "Execution Date" means the date of last party signing;
- 1.13 "Financial Year" means the financial year commencing on 1 July 2015 and ending of 30 June 2016;
- 1.14 "the Funds" means the monetary amount specified in the Schedule;
- 1.15 "GST" means the tax imposed by the GST law;
- 1.16 "GST law" has the meaning attributed in the ANTS GST Act;
- 1.17 "GST Rate" means, at any particular time, the rate (expressed as a fraction of the Value of a supply) at which GST is payable by a supplier on a Taxable Supply;
- 1.18 "Input Tax Credit" has the meaning attributed in the ANTS GST Act;

- 1.19 **"Insolvency Administration"** means:
- 1.19.1 RecFish SA appoints a liquidator to wind up its affairs;
 - 1.19.2 RecFish SA resolves to be wound up voluntarily;
 - 1.19.3 an application is made to a court that RecFish SA be wound up (whether on grounds of insolvency or otherwise);
 - 1.19.4 RecFish SA ceases to carry on business;
 - 1.19.5 RecFish SA is wound up by a court, voluntarily or otherwise;
 - 1.19.6 RecFish SA ceases to carry on business; or
 - 1.19.7 RecFish SA is or states that it is unable to pay its debts when they fall due.
- 1.20 **"Minister's Representative"** means the Director of Fisheries;
- 1.21 **"Outstanding Moneys"** means the portion of the Funds which has not been paid by the Minister to RecFish SA;
- 1.22 **"PIRSA"** means the Department of Primary Industries and Regions, an administrative unit established pursuant to the Public Sector Act 2009 (South Australia);
- 1.23 **"Purpose"** means the purpose specified in the Schedule or such other purpose as the Minister may approve from time to time;
- 1.24 **"Quarter"** means each three month period of the Term commencing on the first day of January, April, July and October in the Financial Year;
- 1.25 **"Recreational Fishing Committees"** means the regionally based committees which are established by the recreational fishing industry to represent the interests of the recreational fishing sector;
- 1.26 **"RecFish SA"** means the South Australian Recreational Fishing Advisory Council Incorporated;
- 1.27 **"RecFish SA's Representative"** means a person nominated in writing by the members of RecFish SA;
- 1.28 **"Tax Invoice"** has the meaning attributed in the ANTS GST Act;
- 1.29 **"Tax Period"** has the meaning attributed in the ANTS GST Act;
- 1.30 **"Taxable Supply"** has the meaning attributed in the ANTS GST Act;
- 1.31 **"the Term"** means the period of one (1) year commencing from the Commencement Date and ending on the Termination Date unless varied in accordance with this Agreement;

1.32 "Termination Date" means the earlier of the following:

1.32.1 30 June 2016; or

1.32.2 the date on which a Disqualifying Event occurs;

1.33 "Value" of a Taxable Supply has the meaning attributed in the ANTS GST Act.

FUNDS

2.1 Subject to this Agreement, the Minister will make the Funds available to RecFish SA for the Purpose in the amount and on the date specified in the Schedule.

2.2 Any part of the Funds advanced to RecFish SA and not expended by RecFish SA upon the Purpose by the end of the Term or in relation to which a legally binding obligation has not been incurred by the end of the Term to expend upon the Purpose must be repaid to the Minister, unless the Minister otherwise agrees.

2.3 A certificate given under the hand of the Minister from time to time stating the amount of moneys provided under this Agreement at the date mentioned in the certificate will be conclusive evidence of such fact.

CONDITIONS PRECEDENT

3.1 The provision of the Funds to RecFish SA will be subject to the conditions precedent that:

3.1.1 prior to the Execution Date:

(a) the Minister will have received, upon request, a copy of extracts of all minutes of meeting and other authorisations of RecFish SA required for the execution, delivery and performance of its obligations under this Agreement and authorising a named person or persons to sign this Agreement; and

(b) the Minister will have received such other documents as the Minister may reasonably require; and

3.1.2 no Disqualifying Event, or event which, with the giving of notice, lapse of time or fulfilment of any condition would be likely to become a Disqualifying Event will have occurred and will be subsisting as at the date of the relevant Drawdown Date.

3.2 In the event that the conditions precedent specified in this Clause are not satisfied or waived by the Minister this Agreement will terminate immediately.

4. REPRESENTATIONS BY REC FISH SA

4.1 RecFish SA represents and warrants to the Minister as follows:

- 4.1.1 the execution, delivery and performance by RecFish SA of this Agreement is within the powers of RecFish SA and is valid and enforceable and RecFish SA has been duly authorised by all necessary action and does not and will not contravene or result in any breach of any law or contractual arrangement or agreement by which RecFish SA or any of its assets are bound;
 - 4.1.2 All authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to RecFish SA of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by RecFish SA of this Agreement have been obtained or effected or will be obtained or effected within any relevant time or statutory period and are or will be in full force and effect and there has been no default by RecFish SA in the performance of any of those terms or conditions;
 - 4.1.3 No Disqualifying Event or event which with the giving of notice or lapse of time or both would if it continued become a Disqualifying Event, has occurred and is continuing;
 - 4.1.4 The information contained in all financial statements, accounts, certificates, balance sheets, financial projections, schedules and other documents, accounting and financial information supplied to the Minister relating to RecFish SA or any matter related to the Funds, is a true and fair view of the financial position of RecFish SA as of the commencement of the Term and is true and correct and not misleading in any material respect and the financial statements have been prepared in accordance with generally accepted accounting principles;
 - 4.1.5 Each of the above representations and warranties will survive the execution of this Agreement and the provision of the Funds and will be correct and complied with in all material respects on each Drawdown Date as if repeated then by reference to the then existing circumstances;
- 4.2 RecFish SA indemnifies the Minister against all losses, liabilities, costs, claims, charges, expenses, actions or demands which it may incur or which may be made against her as a result of, or in relation to, or in connection with, any misrepresentation by RecFish SA or any breach of the representations and warranties made by RecFish SA.

5. OBLIGATIONS OF REC FISH SA

RecFish SA agrees that:

- 5.1 RecFish SA will not, except with the prior consent in writing of the Minister, apply the Funds for purposes other than the Purpose;

- 5.2 RecFish SA will during the Term provide at all reasonable times such information and particulars as the Minister reasonably requires to establish that the Funds are being applied to the Purpose and that a Disqualifying Event has not occurred;
- 5.3 RecFish SA will during the Term carry out the Activities, and
- 5.4 RecFish SA will during the Term give the Minister notice in writing immediately upon becoming aware of the occurrence of any Disqualifying Event or other event which, with the giving of notice or lapse of time or upon the Minister making the relevant determination would constitute a Disqualifying Event.

FURTHER INFORMATION

If at any time during the Term the Minister requests further information about any aspect of the operations of RecFish SA, RecFish SA will provide that information as soon as reasonably practicable after the Minister has made the request.

REPAYMENT OF FUNDS

- 7.1 If at any time a Repayment Event occurs, RecFish SA must, if requested by the Minister pay to the Minister the Repayment Amount.
- 7.2 The occurrence of any of the following events are Repayment Events;
 - 7.2.1 if RecFish SA becomes subject to any form of Insolvency Administration; or
 - 7.2.2 if RecFish SA applies any part of the Funds for purposes other than the Purpose without the prior consent in writing of the Minister.
- 7.3 For the purposes of this clause 7:
 - 7.3.1 "Repayment Amount" means:
 - (a) the amount of the Funds (if any) expended upon any purpose other than the Purpose without the prior consent in writing of the Minister; and
 - (b) interest on that amount (or so much of it as remains unpaid for the time being) calculated at the Prescribed Rate from the date upon which the Minister makes demand upon RecFish SA for payment of the amount to the date upon which the amount is paid in full;
 - 7.3.2 "Prescribed Rate" means:
 - (a) the Reserve Bank of Australia official daily cash rate;
 - (b) plus 1% per annum.

ANNUAL ACCOUNTS

- 8.1 RecFish SA will maintain proper books of account and other appropriate records to be kept in accordance with usual and accepted accounting or other applicable standards and such books of account and other records will be maintained at the office of RecFish SA and the Minister's servants or agents authorised for that purpose by the Minister will have free access to such books of account and other records and will be at liberty to make copies and take extracts thereof.
- 8.2 RecFish SA will promptly provide the Minister with such information in respect of its accounts as the Minister may from time to time request.

QUARTERLY REPORTING

- 9.1 RecFish SA's Representative shall within five (5) Business Days after the expiry of each Quarter during the Term provide a written report to the Minister's Representative, and shall within that period meet with the Minister's Representative to discuss the report.
- 9.2 The Quarterly reports referred to in clause 9.1 shall contain:
- 9.2.1 A description of the Activities undertaken by RecFish SA during the Quarter for the Purpose;
 - 9.2.2 A statement as to the expenditure of the Funds by RecFish SA during the Quarter;
 - 9.2.3 A summary of the activities of the Recreational Fisheries Committees and the expenditure of the Funds to support the Recreational Fisheries Committees during the Quarter, including, but not limited to the expenses incurred by members for attendance at meetings of the Recreational Fisheries Committees, and the costs necessarily incurred for postage, secretarial services, advertising, travel, accommodation, telephone, photocopying and stationery by the Recreational Fishing Committees;
 - 9.2.4 A statement as to any changes to the membership of the Recreational Fishing Committees; and
 - 9.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

ANNUAL REPORT

- 10.1 RecFish SA's Representative must within ninety (90) Business Days of the end of the Financial Year provide a written report to the Minister relating to that Financial Year:
- 10.2 The Annual Report referred to in clause 10.1 shall contain:

- 10.2.1 A statement as to the costs incurred by RecFish SA in relation to undertaking the Activities, together with particulars as to any funds or revenue raised by RecFish SA for conducting the Activities other than the Funds, including details of sponsorship, donations and any other income;
- 10.2.2 Details of any of the Funds paid to RecFish SA for the Financial Year which have not been expended by RecFish SA upon the Purpose, or in relation to which a legally binding commitment has not been entered into by RecFish SA during that Financial Year for the expenditure of the Funds upon the Purpose;
- 10.2.3 A statement as to the membership of RecFish SA's governing body and membership of its staff for the Financial Year;
- 10.2.4 Audited annual financial reports (including balance sheet and profit and loss statement) for RecFish SA for the Financial Year certified by an Authorised Officer to be true and correct;
- 10.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

DISQUALIFYING EVENTS

11.1 The following are Disqualifying Events:

- 11.1.1 if any representation, warranty, statement or report given under this Agreement is proven at any time to have been or to be incorrect inaccurate or misleading in any material respect;
 - 11.1.2 if RecFish SA is substantially in breach of any provision of this Agreement and does not remedy the breach or take effective measures to remedy the breach within five (5) Business Days from the receipt of notice in writing by the Minister requiring RecFish SA to remedy that breach;
 - 11.1.3 if RecFish SA enters into any form of Insolvency Administration; or
 - 11.1.4 if there occurs any material adverse change in the condition or stability of RecFish SA which in the reasonable opinion of the Minister could result in RecFish SA being unable to perform its obligations under this Agreement.
- 11.2 If at any time before the Minister has paid the Funds to RecFish SA in full a Disqualifying Event occurs, the Minister may terminate this Agreement and the Minister's obligation under this Agreement to pay RecFish SA the unpaid part of the Funds ("Outstanding Moneys") will cease.
- 11.3 Termination of this Agreement by the Minister shall not prejudice any other rights or remedies that the Minister may have under this Agreement.

MINISTER MAY AUTHORISE

The Minister may authorise any person whom it selects to exercise any of its powers or rights under this Agreement.

The Minister may vary or revoke an authorisation at will.

PUBLICITY

Subject to this Agreement, and subject to any requirement at law, RecFish SA must not, without the prior written approval of the Minister, issue or participate in any media release or publicity in relation to:

13.1.1 the amount and specific nature of the Funds; and

13.1.2 the terms and conditions on which the Funds were made available.

13.2 RecFish SA must on its business' publications and in respect of publicity for every event or exhibition staged by RecFish SA acknowledge the Minister's funding.

13.3 RecFish SA will participate in all promotional or publicity activities in relation to this Agreement as reasonably required by the Minister.

13.4 RecFish SA must ensure that RecFish SA's employees, agent and sub-contractors are aware of and comply with the provisions of this Clause.

13.5 The obligations pursuant to this Clause will survive any expiry or termination of this Agreement.

NO MUTUAL LIABILITY

Nothing in this Agreement constitutes a partnership, joint venture or association of any kind between RecFish SA and the Minister or renders them liable for the debts or liabilities incurred by each other.

NO ASSIGNMENT

RecFish SA may not assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Minister.

PROPER LAW

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

17 **JURISDICTION OF COURTS**

- 17.1 The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.
- 17.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.
- 17.3 The Consultant undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

18 **COMPLIANCE WITH LAWS**

The Consultant must comply with the laws in force in South Australia in the course of performing this Agreement.

19 **NOTICES**

19.1 A "notice" means:

19.1.1 a notice; or

19.1.2 a consent, approval or other communication required to be in writing under this Agreement.

19.2 A notice must in writing and signed by or on behalf of the sender addressed to the recipient and:

19.2.1 delivered to the recipient's address;

19.2.2 sent by pre-paid mail to the recipient's address; or

19.2.3 transmitted by facsimile to the recipient's address; or

19.2.4 sent by electronic mail to the recipient's email address.

19.3 A notice given to a person in accordance with this clause is treated as having been given and received:

19.3.1 on the day of delivery if delivered before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.2 if sent by pre-paid mail, on the third Business Day after posting;

19.3.3 if transmitted by facsimile and a correct and complete transmission report is received on the day of transmission: on that day if the report states that transmission was completed before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.4 if sent by electronic mail and the sender does not receive a message from its Internet service provider or the recipient's mail server indicating that it has not been successfully transmitted, on the day of sending it if before 5.00 p.m. on a Business Day, otherwise on the next Business Day.

19.4 The address, facsimile number and email address of a person are those set out below that person's name in the Schedule.

19.5 A person may from time to time notify its address, facsimile number or email address by written notice to the other party.

20. **SEVERANCE**

20.1 If any part of this Agreement is or becomes void or unenforceable or if this Agreement would, if any part were not omitted, be or become void or unenforceable then:

20.2 that part will be severable without affecting the remainder of this Agreement and this Agreement will then be read as if that part were not contained in it; and

20.3 the parties will attempt to renegotiate that part in good faith.

21. **WAIVER**

21.1 Any waiver of any provision of this Agreement is ineffective unless it is in writing and signed by the party waiving its rights.

21.2 A waiver by either party in respect of a breach of a provision of this Agreement by the other party is not a waiver in respect of any other breach of that or any other provision.

21.3 The failure of either party to enforce at any time any of the provisions of this Agreement must not be interpreted as a waiver of such provision.

22. **MODIFICATION**

Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

23. **ENTIRE AGREEMENT**

23.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.

23.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

TIME OF THE ESSENCE

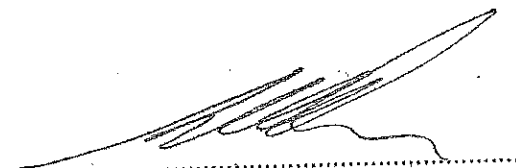
Time is of the essence in respect of any time, date, or period specified either in this Agreement or in any notice served under this Agreement.

GST

- 25.1 The parties acknowledge that compliance with obligations or the grant of rights under this Agreement by RecFish SA will be a Taxable Supply as defined in the GST Law and RecFish SA will be liable to pay GST on the Taxable Supply.
- 25.2 In addition to the Funding the Minister will pay an amount calculated by multiplying the Funding by the rate at which GST is levied at the time of this deed (GST payment).
- 25.3 If the Funds are payable in instalments, the GST payment will be payable in proportionate instalments.
- 25.4 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless RecFish SA has delivered to the Minister a valid Tax Invoice under GST Law, referable to the Funding (or instalment of the Funding) and associated GST payment.
- 25.5 For the purpose of this clause, GST Law has the meaning attributed to it in the A New Tax System (Goods and Services Tax) Act 1999.

EXECUTED AS AN AGREEMENT

SIGNED for and on behalf of the **MINISTER**)
FOR AGRICULTURE, FOOD AND)
FISHERIES by Sean Sloan, Director,)
 Fisheries and Aquaculture Division,)
 Department of Primary Industries and)
 Regions, duly authorised in that regard and)
 in the presence of:)



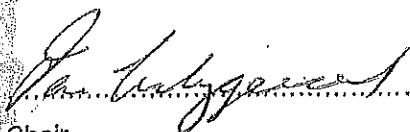
Witness

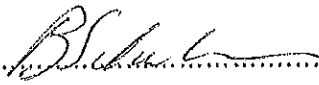
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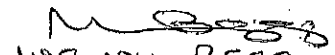
Peter Dietman
Director Operations

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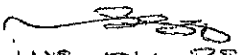
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FISHING ADVISORY COUNCIL)
INCORPORATED by its Chair and Public)
Officer, duly authorised in that regard, in the)
presence of:)


Chair


Public Officer


WENDY BEGG
Witness

[Print Name:


WENDY BEGG
Witness

[Print Name:

SCHEDULE

ITEM 1 Funds and Payment

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ITEM 2 Purpose

- 2.1 RecFish SA will provide support for management and research programs relevant to recreational fisheries.
- 2.2 RecFish SA will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
- 2.3 RecFish SA will provide extension services to all regional Recreational Fisheries Committees, through ex-officio membership on these committees.
- 2.4 RecFish SA will coordinate the functioning of all Recreational Fishing Committees through the provision of reasonable support services to such committees.
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- 2.7 RecFish SA will provide the Director, Fisheries & Aquaculture Policy, Fisheries and Aquaculture Division, PIRSA with a quarterly report on its performance in respect of the Activities..

ITEM 3

Notices

3.1 Minister

Alice Fistr
Manager
Fisheries Policy and Management Unit
Fisheries and Aquaculture Division
Department of Primary Industries and Regions
GPO Box 1625
Adelaide SA 5001

Phone: (08) 8226 8114
Email: Alice.Fistr@sa.gov.au

3.2 RecFish SA

David Claravolo
Executive Director
RecFish SA
6 Mary Street
Hindmarsh SA 5007

Phone: 0400 774 447
Email: oa@recfishsa.com.au

DATED 28 DAY OF June 2013

FUNDING AGREEMENT

(2013/2014 and 2014/2015 Financial Years)

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES
("Minister")

-AND-

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL
INCORPORATED
("RecFish SA")



CROWN SOLICITOR

Level 9, 45 Pirie Street, Adelaide SA 5000

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SCHEDULE

FUNDING AGREEMENT

THIS AGREEMENT is made the 28 day of June, 2013

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES a body corporate pursuant to the Administrative Arrangements Act, 1994 of Level 9, Terrace Towers, 178 North Terrace, Adelaide, South Australia, 5000 ("**Minister**").

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL INCORPORATED an incorporated association of 300 Morphett Street, Adelaide, South Australia 5000 (ABN 68 697 409 693) ("**RecFish SA**").

RECITALS

- A. RecFish SA is the recognised Peak Industry Body representing the interests of Recreational Anglers. RecFish SA's objectives are to develop, promote and support recreational fishing in this State.
- B. RecFish SA has requested and the Minister has agreed to provide funding to RecFish SA for the purposes contemplated by this Agreement.
- C. The Minister has agreed to provide financial assistance on the terms and conditions contained in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

In this Agreement where the context so requires or admits:

- 1.1 Reference to any Act regulation or by-law will be deemed to include all amendments thereto and to all statutory or other provisions from time to time substituted thereafter;
- 1.2 Words importing the singular number will include the plural and vice versa and words importing one gender will include the others;
- 1.3 "ABN" has the meaning attributed in the A New Tax System (Australian Business Number) Act 1999;
- 1.4 "Activities" means those activities undertaken by RecFish SA in furtherance of the Purpose and described in the Schedule;
- 1.5 "Agreement" means this Agreement between the parties and includes the Schedules to this Agreement;
- 1.6 "ANTS GST Act" means the A New Tax System (Goods and Services Tax) Act 1999;
- 1.7 "Authorised Officer" means any person notified in writing to the Minister as an authorised officer of RecFish SA for the purposes of this Agreement;
- 1.8 "Business Day" means any day that is not a Saturday or a Sunday or a public holiday in Adelaide under the Holidays Act 1910 (South Australia);
- 1.9 "Commencement Date" means 1 July 2013;
- 1.10 "Disqualifying Event" means an event as described in Clause 11;
- 1.11 "Drawdown Date" means the date specified in the Schedule for payment of the Funds;
- 1.12 "Execution Date" means the date of last party signing;
- 1.13 "Financial Years" means the financial year commencing on 1 July 2013 and ending on 30 June 2014 and the financial year commencing on 1 July 2014 and ending on 30 June 2015;
- 1.14 "the Funds" means the monetary amount specified in the Schedule;
- 1.15 "GST" means the tax imposed by the GST law;
- 1.16 "GST law" has the meaning attributed in the ANTS GST Act;
- 1.17 "GST Rate" means, at any particular time, the rate (expressed as a fraction of the Value of a supply) at which GST is payable by a supplier on a Taxable Supply;

- 1.18 **"Input Tax Credit"** has the meaning attributed in the ANTS GST Act;
- 1.19 **"Insolvency Administration"** means:
- 1.19.1 RecFish SA appoints a liquidator to wind up its affairs;
 - 1.19.2 RecFish SA resolves to be wound up voluntarily;
 - 1.19.3 an application is made to a court that RecFish SA be wound up (whether on grounds of insolvency or otherwise);
 - 1.19.4 RecFish SA ceases to carry on business;
 - 1.19.5 RecFish SA is wound up by a court, voluntarily or otherwise;
 - 1.19.6 RecFish SA ceases to carry on business; or
 - 1.19.7 RecFish SA is or states that it is unable to pay its debts when they fall due.
- 1.20 **"Minister's Representative"** means the Director of Fisheries;
- 1.21 **"Outstanding Moneys"** means the portion of the Funds which has not been paid by the Minister to RecFish SA;
- 1.22 **"PIRSA"** means the Department of Primary Industries and Regions, an administrative unit established pursuant to the Public Sector Act 2009 (South Australia);
- 1.23 **"Purpose"** means the purpose specified in the Schedule or such other purpose as the Minister may approve from time to time;
- 1.24 **"Quarter"** means each three month period of the Term commencing on the first day of January, April, July and October;
- 1.25 **"Recreational Fishing Committees"** means the regionally based committees which are established by the recreational fishing industry to represent the interests of the recreational fishing sector;
- 1.26 **"RecFish SA"** means the South Australian Recreational Fishing Advisory Council Incorporated;
- 1.27 **"RecFish SA's Representative"** means a person nominated in writing by the members of RecFish SA;
- 1.28 **"Tax Invoice"** has the meaning attributed in the ANTS GST Act;
- 1.29 **"Tax Period"** has the meaning attributed in the ANTS GST Act;
- 1.30 **"Taxable Supply"** has the meaning attributed in the ANTS GST Act;
- 1.31 **"the Term"** means the period of two (2) years commencing from the Commencement Date and ending on the Termination Date unless varied in accordance with this Agreement;

1.32 "Termination Date" means the earlier of the following:

1.32.1 30 June 2015; or

1.32.2 the date on which a Disqualifying Event occurs;

1.33 "Value" of a Taxable Supply has the meaning attributed in the ANTS GST Act.

2. FUNDS

2.1 Subject to this Agreement, the Minister will make the Funds available to RecFish SA for the Purpose in the amounts and on the dates specified in the Schedule.

2.2 Any part of the Funds advanced to RecFish SA and not expended by RecFish SA upon the Purpose by the end of the Term or in relation to which a legally binding obligation has not been incurred by the end of the Term to expend upon the Purpose must be repaid to the Minister, unless the Minister otherwise agrees.

2.3 A certificate given under the hand of the Minister from time to time stating the amount of moneys provided under this Agreement at the date mentioned in the certificate will be conclusive evidence of such fact.

3. CONDITIONS PRECEDENT

3.1 The provision of the Funds to RecFish SA will be subject to the conditions precedent that:

3.1.1 prior to the Execution Date:

(a) the Minister will have received, upon request, a copy of extracts of all minutes of meeting and other authorisations of RecFish SA required for the execution, delivery and performance of its obligations under this Agreement and authorising a named person or persons to sign this Agreement; and

(b) the Minister will have received such other documents as the Minister may reasonably require; and

3.1.2 no Disqualifying Event, or event which, with the giving of notice, lapse of time or fulfilment of any condition would be likely to become a Disqualifying Event will have occurred and will be subsisting as at the date of the relevant Drawdown Date.

3.2 In the event that the conditions precedent specified in this Clause are not satisfied or waived by the Minister this Agreement will terminate immediately.

4. REPRESENTATIONS BY RECFISH SA

4.1 RecFish SA represents and warrants to the Minister as follows:

4.1.1 the execution, delivery and performance by RecFish SA of this Agreement is within the powers of RecFish SA and is valid and enforceable and RecFish SA has been duly authorised by all necessary action and does not and will not contravene or result in any breach of any law or contractual arrangement or agreement by which RecFish SA or any of its assets are bound;

4.1.2 All authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to RecFish SA of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by RecFish SA of this Agreement have been obtained or effected or will be obtained or effected within any relevant time or statutory period and are or will be in full force and effect and there has been no default by RecFish SA in the performance of any of those terms or conditions;

4.1.3 No Disqualifying Event or event which with the giving of notice or lapse of time or both would if it continued become a Disqualifying Event, has occurred and is continuing;

4.1.4 The information contained in all financial statements, accounts, certificates, balance sheets, financial projections, schedules and other documents, accounting and financial information supplied to the Minister relating to RecFish SA or any matter related to the Funds, is a true and fair view of the financial position of RecFish SA as of the commencement of the Term and is true and correct and not misleading in any material respect and the financial statements have been prepared in accordance with generally accepted accounting principles;

4.1.5 Each of the above representations and warranties will survive the execution of this Agreement and the provision of the Funds and will be correct and complied with in all material respects on each Drawdown Date as if repeated then by reference to the then existing circumstances;

4.2 RecFish SA indemnifies the Minister against all losses, liabilities, costs, claims, charges, expenses, actions or demands which it may incur or which may be made against her as a result of, or in relation to, or in connection with, any misrepresentation by RecFish SA or any breach of the representations and warranties made by RecFish SA.

5. OBLIGATIONS OF RECFISH SA

RecFish SA agrees that:

5.1 RecFish SA will not, except with the prior consent in writing of the Minister, apply the Funds for purposes other than the Purpose;

- 5.2 RecFish SA will during the Term provide at all reasonable times such information and particulars as the Minister reasonably requires to establish that the Funds are being applied to the Purpose and that a Disqualifying Event has not occurred;
- 5.3 RecFish SA will during the Term carry out the Activities, and
- 5.4 RecFish SA will during the Term give the Minister notice in writing immediately upon becoming aware of the occurrence of any Disqualifying Event or other event which, with the giving of notice or lapse of time or upon the Minister making the relevant determination would constitute a Disqualifying Event.

6. **FURTHER INFORMATION**

If at any time during the Term the Minister requests further information about any aspect of the operations of RecFish SA, RecFish SA will provide that information as soon as reasonably practicable after the Minister has made the request.

7. **REPAYMENT OF FUNDS**

- 7.1 If at any time a Repayment Event occurs, RecFish SA must, if requested by the Minister pay to the Minister the Repayment Amount.
- 7.2 The occurrence of any of the following events are Repayment Events;
 - 7.2.1 if RecFish SA becomes subject to any form of Insolvency Administration;
or
 - 7.2.2 if RecFish SA applies any part of the Funds for purposes other than the Purpose without the prior consent in writing of the Minister.
- 7.3 For the purposes of this clause 7:
 - 7.3.1 "Repayment Amount" means:
 - (a) the amount of the Funds (if any) expended upon any purpose other than the Purpose without the prior consent in writing of the Minister;
and
 - (b) interest on that amount (or so much of it as remains unpaid for the time being) calculated at the Prescribed Rate from the date upon which the Minister makes demand upon RecFish SA for payment of the amount to the date upon which the amount is paid in full;
 - 7.3.2 "Prescribed Rate" means:
 - (a) the Reserve Bank of Australia official daily cash rate;
 - (b) plus 1% per annum.

8. **ANNUAL ACCOUNTS**

- 8.1 RecFish SA will maintain proper books of account and other appropriate records to be kept in accordance with usual and accepted accounting or other applicable standards and such books of account and other records will be maintained at the office of RecFish SA and the Minister's servants or agents authorised for that purpose by the Minister will have free access to such books of account and other records and will be at liberty to make copies and take extracts thereof.
- 8.2 RecFish SA will promptly provide the Minister with such information in respect of its accounts as the Minister may from time to time request.

9. **QUARTERLY REPORTING**

- 9.1 RecFish SA's Representative shall within five (5) Business Days after the expiry of each Quarter during the Term provide a written report to the Minister's Representative, and shall within that period meet with the Minister's Representative to discuss the report.
- 9.2 The Quarterly reports referred to in clause 9.1 shall contain:
- 9.2.1 A description of the Activities undertaken by RecFish SA during the Quarter for the Purpose;
 - 9.2.2 A statement as to the expenditure of the Funds by RecFish SA during the Quarter;
 - 9.2.3 A summary of the activities of the Recreational Fisheries Committees and the expenditure of the Funds to support the Recreational Fisheries Committees during the Quarter, including, but not limited to the expenses incurred by members for attendance at meetings of the Recreational Fisheries Committees, and the costs necessarily incurred for postage, secretarial services, advertising, travel, accommodation, telephone, photocopying and stationery by the Recreational Fishing Committees;
 - 9.2.4 A statement as to any changes to the membership of the Recreational Fishing Committees; and
 - 9.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

10. **ANNUAL REPORTS**

- 10.1 RecFish SA's Representative must within ninety (90) Business Days of the end of each Financial Year provide a written report to the Minister relating to that Financial Year:
- 10.2 The Annual Reports referred to in clause 10.1 shall contain:

- 10.2.1 A statement as to the costs incurred by RecFish SA in relation to undertaking the Activities, together with particulars as to any funds or revenue raised by RecFish SA for conducting the Activities other than the Funds, including details of sponsorship, donations and any other income;
- 10.2.2 Details of any of the Funds paid to RecFish SA for the Financial Year which have not been expended by RecFish SA upon the Purpose, or in relation to which a legally binding commitment has not been entered into by RecFish SA during that Financial Year for the expenditure of the Funds upon the Purpose;
- 10.2.3 A statement as to the membership of RecFish SA's governing body and membership of its staff for the Financial Year;
- 10.2.4 Audited annual financial reports (including balance sheet and profit and loss statement) for RecFish SA for the Financial Year certified by an Authorised Officer to be true and correct;
- 10.2.5 Any information reasonably requested by the Minister with respect to the performance by RecFish SA of its obligations under this Agreement and its use and expenditure of the Funds.

11. DISQUALIFYING EVENTS

11.1 The following are Disqualifying Events:

- 11.1.1 if any representation, warranty, statement or report given under this Agreement is proven at any time to have been or to be incorrect inaccurate or misleading in any material respect;
 - 11.1.2 if RecFish SA is substantially in breach of any provision of this Agreement and does not remedy the breach or take effective measures to remedy the breach within five (5) Business Days from the receipt of notice in writing by the Minister requiring RecFish SA to remedy that breach;
 - 11.1.3 if RecFish SA enters into any form of Insolvency Administration; or
 - 11.1.4 if there occurs any material adverse change in the condition or stability of RecFish SA which in the reasonable opinion of the Minister could result in RecFish SA being unable to perform its obligations under this Agreement.
- 11.2 If at any time before the Minister has paid the Funds to RecFish SA in full a Disqualifying Event occurs, the Minister may terminate this Agreement and the Minister's obligation under this Agreement to pay RecFish SA the unpaid part of the Funds ("Outstanding Moneys") will cease.
- 11.3 Termination of this Agreement by the Minister shall not prejudice any other rights or remedies that the Minister may have under this Agreement.

12. **MINISTER MAY AUTHORISE**

12.1 The Minister may authorise any person whom it selects to exercise any of its powers or rights under this Agreement.

12.2 The Minister may vary or revoke an authorisation at will.

13. **PUBLICITY**

13.1 Subject to this Agreement, and subject to any requirement at law, RecFish SA must not, without the prior written approval of the Minister, issue or participate in any media release or publicity in relation to:

13.1.1 the amount and specific nature of the Funds; and

13.1.2 the terms and conditions on which the Funds were made available.

13.2 RecFish SA must on its business publications and in respect of publicity for every event or exhibition staged by RecFish SA acknowledge the Minister's funding.

13.3 RecFish SA will participate in all promotional or publicity activities in relation to this Agreement as reasonably required by the Minister.

13.4 RecFish SA must ensure that RecFish SA's employees, agent and sub-contractors are aware of and comply with the provisions of this Clause.

13.5 The obligations pursuant to this Clause will survive any expiry or termination of this Agreement.

14. **NO MUTUAL LIABILITY**

Nothing in this Agreement constitutes a partnership, joint venture or association of any kind between RecFish SA and the Minister or renders them liable for the debts or liabilities incurred by each other.

15. **NO ASSIGNMENT**

RecFish SA may not assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Minister.

16. **PROPER LAW**

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

17. JURISDICTION OF COURTS

- 17.1 The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.
- 17.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.
- 17.3 The Consultant undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

18. COMPLIANCE WITH LAWS

The Consultant must comply with the laws in force in South Australia in the course of performing this Agreement.

19. NOTICES

19.1 A "notice" means:

19.1.1 a notice; or

19.1.2 a consent, approval or other communication required to be in writing under this Agreement.

19.2 A notice must in writing and signed by or on behalf of the sender addressed to the recipient and:

19.2.1 delivered to the recipient's address;

19.2.2 sent by pre-paid mail to the recipient's address; or

19.2.3 transmitted by facsimile to the recipient's address; or

19.2.4 sent by electronic mail to the recipient's email address.

19.3 A notice given to a person in accordance with this clause is treated as having been given and received:

19.3.1 on the day of delivery if delivered before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.2 if sent by pre-paid mail, on the third Business Day after posting;

19.3.3 if transmitted by facsimile and a correct and complete transmission report is received on the day of transmission: on that day if the report states that transmission was completed before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.4 if sent by electronic mail and the sender does not receive a message from its internet service provider or the recipient's mail server indicating that it has not been successfully transmitted, on the day of sending it if before 5.00 p.m. on a Business Day, otherwise on the next Business Day.

19.4 The address, facsimile number and email address of a person are those set out below that person's name in the Schedule.

19.5 A person may from time to time notify its address, facsimile number or email address by written notice to the other party.

20. **SEVERANCE**

20.1 If any part of this Agreement is or becomes void or unenforceable or if this Agreement would, if any part were not omitted, be or become void or unenforceable then:

20.2 that part will be severable without affecting the remainder of this Agreement and this Agreement will then be read as if that part were not contained in it; and

20.3 the parties will attempt to renegotiate that part in good faith.

21. **WAIVER**

21.1 Any waiver of any provision of this Agreement is ineffective unless it is in writing and signed by the party waiving its rights.

21.2 A waiver by either party in respect of a breach of a provision of this Agreement by the other party is not a waiver in respect of any other breach of that or any other provision.

21.3 The failure of either party to enforce at any time any of the provisions of this Agreement must not be interpreted as a waiver of such provision.

22. **MODIFICATION**

Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

23. **ENTIRE AGREEMENT**

23.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.

23.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

24. TIME OF THE ESSENCE

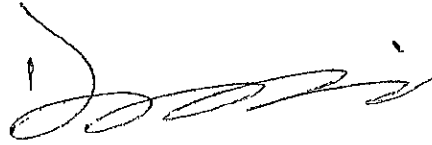
Time is of the essence in respect of any time, date, or period specified either in this Agreement or in any notice served under this Agreement.

25. GST

- 25.1 The parties acknowledge that compliance with obligations or the grant of rights under this Agreement by RecFish SA will be a Taxable Supply as defined in the GST Law and RecFish SA will be liable to pay GST on the Taxable Supply.
- 25.2 In addition to the Funding the Minister will pay an amount calculated by multiplying the Funding by the rate at which GST is levied at the time of this deed (GST payment).
- 25.3 If the Funds are payable in instalments, the GST payment will be payable in proportionate instalments.
- 25.4 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless RecFish SA has delivered to the Minister a valid Tax Invoice under GST Law, referable to the Funding (or instalment of the Funding) and associated GST payment.
- 25.5 For the purpose of this clause, GST Law has the meaning attributed to it in the A New Tax System (Goods and Services Tax) Act 1999.

EXECUTED AS AN AGREEMENT

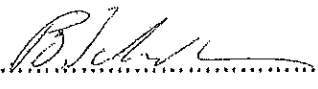
SIGNED for and on behalf of the **MINISTER**)
FOR AGRICULTURE, FOOD AND)
FISHERIES by, Mehdi Doroudi, Executive)
Director, Fisheries and Aquaculture Division,)
Department of Primary Industries)
and Regions in the presence of:)

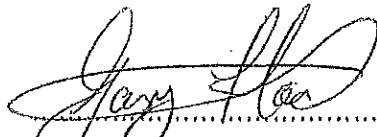




.....
Witness

[Print Name: ABBY COLLINS]


SIGNED for and on behalf of the)
SOUTH AUSTRALIAN RECREATIONAL)
FISHING ADVISORY COUNCIL)
INCORPORATED by its Chair and Public)
Officer, duly authorised in that regard, in the)
presence of:)


.....
Chair


.....
Public Officer


.....
Witness

[Print Name: Belinda Gjerde]


.....
Witness

[Print Name: CARLIE OREGIC]
COORDINATOR, BUSINESS STRATEGY

SCHEDULE

ITEM 1 Funds and Payment

- 1.1 The Funds shall comprise a monetary amount of \$240,000.00 (GST exclusive).
- 1.2 The Funds will be payable by the Minister to RecFish SA in the following manner:
 - 1.2.1 For the Financial Year commencing on 1 July 2013 and ending on 30 June 2014, the amount of \$120,000.00 (GST exclusive) will be payable within ten (10) Business Days of the receipt by the Minister of a Tax Invoice rendered by RecFish SA for that amount, subject to the performance of the Activities by RecFish SA to the satisfaction of the Minister (acting reasonably);
 - 1.2.2 For the Financial Year commencing on 1 July 2014 and ending on 30 June 2015, the amount of \$120,000.00 (GST exclusive) will be payable within ten (10) Business Days of the receipt by the Minister of a Tax Invoice rendered by RecFish SA after 1 July 2014 for that amount, subject to the performance of the Activities by RecFish SA to the satisfaction of the Minister (acting reasonably).

ITEM 2 Purpose

- 2.1 RecFish SA will provide support for management and research programs relevant to recreational fisheries.
- 2.2 RecFish SA will provide input through its board of management to the Fisheries Council of South Australia established under the *Fisheries Management Act 2007*.
- 2.3 RecFish SA will provide input to the advisory bodies established pursuant to the Fisheries Management Act 2007.
- 2.4 RecFish SA will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
- 2.5 RecFish SA will provide extension services to all regional Recreational Fisheries Committees, through *ex-officio* membership on these committees.
- 2.6 RecFish SA will coordinate the functioning of all Recreational Fishing Committees through the provision of reasonable support services to such committees.

- 2.7 RecFish SA will communicate to all Recreational Fishing Committees relevant information relating to the activities of RecFish SA including outcomes of RecFish SA Board meetings, activities of individual Recreational Fishing Committees and matters arising from Recreational Fisheries Committees.
- 2.8 RecFish SA will represent, develop and coordinate involvement in issues relating to Recreational Fishing Committees and its association members for input and communication on recreational fishing matters to the Fisheries and Aquaculture Division, PIRSA. RecFish SA will communicate upon the same matters with the Fisheries Council of South Australia established under the Fisheries Management Act 2007.
- 2.9 RecFish SA will provide the Executive Director, Fisheries and Aquaculture Division, PIRSA with a quarterly report on its performance in respect of the Activities.

ITEM 3

Notices

- 3.1 **Minister**
Alice Fistr
Manager
Fisheries Policy
Fisheries and Aquaculture Division
Department of Primary Industries and Regions
GPO Box 1625
Adelaide SA 5001

Phone: (08) 8226 2369
Facsimile: (08) 8226 0434
Email: alice.fistr@sa.gov.au

- 3.2 **RecFish SA**
Gary Flack
Executive Officer
RecFish SA
300 Morphett Street
Adelaide SA 5000

Phone: (08) 8410 8119
Email: eo@recfishsa.com.au

DATED

21st DAY OF

2011

July

FUNDING AGREEMENT

(2011/2012 and 2012/2013 Financial Years)

BETWEEN

MINISTER FOR AGRICULTURE AND FISHERIES

("Minister")

-AND-

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL

INCORPORATED

("SARFAC")



CROWN SOLICITOR

Level 9, 45 Pirie Street, Adelaide SA 5000

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SCHEDULE

FUNDING AGREEMENT

THIS AGREEMENT is made the 21st day of July 2011

BETWEEN

MINISTER FOR AGRICULTURE AND FISHERIES a body corporate pursuant to the Administrative Arrangements Act, 1994 25 Grenfell Street Adelaide, South Australia 5000 ("Minister");

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL INCORPORATED an incorporated association of 6 Montrose Avenue, Norwood South Australia 5067 (ABN 68 697 409 693) ("SARFAC").

RECITALS

- A. SARFAC is the recognised Peak Industry Body representing the interests of Recreational Anglers. SARFAC's objectives are to develop, promote and support recreational fishing in this State.
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- 1.22 **"PIRSA"** means the Department of Primary Industries and Resources South Australia, an administrative unit established pursuant to the Public Sector Act 2009 (South Australia);
- 1.23 **"Purpose"** means the purpose specified in the Schedule or such other purpose as the Minister may approve from time to time;
- 1.24 **"Quarter"** means each three month period of the Term commencing on the first day of January, April, July and October;
- 1.25 **"Recreational Fishing Committees"** means the regionally based committees which are established by the recreational fishing industry to represent the interests of the recreational fishing sector;
- 1.26 **"SARFAC"** means the South Australian Recreational Fishing Advisory Council Incorporated;
- 1.27 **"SARFAC's Representative"** means a person nominated in writing by the members of SARFAC;
- 1.28 **"Tax Invoice"** has the meaning attributed in the ANTS GST Act;
- 1.29 **"Tax Period"** has the meaning attributed in the ANTS GST Act;
- 1.30 **"Taxable Supply"** has the meaning attributed in the ANTS GST Act;
- 1.31 **"the Term"** means the period of two (2) years commencing from the Commencement Date and ending on the Termination Date unless varied in accordance with this Agreement;

1.32 "Termination Date" means the earlier of the following:

1.32.1 30 June 2013; or

1.32.2 the date on which a Disqualifying Event occurs;

1.33 "Value" of a Taxable Supply has the meaning attributed in the ANTS GST Act.

2. FUNDS

2.1 Subject to this Agreement, the Minister will make the Funds available to SARFAC for the Purpose in the amounts and on the dates specified in the Schedule.

2.2 Any part of the Funds advanced to SARFAC and not expended by SARFAC upon the Purpose by the end of the Term or in relation to which a legally binding obligation has not been incurred by the end of the Term to expend upon the Purpose must be repaid to the Minister, unless the Minister otherwise agrees.

2.3 A certificate given under the hand of the Minister from time to time stating the amount of moneys provided under this Agreement at the date mentioned in the certificate will be conclusive evidence of such fact.

3. CONDITIONS PRECEDENT

3.1 The provision of the Funds to SARFAC will be subject to the conditions precedent that:

3.1.1 prior to the Execution Date:

(a) the Minister will have received, upon request, a copy of extracts of all minutes of meeting and other authorisations of SARFAC required for the execution, delivery and performance of its obligations under this Agreement and authorising a named person or persons to sign this Agreement; and

(b) the Minister will have received such other documents as the Minister may reasonably require; and

3.1.2 no Disqualifying Event, or event which, with the giving of notice, lapse of time or fulfilment of any condition would be likely to become a Disqualifying Event will have occurred and will be subsisting as at the date of the relevant Drawdown Date.

3.2 In the event that the conditions precedent specified in this Clause are not satisfied or waived by the Minister this Agreement will terminate immediately.

4. **REPRESENTATIONS BY SARFAC**

4.1 SARFAC represents and warrants to the Minister as follows:

- 4.1.1 the execution, delivery and performance by SARFAC of this Agreement is within the powers of SARFAC and is valid and enforceable and SARFAC has been duly authorised by all necessary action and does not and will not contravene or result in any breach of any law or contractual arrangement or agreement by which SARFAC or any of its assets are bound;
 - 4.1.2 All authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to SARFAC of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by SARFAC of this Agreement have been obtained or effected or will be obtained or effected within any relevant time or statutory period and are or will be in full force and effect and there has been no default by SARFAC in the performance of any of those terms or conditions;
 - 4.1.3 No Disqualifying Event or event which with the giving of notice or lapse of time or both would if it continued become a Disqualifying Event, has occurred and is continuing;
 - 4.1.4 The information contained in all financial statements, accounts, certificates, balance sheets, financial projections, schedules and other documents, accounting and financial information supplied to the Minister relating to SARFAC or any matter related to the Funds, is a true and fair view of the financial position of SARFAC as of the commencement of the Term and is true and correct and not misleading in any material respect and the financial statements have been prepared in accordance with generally accepted accounting principles;
 - 4.1.5 Each of the above representations and warranties will survive the execution of this Agreement and the provision of the Funds and will be correct and complied with in all material respects on each Drawdown Date as if repeated then by reference to the then existing circumstances;
- 4.2 SARFAC indemnifies the Minister against all losses, liabilities, costs, claims, charges, expenses, actions or demands which it may incur or which may be made against her as a result of, or in relation to, or in connection with, any misrepresentation by SARFAC or any breach of the representations and warranties made by SARFAC.

5. **OBLIGATIONS OF SARFAC**

SARFAC agrees that:

- 5.1 SARFAC will not, except with the prior consent in writing of the Minister, apply the Funds for purposes other than the Purpose;

- 5.2 SARFAC will during the Term provide at all reasonable times such information and particulars as the Minister reasonably requires to establish that the Funds are being applied to the Purpose and that a Disqualifying Event has not occurred;
- 5.3 SARFAC will during the Term carry out the Activities, and
- 5.4 SARFAC will during the Term give the Minister notice in writing immediately upon becoming aware of the occurrence of any Disqualifying Event or other event which, with the giving of notice or lapse of time or upon the Minister making the relevant determination would constitute a Disqualifying Event.

6. FURTHER INFORMATION

If at any time during the Term the Minister requests further information about any aspect of the operations of SARFAC, SARFAC will provide that information as soon as reasonably practicable after the Minister has made the request.

7. REPAYMENT OF FUNDS

7.1 If at any time a Repayment Event occurs, SARFAC must, if requested by the Minister pay to the Minister the Repayment Amount.

7.2 The occurrence of any of the following events are Repayment Events;

7.2.1 If SARFAC becomes subject to any form of Insolvency Administration; or

7.2.2 if SARFAC applies any part of the Funds for purposes other than the Purpose without the prior consent in writing of the Minister.

7.3 For the purposes of this clause 7:

7.3.1 "Repayment Amount" means:

- (a) the amount of the Funds (if any) expended upon any purpose other than the Purpose without the prior consent in writing of the Minister; and
- (b) interest on that amount (or so much of it as remains unpaid for the time being) calculated at the Prescribed Rate from the date upon which the Minister makes demand upon SARFAC for payment of the amount to the date upon which the amount is paid in full;

7.3.2 "Prescribed Rate" means:

- (a) the Reserve Bank of Australia official daily cash rate;
- (b) plus 1% per annum.

8. ANNUAL ACCOUNTS

- 8.1 SARFAC will maintain proper books of account and other appropriate records to be kept in accordance with usual and accepted accounting or other applicable standards and such books of account and other records will be maintained at the office of SARFAC and the Minister's servants or agents authorised for that purpose by the Minister will have free access to such books of account and other records and will be at liberty to make copies and take extracts thereof.
- 8.2 SARFAC will promptly provide the Minister with such information in respect of its accounts as the Minister may from time to time request.

9. QUARTERLY REPORTING

- 9.1 SARFAC's Representative shall within five (5) Business Days after the expiry of each Quarter during the Term provide a written report to the Minister's Representative, and shall within that period meet with the Minister's Representative to discuss the report.
- 9.2 The Quarterly reports referred to in clause 9.1 shall contain:
- 9.2.1 A description of the Activities undertaken by SARFAC during the Quarter for the Purpose;
 - 9.2.2 A statement as to the expenditure of the Funds by SARFAC during the Quarter;
 - 9.2.3 A summary of the activities of the Recreational Fisheries Committees and the expenditure of the Funds to support the Recreational Fisheries Committees during the Quarter; including, but not limited to the expenses incurred by members for attendance at meetings of the Recreational Fisheries Committees, and the costs necessarily incurred for postage, secretarial services, advertising, travel, accommodation, telephone, photocopying and stationery by the Recreational Fishing Committees;
 - 9.2.4 A statement as to any changes to the membership of the Recreational Fishing Committees; and
 - 9.2.5 Any information reasonably requested by the Minister with respect to the performance by SARFAC of its obligations under this Agreement and its use and expenditure of the Funds.

10. ANNUAL REPORTS

- 10.1 SARFAC's Representative must within ninety (90) Business Days of the end of each Financial Year provide a written report to the Minister relating to that Financial Year:
- 10.2 The Annual Reports referred to in clause 10.1 shall contain:

- 10.2.1 A statement as to the costs incurred by SARFAC in relation to undertaking the Activities, together with particulars as to any funds or revenue raised by SARFAC for conducting the Activities other than the Funds, including details of sponsorship, donations and any other income;
- 10.2.2 Details of any of the Funds paid to SARFAC for the Financial Year which have not been expended by SARFAC upon the Purpose, or in relation to which a legally binding commitment has not been entered into by SARFAC during that Financial Year for the expenditure of the Funds upon the Purpose;
- 10.2.3 A statement as to the membership of SARFAC's governing body and membership of its staff for the Financial Year;
- 10.2.4 Audited annual financial reports (including balance sheet and profit and loss statement) for SARFAC for the Financial Year certified by an Authorised Officer to be true and correct;
- 10.2.5 Any information reasonably requested by the Minister with respect to the performance by SARFAC of its obligations under this Agreement and its use and expenditure of the Funds.

11. DISQUALIFYING EVENTS

11.1 The following are Disqualifying Events:

- 11.1.1 if any representation, warranty, statement or report given under this Agreement is proven at any time to have been or to be incorrect inaccurate or misleading in any material respect;
- 11.1.2 if SARFAC is substantially in breach of any provision of this Agreement and does not remedy the breach or take effective measures to remedy the breach within five (5) Business Days from the receipt of notice in writing by the Minister requiring SARFAC to remedy that breach;
- 11.1.3 if SARFAC enters into any form of Insolvency Administration; or
- 11.1.4 if there occurs any material adverse change in the condition or stability of SARFAC which in the reasonable opinion of the Minister could result in SARFAC being unable to perform its obligations under this Agreement.
- 11.2 If at any time before the Minister has paid the Funds to SARFAC in full a Disqualifying Event occurs, the Minister may terminate this Agreement and the Minister's obligation under this Agreement to pay SARFAC the unpaid part of the Funds ("Outstanding Moneys") will cease.
- 11.3 Termination of this Agreement by the Minister shall not prejudice any other rights or remedies that the Minister may have under this Agreement.

12. **MINISTER MAY AUTHORISE**

12.1 The Minister may authorise any person whom it selects to exercise any of its powers or rights under this Agreement.

12.2 The Minister may vary or revoke an authorisation at will.

13. **PUBLICITY**

13.1 Subject to this Agreement, and subject to any requirement at law, SARFAC must not, without the prior written approval of the Minister, issue or participate in any media release or publicity in relation to:

13.1.1 the amount and specific nature of the Funds; and

13.1.2 the terms and conditions on which the Funds were made available.

13.2 SARFAC must on its business publications and in respect of publicity for every event or exhibition staged by SARFAC acknowledge the Minister's funding.

13.3 SARFAC will participate in all promotional or publicity activities in relation to this Agreement as reasonably required by the Minister.

13.4 SARFAC must ensure that SARFAC's employees, agent and sub-contractors are aware of and comply with the provisions of this Clause.

13.5 The obligations pursuant to this Clause will survive any expiry or termination of this Agreement.

14. **NO MUTUAL LIABILITY**

Nothing in this Agreement constitutes a partnership, joint venture or association of any kind between SARFAC and the Minister or renders them liable for the debts or liabilities incurred by each other.

15. **NO ASSIGNMENT**

SARFAC may not assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Minister.

16. **PROPER LAW**

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

17. **JURISDICTION OF COURTS**

17.1 The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.

17.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.

17.3 The Consultant undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

18. **COMPLIANCE WITH LAWS**

The Consultant must comply with the laws in force in South Australia in the course of performing this Agreement.

19. **NOTICES**

19.1 A "notice" means:

19.1.1 a notice; or

19.1.2 a consent, approval or other communication required to be in writing under this Agreement.

19.2 A notice must in writing and signed by or on behalf of the sender addressed to the recipient and:

19.2.1 delivered to the recipient's address;

19.2.2 sent by pre-paid mail to the recipient's address; or

19.2.3 transmitted by facsimile to the recipient's address; or

19.2.4 sent by electronic mail to the recipient's email address.

19.3 A notice given to a person in accordance with this clause is treated as having been given and received:

19.3.1 on the day of delivery if delivered before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.2 if sent by pre-paid mail, on the third Business Day after posting;

19.3.3 if transmitted by facsimile and a correct and complete transmission report is received on the day of transmission; on that day if the report states that transmission was completed before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.4 if sent by electronic mail and the sender does not receive a message from its internet service provider or the recipient's mail server indicating that it has not been successfully transmitted; on the day of sending it if before 5.00 p.m. on a Business Day, otherwise on the next Business Day.

19.4 The address, facsimile number and email address of a person are those set out below that person's name in the Schedule.

19.5 A person may from time to time notify its address, facsimile number or email address by written notice to the other party.

20. SEVERANCE

20.1 If any part of this Agreement is or becomes void or unenforceable or if this Agreement would, if any part were not omitted, be or become void or unenforceable then:

20.2 that part will be severable without affecting the remainder of this Agreement and this Agreement will then be read as if that part were not contained in it; and

20.3 the parties will attempt to renegotiate that part in good faith.

21. WAIVER

21.1 Any waiver of any provision of this Agreement is ineffective unless it is in writing and signed by the party waiving its rights.

21.2 A waiver by either party in respect of a breach of a provision of this Agreement by the other party is not a waiver in respect of any other breach of that or any other provision.

21.3 The failure of either party to enforce at any time any of the provisions of this Agreement must not be interpreted as a waiver of such provision.

22. MODIFICATION

Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

23. ENTIRE AGREEMENT

23.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.

23.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

24. TIME OF THE ESSENCE

Time is of the essence in respect of any time, date, or period specified either in this Agreement or in any notice served under this Agreement.

25. GST

25.1 The parties acknowledge that compliance with obligations or the grant of rights under this Agreement by SARFAC will be a Taxable Supply as defined in the GST Law and SARFAC will be liable to pay GST on the Taxable Supply.

25.2 In addition to the Funding the Minister will pay an amount calculated by multiplying the Funding by the rate at which GST is levied at the time of this deed (GST payment).

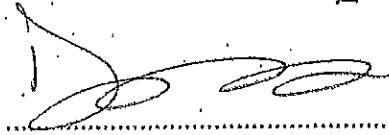
25.3 If the Funds are payable in instalments, the GST payment will be payable in proportionate instalments.

25.4 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless SARFAC has delivered to the Minister a valid Tax Invoice under GST Law, referable to the Funding (or instalment of the Funding) and associated GST payment.

25.5 For the purpose of this clause, GST Law has the meaning attributed to it in the A New Tax System (Goods and Services Tax) Act 1999.

EXECUTED AS AN AGREEMENT

SIGNED for and on behalf of the **MINISTER**)
FOR AGRICULTURE AND)
FISHERIES by: Mehdi Doroudi, Executive)
Director, Fisheries and Aquaculture Division,)
Department of Primary Industries)
and Resources in the presence of:)



.....
Witness
[Print Name: *KARON PORTER*]

SIGNED for and on behalf of the **SOUTH**)
AUSTRALIAN RECREATIONAL FISHING)
ADVISORY COUNCIL INCORPORATED)
by Brenton Schahinger, Public Officer, in the)
presence of:)

.....
B. Schahinger

Public Officer

.....
IAN FITZGERALD
Witness
[Print Name: *Ian Fitzgerald*]

SCHEDULE

ITEM 1

Funds and Payment

- 1.1 The Funds shall comprise a monetary amount of \$200,000.00 (GST exclusive).
- 1.2 The Funds will be payable by the Minister to SARFAC in the following manner:
 - 1.2.1 For the Financial Year commencing on 1 July 2011 and ending on 30 June 2012, the amount of \$100,000.00 (GST exclusive) will be payable within ninety (90) Business Days of the receipt by the Minister of a Tax Invoice rendered by SARFAC for that amount, subject to the performance of the Activities by SARFAC to the satisfaction of the Minister (acting reasonably);
 - 1.2.2 For the Financial Year commencing on 1 July 2012 and ending on 30 June 2013, the amount of \$100,000.00 (GST exclusive) will be payable within ninety (90) Business Days of the receipt by the Minister of a Tax Invoice rendered by SARFAC after 1 July 2012 for that amount, subject to the performance of the Activities by SARFAC to the satisfaction of the Minister (acting reasonably).

ITEM 2

Purpose

- 2.1 SARFAC will provide support for management and research programs relevant to recreational fisheries.
- 2.2 SARFAC will provide input through its board of management to the Fisheries Council of South Australia established under the *Fisheries Management Act 2007*.
- 2.3 SARFAC will provide input to the advisory bodies established pursuant to the Fisheries Management Act 2007.
- 2.4 SARFAC will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
- 2.5 SARFAC will provide extension services to all regional Recreational Fisheries Committees, through *ex-officio* membership on these committees.
- 2.6 SARFAC will coordinate the functioning of all Recreational Fishing Committees through the provision of reasonable support services to such committees.
- 2.7 SARFAC will communicate to all Recreational Fishing Committees relevant information relating to the activities of SARFAC including outcomes of SARFAC Board meetings, activities of individual Recreational Fishing Committees and matters arising from Recreational Fisheries Committees.

- 2.8 SARFAC will represent, develop and coordinate involvement in issues relating to Recreational Fishing Committees and its association members for input and communication on recreational fishing matters to the Fisheries and Aquaculture Division, PIRSA. SARFAC will communicate upon the same matters with the Fisheries Council of South Australia established under the Fisheries Management Act 2007.
- 2.9 SARFAC will provide the Executive Director, Fisheries and Aquaculture Division, PIRSA with a quarterly report on its performance in respect of the Activities.

ITEM 3

Notices

- 3.1 **Minister**
Alice Fistr
Manager
Fisheries Policy
Fisheries and Aquaculture Division
Department of Primary Industries and Resources SA
GPO Box 1625
Adelaide SA 5001

Phone: (08) 8226 2369
Facsimile: (08) 8226 0434
Email: alice.fistr@sa.gov.au

- 3.2 **SARFAC**
Gary Flack
Executive Officer
SARFAC
6 Montrose Avenue
Norwood SA 5067

Phone: (08) 8132 0430
Email: gary@sarfac.com

DATED

6th

DAY OF

JULY

2010

FUNDING AGREEMENT

(2010-2011)

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES

("Minister")

-AND-

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL

INCORPORATED

("SARFAC")



Government
of South Australia

CROWN SOLICITOR

Level 9, 45 Pirie Street, Adelaide SA 5000

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SCHEDULE

FUNDING AGREEMENT

THIS AGREEMENT is made the 6th day of July 2010

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES a body corporate pursuant to the Administrative Arrangements Act, 1994 25 Grenfell Street Adelaide, South Australia 5000 ("Minister").

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL INCORPORATED an incorporated association of 1 Boskenna Avenue, Norwood South Australia 5067 (ABN 68 697 409 693) ("SARFAC").

RECITALS

- A. SARFAC is the recognised Peak Industry Body representing the interests of Recreational Anglers. SARFAC's objectives are to develop, promote and support recreational fishing in this State.
- B. SARFAC has requested and the Minister has agreed to provide funding to SARFAC for the purposes contemplated by this Agreement.
- C. The Minister has agreed to provide financial assistance on the terms and conditions contained in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

In this Agreement where the context so requires or admits:

- 1.1 Reference to any Act regulation or by-law will be deemed to include all amendments thereto and to all statutory or other provisions from time to time substituted thereafter;
- 1.2 Words importing the singular number will include the plural and vice versa and words importing one gender will include the others;
- 1.3 "ABN" has the meaning attributed in the A New Tax System (Australian Business Number) Act 1999;
- 1.4 "Activities" means those activities undertaken by SARFAC in furtherance of the Purpose and described in the Schedule;
- 1.5 "Agreement" means this Agreement between the parties and includes the Schedules to this Agreement;
- 1.6 "ANTS GST Act" means the A New Tax System (Goods and Services Tax) Act 1999;
- 1.7 "Authorised Officer" means any person notified in writing to the Minister as an authorised officer of SARFAC for the purposes of this Agreement;
- 1.8 "Business Day" means any day that is not a Saturday or a Sunday or a public holiday in Adelaide under the Holidays Act 1910 (South Australia);
- 1.9 "Commencement Date" means 1 July 2010;
- 1.10 "Disqualifying Event" means an event as described in Clause 11;
- 1.11 "Drawdown Date" means the date specified in the Schedule for payment of the Funds;
- 1.12 "Execution Date" means the date of last party signing;
- 1.13 "the Funds" means the monetary amount specified in the Schedule;
- 1.14 "GST" means the tax imposed by the GST law;
- 1.15 "GST law" has the meaning attributed in the ANTS GST Act;
- 1.16 "GST Rate" means, at any particular time, the rate (expressed as a fraction of the Value of a supply) at which GST is payable by a supplier on a Taxable Supply;
- 1.17 "Input Tax Credit" has the meaning attributed in the ANTS GST Act;

1.18 "Insolvency Administration" means:

- 1.18.1 SARFAC appoints a liquidator to wind up its affairs;
- 1.18.2 SARFAC resolves to be wound up voluntarily;
- 1.18.3 an application is made to a court that SARFAC be wound up (whether on grounds of insolvency or otherwise);
- 1.18.4 SARFAC ceases to carry on business;
- 1.18.5 SARFAC is wound up by a court, voluntarily or otherwise;
- 1.18.6 SARFAC ceases to carry on business; or
- 1.18.7 SARFAC is or states that it is unable to pay its debts when they fall due.

1.19 "Minister's Representative" means the Director of Fisheries;

1.20 "Outstanding Moneys" means the portion of the Funds which has not been paid by the Minister to SARFAC;

1.21 "PIRSA" means the Department of Primary Industries and Resources South Australia, an administrative unit established pursuant to the Public Sector Act 2009 (South Australia);

1.22 "Purpose" means the purpose specified in the Schedule or such other purpose as the Minister may approve from time to time;

1.23 "Quarter" means each three month period of the term commencing on the first day of January, April, July and October;

1.24 "Recreational Fishing Committees" means the regionally based committees which are established by the recreational fishing industry to represent the interests of the recreational fishing sector;

1.25 "SARFAC" means the South Australian Recreational Fishing Advisory Council Incorporated;

1.26 "SARFAC's Representative" means a person nominated in writing by the members of SARFAC;

1.27 "Tax Invoice" has the meaning attributed in the ANTS GST Act;

1.28 "Tax Period" has the meaning attributed in the ANTS GST Act;

1.29 "Taxable Supply" has the meaning attributed in the ANTS GST Act;

1.30 "the Term" means one (1) year commencing from the Commencement Date and ending on the Termination Date unless varied in accordance with this Agreement;

1.31 "Termination Date" means the earlier of the following:

1.31.1 the 30th of June 2011; or

1.31.2 the date on which a Disqualifying Event occurs;

1.32 "Value" of a Taxable Supply has the meaning attributed in the ANTS GST Act.

2. FUNDS

2.1 Subject to this Agreement, the Minister will make the Funds available to SARFAC for the Purpose in the amounts and on the dates specified in the Schedule.

2.2 Any part of the Funds advanced to SARFAC and not expended by SARFAC upon the Purpose by the end of the Term or in relation to which a legally binding obligation has not been incurred by the end of the Term to expend upon the Purpose must be repaid to the Minister, unless the Minister otherwise agrees.

2.3 A certificate given under the hand of the Minister from time to time stating the amount of moneys provided under this Agreement at the date mentioned in the certificate will be conclusive evidence of such fact.

3. CONDITIONS PRECEDENT

3.1 The provision of the Funds to SARFAC will be subject to the conditions precedent that:

3.1.1 prior to the Execution Date:

(a) the Minister will have received, upon request, a copy of extracts of all minutes of meeting and other authorisations of SARFAC required for the execution, delivery and performance of its obligations under this Agreement and authorising a named person or persons to sign this Agreement; and

(b) the Minister will have received such other documents as the Minister may reasonably require; and

3.1.2 no Disqualifying Event, or event which, with the giving of notice, lapse of time or fulfilment of any condition would be likely to become a Disqualifying Event will have occurred and will be subsisting as at the date of the relevant Drawdown Date.

3.2 In the event that the conditions precedent specified in this Clause are not satisfied or waived by the Minister this Agreement will terminate immediately.

4. REPRESENTATIONS BY SARFAC

4.1 SARFAC represents and warrants to the Minister as follows:

- 4.1.1 the execution, delivery and performance by SARFAC of this Agreement is within the powers of SARFAC and is valid and enforceable and SARFAC has been duly authorised by all necessary action and does not and will not contravene or result in any breach of any law or contractual arrangement or agreement by which SARFAC or any of its assets are bound;
 - 4.1.2 All authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to SARFAC of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by SARFAC of this Agreement have been obtained or effected or will be obtained or effected within any relevant time or statutory period and are or will be in full force and effect and there has been no default by SARFAC in the performance of any of those terms or conditions;
 - 4.1.3 No Disqualifying Event or event which with the giving of notice or lapse of time or both would if it continued become a Disqualifying Event, has occurred and is continuing;
 - 4.1.4 The information contained in all financial statements, accounts, certificates, balance sheets, financial projections, schedules and other documents, accounting and financial information supplied to the Minister relating to SARFAC or any matter related to the Funds, is a true and fair view of the financial position of SARFAC as of the commencement of the Term and is true and correct and not misleading in any material respect and the financial statements have been prepared in accordance with generally accepted accounting principles;
 - 4.1.5 Each of the above representations and warranties will survive the execution of this Agreement and the provision of the Funds and will be correct and complied with in all material respects on each Drawdown Date as if repeated then by reference to the then existing circumstances;
- 4.2 SARFAC indemnifies the Minister against all losses, liabilities, costs, claims, charges, expenses, actions or demands which it may incur or which may be made against her as a result of, or in relation to, or in connection with, any misrepresentation by SARFAC or any breach of the representations and warranties made by SARFAC.

5. OBLIGATIONS OF SARFAC

During the Term, SARFAC agrees that:

- 5.1 SARFAC will not, except with the prior consent in writing of the Minister, apply the Funds for purposes other than the Purpose;

- 5.2 SARFAC will provide at all reasonable times such information and particulars as the Minister reasonably requires to establish that the Funds are being applied to the Purpose and that a Disqualifying Event has not occurred;
- 5.3 SARFAC will carry out the Activities, and
- 5.4 SARFAC will give the Minister notice in writing immediately upon becoming aware of the occurrence of any Disqualifying Event or other event which, with the giving of notice or lapse of time or upon the Minister making the relevant determination would constitute a Disqualifying Event.

6. FURTHER INFORMATION

If at any time during the Term the Minister requests further information about any aspect of the operations of SARFAC, SARFAC will provide that information as soon as reasonably practicable after the Minister has made the request.

7. REPAYMENT OF FUNDS

7.1 If at any time a Repayment Event occurs, SARFAC must, if requested by the Minister pay to the Minister the Repayment Amount.

7.2 The occurrence of any of the following events are Repayment Events;

- 7.2.1 if SARFAC becomes subject to any form of Insolvency Administration; or
- 7.2.2 if SARFAC applies any part of the Funds for purposes other than the Purpose without the prior consent in writing of the Minister.

7.3 For the purposes of this clause 7:

7.3.1 "Repayment Amount" means:

- (a) the amount of the Funds (if any) expended upon any purpose other than the Purpose without the prior consent in writing of the Minister; and
- (b) interest on that amount (or so much of it as remains unpaid for the time being) calculated at the Prescribed Rate from the date upon which the Minister makes demand upon SARFAC for payment of the amount to the date upon which the amount is paid in full;

7.3.2 "Prescribed Rate" means:

- (a) the Reserve Bank of Australia official daily cash rate;
- (b) plus 1% per annum.

8. **ANNUAL ACCOUNTS**

- 8.1 SARFAC will maintain proper books of account and other appropriate records to be kept in accordance with usual and accepted accounting or other applicable standards and such books of account and other records will be maintained at the office of SARFAC and the Minister's servants or agents authorised for that purpose by the Minister will have free access to such books of account and other records and will be at liberty to make copies and take extracts thereof.
- 8.2 SARFAC will promptly provide the Minister with such information in respect of its accounts as the Minister may from time to time request.

9. **ANNUAL REPORT TO THE MINISTER**

SARFAC must by 1 October 2011 furnish to the Minister a written report showing in relation to the financial year ending on 30 June 2011:

- 9.1 The costs incurred by SARFAC in relation to the Activities and particulars of funds raised by SARFAC for the Activities (other than any moneys provided under this Agreement) including details of any sponsorship, donations and all other income;
- 9.2 Details of surplus Funds (if any);
- 9.3 The details of administrative and management arrangements for SARFAC;
- 9.4 Audited annual financial reports including balance sheets and profit and loss accounts certified by an Authorised Officer to be true and correct; and
- 9.5 Such other information as the Minister may reasonably require.

10. **QUARTERLY REPORTING**

SARFAC's Representative shall provide a written quarterly report and shall meet with the Minister's Representative within seven (7) days of the expiry of each Quarter to discuss the content of the report including:

- 10.1 The Activities undertaken by SARFAC during the Quarter relating to the agreed Purpose;
- 10.2 Statement of SARFAC's receipts and expenditure;
- 10.3 Summary of Recreational Fisheries Committees activities and expenditure of funds allocated by PIRSA to support these Recreational Fisheries Committees, together with reimbursement claims forms for the expenses incurred by members for attendance at meetings of Recreational Fisheries Committees, and the costs necessarily incurred for postage, secretarial services, advertising, travel, accommodation, telephone, photocopying and stationery by the Recreational Fisheries Committees;
- 10.4 Changes to membership (including contact details) of Recreational Fisheries Committees; and

10.5 Any other matters relating to the Activities or Funds set out in this agreement.

11. DISQUALIFYING EVENTS

11.1 The following are Disqualifying Events:

11.1.1 if any representation, warranty, statement or report given under this Agreement is proven at any time to have been or to be incorrect inaccurate or misleading in any material respect;

11.1.2 if SARFAC is substantially in breach of any provision of this Agreement and does not remedy the breach or take effective measures to remedy the breach within five (5) Business Days from the receipt of notice in writing by the Minister requiring SARFAC to remedy that breach;

11.1.3 if SARFAC enters into any form of Insolvency Administration; or

11.1.4 if there occurs any material adverse change in the condition or stability of SARFAC which in the reasonable opinion of the Minister could result in SARFAC being unable to perform its obligations under this Agreement.

11.2 If at any time before the Minister has paid the Funds to SARFAC in full a Disqualifying Event occurs, the Minister may terminate this Agreement and the Minister's obligation under this Agreement to pay SARFAC the unpaid part of the Funds ("Outstanding Moneys") will cease.

11.3 Termination of this Agreement by the Minister shall not prejudice any other rights or remedies that the Minister may have under this Agreement.

12. MINISTER MAY AUTHORISE

12.1 The Minister may authorise any person whom it selects to exercise any of its powers or rights under this Agreement.

12.2 The Minister may vary or revoke an authorisation at will.

13. PUBLICITY

13.1 Subject to this Agreement, and subject to any requirement at law, SARFAC must not, without the prior written approval of the Minister, issue or participate in any media release or publicity in relation to:

13.1.1 the amount and specific nature of the Funds; and

13.1.2 the terms and conditions on which the Funds were made available.

13.2 SARFAC must on its business publications and in respect of publicity for every event or exhibition staged by SARFAC acknowledge the Minister's funding.

13.3 SARFAC will participate in all promotional or publicity activities in relation to this Agreement as reasonably required by the Minister.

13.4 SARFAC must ensure that SARFAC's employees, agent and sub-contractors are aware of and comply with the provisions of this Clause.

13.5 The obligations pursuant to this Clause will survive any expiry or termination of this Agreement.

14. **NO MUTUAL LIABILITY**

Nothing in this Agreement constitutes a partnership, joint venture or association of any kind between SARFAC and the Minister or renders them liable for the debts or liabilities incurred by each other.

15. **NO ASSIGNMENT**

SARFAC may not assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Minister.

16. **PROPER LAW**

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

17. **JURISDICTION OF COURTS**

17.1 The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.

17.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.

17.3 The Consultant undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

18. **COMPLIANCE WITH LAWS**

The Consultant must comply with the laws in force in South Australia in the course of performing this Agreement.

19. **NOTICES**

19.1 A "notice" means:

19.1.1 a notice; or

19.1.2 a consent, approval or other communication required to be in writing under this Agreement.

19.2 A notice must in writing and signed by or on behalf of the sender addressed to the recipient and:

19.2.1 delivered to the recipient's address;

19.2.2 sent by pre-paid mail to the recipient's address; or

19.2.3 transmitted by facsimile to the recipient's address; or

19.2.4 sent by electronic mail to the recipient's email address.

19.3 A notice given to a person in accordance with this clause is treated as having been given and received:

19.3.1 on the day of delivery if delivered before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.2 if sent by pre-paid mail, on the third Business Day after posting;

19.3.3 if transmitted by facsimile and a correct and complete transmission report is received on the day of transmission: on that day if the report states that transmission was completed before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

19.3.4 if sent by electronic mail and the sender does not receive a message from its internet service provider or the recipient's mail server indicating that it has not been successfully transmitted, on the day of sending it if before 5.00 p.m. on a Business Day, otherwise on the next Business Day.

19.4 The address, facsimile number and email address of a person are those set out below that person's name in the Schedule.

19.5 A person may from time to time notify its address, facsimile number or email address by written notice to the other party.

20. **SEVERANCE**

20.1 If any part of this Agreement is or becomes void or unenforceable or if this Agreement would, if any part were not omitted, be or become void or unenforceable then:

20.2 that part will be severable without affecting the remainder of this Agreement and this Agreement will then be read as if that part were not contained in it; and

20.3 the parties will attempt to renegotiate that part in good faith.

21. **WAIVER**

- 21.1 Any waiver of any provision of this Agreement is ineffective unless it is in writing and signed by the party waiving its rights.
- 21.2 A waiver by either party in respect of a breach of a provision of this Agreement by the other party is not a waiver in respect of any other breach of that or any other provision.
- 21.3 The failure of either party to enforce at any time any of the provisions of this Agreement must not be interpreted as a waiver of such provision.

22. **MODIFICATION**

Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

23. **ENTIRE AGREEMENT**

- 23.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.
- 23.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

24. **TIME OF THE ESSENCE**

Time is of the essence in respect of any time, date, or period specified either in this Agreement or in any notice served under this Agreement.

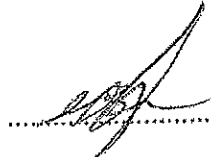
25. **GST**

- 25.1 The parties acknowledge that compliance with obligations or the grant of rights under this Agreement by SARFAC will be a Taxable Supply as defined in the GST Law and SARFAC will be liable to pay GST on the Taxable Supply.
- 25.2 In addition to the Funding the Minister will pay an amount calculated by multiplying the Funding by the rate at which GST is levied at the time of this deed (GST payment).
- 25.3 If the Funds are payable in instalments, the GST payment will be payable in proportionate instalments.
- 25.4 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless SARFAC has delivered to the Minister a valid Tax Invoice under GST Law, referable to the Funding (or instalment of the Funding) and associated GST payment.

25.5 For the purpose of this clause, GST Law has the meaning attributed to it in the A New Tax System (Goods and Services Tax) Act 1999.

EXECUTED AS AN AGREEMENT

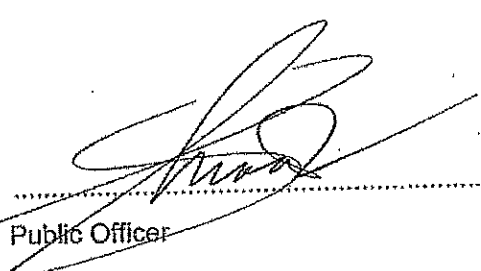
SIGNED for and on behalf of the **MINISTER**)
FOR AGRICULTURE, FOOD AND)
FISHERIES by Martin Smallridge, Executive)
Director, Department of Primary Industries)
and Resources in the presence of:)



Witness

[Print Name: Bronwyn Roy]

SIGNED for and on behalf of the **SOUTH**)
AUSTRALIAN RECREATIONAL FISHING)
ADVISORY COUNCIL INCORPORATED)
by Graham Woollard, Public Officer, in the)
presence of:)


Public Officer

Witness

[Print Name: Trevor Watts]

SCHEDULE**ITEM 1****Funds and Payment**

- 1.1 The Funds shall comprise a monetary amount of up to \$100,000.00 (GST exclusive).
- 1.2 The Funds will be payable by the Minister to SARFAC in the following manner:
 - 1.2.1 The amount of \$75,000.00 (GST exclusive) within ten (10) Business Days of the receipt by the Minister of a Tax Invoice rendered by SARFAC for that amount, subject to the performance of the Activities by SARFAC to the satisfaction of the Minister (acting reasonably);
 - 1.2.2 In reimbursement of the expenses and costs claimed by SARFAC in accordance with clause 10.3 up to a maximum amount of \$25,000.00 (GST exclusive) in total for the Term, subject to the receipt by the Minister of a Tax Invoice rendered by SARFAC for those expenses and costs and the performance of the Activities by SARFAC to the satisfaction of the Minister (acting reasonably).

ITEM 2**Purpose**

- 2.1 SARFAC will provide support for management and research programs relevant to recreational fisheries.
- 2.2 SARFAC will, as a body prescribed in the Fisheries Management Act 2007 provide input through its board of management to the Fisheries Council of South Australia established under that Act.
- 2.3 SARFAC, will provide input to the advisory bodies established pursuant to the Fisheries Management Act 2007.
- 2.4 SARFAC will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
- 2.5 SARFAC will provide extension services to all regional Recreational Fisheries Committees, through *ex-officio* membership on these committees.
- 2.6 SARFAC will coordinate the functioning of all recreational fishing committees through the provision of reasonable support services to such committees.
- 2.7 SARFAC will communicate to all Recreational Fishing Committees relevant information relating to the activities of SARFAC including outcomes of SARFAC Board meetings, activities of individual recreational fishing committees and matters arising from fisheries management committees.

- 2.8 SARFAC will represent, develop and coordinate involvement in issues relating to recreational fishing committees and its association members for input and communication on recreational fishing matters to the Fisheries Division, PIRSA. SARFAC will communicate upon the same matters with the Fisheries Council of South Australia established under the Fisheries Management Act 2007.
- 2.9 SARFAC will provide the Director of Fisheries with a quarterly report on its performance in respect of the Activities.

ITEM 3

Notices

3.1 Minister

Alice Fistr
Manager
Fisheries Policy
Fisheries Division
Department of Primary Industries and Resources SA
GPO Box 1625
Adelaide SA 5001

Phone: (08) 8226 2369
Facsimile: (08) 8226 0434
Email: alice.fistr@sa.gov.au

3.2 SARFAC

Trevor Watts
Executive Officer
SARFAC
1 Boskenna Avenue
Norwood SA 5067

Phone: (08) 8132 0439
Facsimile: (08) 8363 0455
Email: trevor@sarfac.com

DATED 6TH DAY OF July 2009

FUNDING AGREEMENT
(2009-2010)

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES
("Minister")

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL
INCORPORATED
("SARFAC")



CROWN SOLICITOR
Level 9, 45 Pirie Street, Adelaide SA 5000

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SCHEDULE

FUNDING DEED

THIS AGREEMENT is made the

6TH day of

July

2009

BETWEEN

MINISTER FOR AGRICULTURE, FOOD AND FISHERIES a body corporate pursuant to the Administrative Arrangements Act, 1994 25 Grenfell Street Adelaide, South Australia 5000 ("Minister").

AND

SOUTH AUSTRALIAN RECREATIONAL FISHING ADVISORY COUNCIL INCORPORATED an incorporated association of 1 Boskenna Avenue, Norwood South Australia 5067 (ABN 68 697 409 693) ("SARFAC").

RECITALS

- A. SARFAC is the recognised Peak Industry Body representing the interests of Recreational Anglers. SARFAC's objectives are to develop, promote and support recreational fishing in this State.
- B. SARFAC has requested and the Minister has agreed to provide funding to SARFAC for the purposes contemplated by this Agreement.
- C. The Minister has agreed to provide financial assistance on the terms and conditions contained in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

In this Agreement where the context so requires or admits:

- 1.1 Reference to any Act regulation or by-law will be deemed to include all amendments thereto and to all statutory or other provisions from time to time substituted thereafter;
- 1.2 Words importing the singular number will include the plural and vice versa and words importing one gender will include the others;
- 1.3 "ABN" has the meaning attributed in the A New Tax System (Australian Business Number) Act 1999;
- 1.4 "Activities" means those activities undertaken by SARFAC in furtherance of the Purpose and described in the Schedule;
- 1.5 "Agreement" means this Agreement between the parties and includes the Schedules to this Agreement;
- 1.6 "ANTS GST Act" means the A New Tax System (Goods and Services Tax) Act 1999;
- 1.7 "Authorised Officer" means any person notified in writing to the Minister as an authorised officer of SARFAC for the purposes of this Agreement;
- 1.8 "Business Day" means any day that is not a Saturday or a Sunday or a public holiday in Adelaide under the Holidays Act 1910 (South Australia);
- 1.9 "Commencement Date" means 1 July 2009;
- 1.10 "Disqualifying Event" means an event as described in Clause 11;
- 1.11 "Drawdown Date" means the date specified in the Schedule for payment of the Funds;
- 1.12 "Execution Date" means the date of last party signing;
- 1.13 "the Funds" means the financial assistance provided by the Minister to SARFAC during the Term, at the times and in the amounts set out in the Schedule not being more than Seventy Five Thousand Dollars (\$75,000.00);
- 1.14 "GST" means the tax imposed by the GST law;
- 1.15 "GST law" has the meaning attributed in the ANTS GST Act;
- 1.16 "GST Rate" means, at any particular time, the rate (expressed as a fraction of the Value of a supply) at which GST is payable by a supplier on a Taxable Supply;
- 1.17 "Input Tax Credit" has the meaning attributed in the ANTS GST Act;

- 1.18 **"Insolvency Administration"** means:
- 1.18.1 SARFAC appoints a liquidator to wind up its affairs;
 - 1.18.2 SARFAC resolves to be wound up voluntarily;
 - 1.18.3 an application is made to a court that SARFAC be wound up (whether on grounds of insolvency or otherwise);
 - 1.18.4 SARFAC ceases to carry on business;
 - 1.18.5 SARFAC is wound up by a court, voluntarily or otherwise;
 - 1.18.6 SARFAC ceases to carry on business; or
 - 1.18.7 SARFAC is or states that it is unable to pay its debts when they fall due.
- 1.19 **"Minister's Representative"** means the Director of Fisheries;
- 1.20 **"Outstanding Moneys"** means the portion of the Funds which has not been paid by the Minister to SARFAC;
- 1.21 **"Purpose"** means the purpose specified in the Schedule or such other purpose as the Minister may approve from time to time;
- 1.22 **"Quarter"** means each three month period of the term commencing on the first day of January, April, July and October;
- 1.23 **"SARFAC"** means the South Australian Recreational Fishing Advisory Council Incorporated;
- 1.24 **"SARFAC's Representative"** means a person nominated in writing by the members of SARFAC;
- 1.25 **"Tax Invoice"** has the meaning attributed in the ANTS GST Act;
- 1.26 **"Tax Period"** has the meaning attributed in the ANTS GST Act;
- 1.27 **"Taxable Supply"** has the meaning attributed in the ANTS GST Act;
- 1.28 **"the Term"** means one (1) year commencing from the Commencement Date and ending on the Termination Date unless varied in accordance with this Agreement;
- 1.29 **"Termination Date"** means the earlier of the following:
- 1.29.1 the 30th of June 2010; or
 - 1.29.2 the date on which a Disqualifying Event occurs;
- 1.30 **"Value"** of a Taxable Supply has the meaning attributed in the ANTS GST Act.

2. **FUNDS**

- 2.1 Subject to this Agreement, the Minister will make the Funds available to SARFAC for the Purpose in the amounts and on the dates specified in the Schedule.
- 2.2 Any part of the Funds advanced to SARFAC and not expended by SARFAC upon the Purpose by the end of the Term or in relation to which a legally binding obligation has not been incurred by the end of the Term to expend upon the Purpose must be repaid to the Minister, unless the Minister otherwise agrees.
- 2.3 A certificate given under the hand of the Minister from time to time stating the amount of moneys provided under this Agreement at the date mentioned in the certificate will be conclusive evidence of such fact.

3. **CONDITIONS PRECEDENT**

- 3.1 The provision of the Funds to SARFAC will be subject to the conditions precedent that:
 - 3.1.1 prior to the Execution Date:
 - (a) the Minister will have received, upon request, a copy of extracts of all minutes of meeting and other authorisations of SARFAC required for the execution, delivery and performance of its obligations under this Agreement and authorising a named person or persons to sign this Agreement; and
 - (b) the Minister will have received such other documents as the Minister may reasonably require; and
 - 3.1.2 no Disqualifying Event, or event which, with the giving of notice, lapse of time or fulfilment of any condition would be likely to become a Disqualifying Event will have occurred and will be subsisting as at the date of the relevant Drawdown Date.
- 3.2 In the event that the conditions precedent specified in this Clause are not satisfied or waived by the Minister this Agreement will terminate immediately.

4. **REPRESENTATIONS BY SARFAC**

- 4.1 SARFAC represents and warrants to the Minister as follows:
 - 4.1.1 the execution, delivery and performance by SARFAC of this Agreement is within the powers of SARFAC and is valid and enforceable and SARFAC has been duly authorised by all necessary action and does not and will not contravene or result in any breach of any law or contractual arrangement or agreement by which SARFAC or any of its assets are bound;

- 4.1.2 All authorisations, approvals, consents, licences, exemptions, filings, registrations and other requirements with respect to SARFAC of governmental, judicial and public bodies and authorities required in connection with the execution, delivery and performance by SARFAC of this Agreement have been obtained or effected or will be obtained or effected within any relevant time or statutory period and are or will be in full force and effect and there has been no default by SARFAC in the performance of any of those terms or conditions;
- 4.1.3 No Disqualifying Event or event which with the giving of notice or lapse of time or both would if it continued become a Disqualifying Event, has occurred and is continuing;
- 4.1.4 The information contained in all financial statements, accounts, certificates, balance sheets, financial projections, schedules and other documents, accounting and financial information supplied to the Minister relating to SARFAC or any matter related to the Funds, is a true and fair view of the financial position of SARFAC as of the commencement of the Term and is true and correct and not misleading in any material respect and the financial statements have been prepared in accordance with generally accepted accounting principles;
- 4.1.5 Each of the above representations and warranties will survive the execution of this Agreement and the provision of the Funds and will be correct and complied with in all material respects on each Drawdown Date as if repeated then by reference to the then existing circumstances;
- 4.2 SARFAC indemnifies the Minister against all losses, liabilities, costs, claims, charges, expenses, actions or demands which it may incur or which may be made against her as a result of, or in relation to, or in connection with, any misrepresentation by SARFAC or any breach of the representations and warranties made by SARFAC.

5. OBLIGATIONS OF SARFAC

During the Term, SARFAC agrees that:

- 5.1 SARFAC will not, except with the prior consent in writing of the Minister, apply the Funds for purposes other than the Purpose;
- 5.2 SARFAC will provide at all reasonable times such information and particulars as the Minister reasonably requires to establish that the Funds are being applied to the Purpose and that a Disqualifying Event has not occurred;
- 5.3 SARFAC will carry out the Activities, and
- 5.4 SARFAC will give the Minister notice in writing immediately upon becoming aware of the occurrence of any Disqualifying Event or other event which, with the giving of notice or lapse of time or upon the Minister making the relevant determination would constitute a Disqualifying Event.

6. FURTHER INFORMATION

If at any time during the Term the Minister requests further information about any aspect of the operations of SARFAC, SARFAC will provide that information as soon as reasonably practicable after the Minister has made the request.

7. REPAYMENT OF FUNDS

7.1 If at any time a Repayment Event occurs, SARFAC must, if requested by the Minister pay to the Minister the Repayment Amount.

7.2 The occurrence of any of the following events are Repayment Events;

7.2.1 if SARFAC becomes subject to any form of Insolvency Administration; or

7.2.2 if SARFAC applies any part of the Funds for purposes other than the Purpose without the prior consent in writing of the Minister.

7.3 For the purposes of this clause 7:

7.3.1 "Repayment Amount" means:

- (a) the amount of the Funds (if any) expended upon any purpose other than the Purpose without the prior consent in writing of the Minister; and
- (b) interest on that amount (or so much of it as remains unpaid for the time being) calculated at the Prescribed Rate from the date upon which the Minister makes demand upon SARFAC for payment of the amount to the date upon which the amount is paid in full;

7.3.2 "Prescribed Rate" means:

- (a) the Reserve Bank of Australia official daily cash rate;
- (b) plus 1% per annum.

8. ANNUAL ACCOUNTS

8.1 SARFAC will maintain proper books of account and other appropriate records to be kept in accordance with usual and accepted accounting or other applicable standards and such books of account and other records will be maintained at the office of SARFAC and the Minister's servants or agents authorised for that purpose by the Minister will have free access to such books of account and other records and will be at liberty to make copies and take extracts thereof.

8.2 SARFAC will promptly provide the Minister with such information in respect of its accounts as the Minister may from time to time request.

9. **ANNUAL REPORT TO THE MINISTER**

SARFAC must by 1 October 2010 furnish to the Minister a written report showing in relation to the financial year ending on 30 June 2010:

- 9.1 the costs incurred by SARFAC in relation to the Activities and particulars of funds raised by SARFAC for the Activities (other than any moneys provided under this Agreement) including details of any sponsorship, donations and all other income;
- 9.2 details of surplus Funds (if any);
- 9.3 the details of administrative and management arrangements for SARFAC;
- 9.4 audited annual financial reports including balance sheets and profit and loss accounts certified by an Authorised Officer to be true and correct; and
- 9.5 such other information as the Minister may reasonably require.

10. **QUARTERLY REPORTING**

SARFAC's Representative shall provide a written quarterly report and shall meet with the Minister's Representative within seven (7) days of the expiry of each Quarter to discuss the content of the report including:

- 10.1 The Activities undertaken by SARFAC during the Quarter relating to the agreed Purpose;
- 10.2 Statement of SARFAC's receipts and expenditure;
- 10.3 Summary of recreational fisheries committees activities and expenditure of funds allocated by PIRSA to support these committees;
- 10.4 Changes to membership (including contact details) of recreational fisheries committees; and
- 10.5 Any other matters relating to the Activities or Funds set out in this agreement.

11. **DISQUALIFYING EVENTS**

11.1 The following are Disqualifying Events:

- 11.1.1 if any representation, warranty, statement or report given under this Agreement is proven at any time to have been or to be incorrect inaccurate or misleading in any material respect;
- 11.1.2 if SARFAC is substantially in breach of any provision of this Agreement and does not remedy the breach or take effective measures to remedy the breach within five (5) Business Days from the receipt of notice in writing by the Minister requiring SARFAC to remedy that breach;

11.1.3 if SARFAC enters into any form of Insolvency Administration; or

11.1.4 if there occurs any material adverse change in the condition or stability of SARFAC which in the reasonable opinion of the Minister could result in SARFAC being unable to perform its obligations under this Agreement.

11.2 If at any time before the Minister has paid the Funds to SARFAC in full a Disqualifying Event occurs, the Minister may terminate this Agreement and the Minister's obligation under this Agreement to pay SARFAC the unpaid part of the Funds ("Outstanding Moneys") will cease.

11.3 Termination of this Agreement by the Minister shall not prejudice any other rights or remedies that the Minister may have under this Agreement.

12. MINISTER MAY AUTHORISE

12.1 The Minister may authorise any person whom it selects to exercise any of its powers or rights under this Agreement.

12.2 The Minister may vary or revoke an authorisation at will.

13. PUBLICITY

13.1 Subject to this Agreement, and subject to any requirement at law, SARFAC must not, without the prior written approval of the Minister, issue or participate in any media release or publicity in relation to:

13.1.1 the amount and specific nature of the Funds; and

13.1.2 the terms and conditions on which the Funds were made available.

13.2 SARFAC must on its business publications and in respect of publicity for every event or exhibition staged by SARFAC acknowledge the Minister's funding.

13.3 SARFAC will participate in all promotional or publicity activities in relation to this Agreement as reasonably required by the Minister.

13.4 SARFAC must ensure that SARFAC's employees, agent and sub-contractors are aware of and comply with the provisions of this Clause.

13.5 The obligations pursuant to this Clause will survive any expiry or termination of this Agreement.

14. **CONFLICT OF INTEREST**

The Consultant must disclose to the Client in writing, all actual and potential conflicts of interest that exist, arise or may arise (either for the Consultant or the Consultant's Staff) in the course of performing the Services as soon as practical after it becomes aware of that conflict.

15. **NO MUTUAL LIABILITY**

Nothing in this Agreement constitutes a partnership, joint venture or association of any kind between SARFAC and the Minister or renders them liable for the debts or liabilities incurred by each other.

16. **NO ASSIGNMENT**

SARFAC may not assign or transfer all or any part of its rights or obligations under this Agreement without the prior written consent of the Minister.

17. **PROPER LAW**

The laws in force in South Australia, including law with respect to capacity to contract and manner of performance, apply to this Agreement.

18. **JURISDICTION OF COURTS**

18.1 The courts of South Australia have exclusive jurisdiction to determine any proceeding in relation to this Agreement.

18.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.

18.3 The Consultant undertakes not to apply to transfer any proceedings to another registry of the Federal Court.

19. **COMPLIANCE WITH LAWS**

The Consultant must comply with the laws in force in South Australia in the course of performing this Agreement.

20. **NOTICES**

20.1 A "notice" means:

20.1.1 a notice; or

20.1.2 a consent, approval or other communication required to be in writing under this Agreement.

20.2 A notice must in writing and signed by or on behalf of the sender addressed to the recipient and:

20.2.1 delivered to the recipient's address;

20.2.2 sent by pre-paid mail to the recipient's address; or

20.2.3 transmitted by facsimile to the recipient's address.

20.3 A notice given to a person in accordance with this clause is treated as having been given and received:

20.3.1 on the day of delivery if delivered before 5.00 p.m. on a Business Day, otherwise on the next Business Day;

20.3.2 if sent by pre-paid mail, on the third Business Day after posting;

or

20.3.3 if transmitted by facsimile and a correct and complete transmission report is received on the day of transmission: on that day if the report states that transmission was completed before 5.00 p.m. on a Business Day, otherwise on the next Business Day.

20.4 The address and facsimile number of a person are those set out below that person's name on the first page.

20.5 A person may from time to time notify its address or facsimile number by written notice to the other party.

21. **SEVERANCE**

21.1 If any part of this Agreement is or becomes void or unenforceable or if this Agreement would, if any part were not omitted, be or become void or unenforceable then:

21.2 that part will be severable without affecting the remainder of this Agreement and this Agreement will then be read as if that part were not contained in it; and

21.3 the parties will attempt to renegotiate that part in good faith.

22. **WAIVER**

- 22.1 Any waiver of any provision of this Agreement is ineffective unless it is in writing and signed by the party waiving its rights.
- 22.2 A waiver by either party in respect of a breach of a provision of this Agreement by the other party is not a waiver in respect of any other breach of that or any other provision.
- 22.3 The failure of either party to enforce at any time any of the provisions of this Agreement must not be interpreted as a waiver of such provision.

23. **MODIFICATION**

Any modification of this Agreement must be in writing and signed by an authorised representative of each party.

24. **ENTIRE AGREEMENT**

- 24.1 This Agreement contains the entire agreement between the parties with respect to its subject matter.
- 24.2 This Agreement supersedes any prior agreement, understanding or representation of the parties on the subject matter.

25. **TIME OF THE ESSENCE**

Time is of the essence in respect of any time, date, or period specified either in this Agreement or in any notice served under this Agreement.

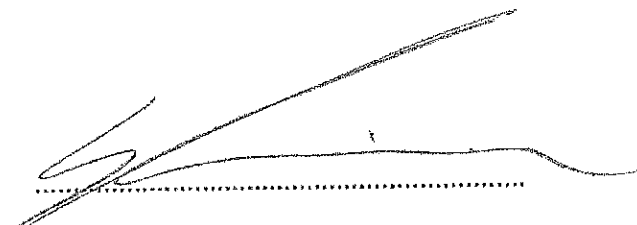
26. **GST**

- 26.1 The parties acknowledge that compliance with obligations or the grant of rights under this Agreement by SARFAC will be a Taxable Supply as defined in the GST Law and SARFAC will be liable to pay GST on the Taxable Supply.
- 26.2 In addition to the Funding the Minister will pay an amount calculated by multiplying the Funding by the rate at which GST is levied at the time of this deed (**GST payment**).
- 26.3 If the Funds are payable in instalments, the GST payment will be payable in proportionate instalments.
- 26.4 The Minister is not liable to pay the GST payment or any instalment of the GST payment unless SARFAC has delivered to the Minister a valid Tax Invoice under GST Law, referable to the Funding (or instalment of the Funding) and associated GST payment.

26.5 For the purpose of this clause, GST Law has the meaning attributed to it in the A New Tax System (Goods and Services Tax) Act 1999.

EXECUTED AS AN AGREEMENT

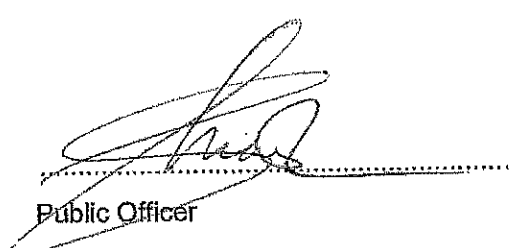
SIGNED for and on behalf of the **MINISTER**)
FOR AGRICULTURE, FOOD AND)
FISHERIES by Will Zacharin, Executive)
 Director, Department of Primary Industries)
 and Resources in the presence of:)



.....
 Witness

[Print Name: *M. REYNOLDS*]

SIGNED for and on behalf of the **SOUTH**)
AUSTRALIAN RECREATIONAL FISHING)
ADVISORY COUNCIL INCORPORATED)
 by [*GRAHAM WOOLLAND*])
 Public Officer, in the presence of:)



Public Officer

.....
 Witness

[Print Name: *TREBA WATTS*]

SCHEDULE**ITEM 1** **Payment**

Subject to this Agreement, the Funds are payable by the Minister to SARFAC within ten (10) Business Days of the receipt by the Minister of a Tax Invoice rendered by SARFAC.

ITEM 2 **Purpose**

- 2.1 SARFAC will provide support for management and research programs relevant to recreational fisheries.
- 2.2 SARFAC will, as a body prescribed in the *Fisheries Act 1982* provide input through its board of management to each of the Fisheries Management Committees, and following the commencement of the operation of the Fisheries Management Act 2007, the Fisheries Management Council established under that Act.
- 2.3 SARFAC, will provide input to a range of committee's, working groups and other relevant government established bodies convened to address management objectives of the *Fisheries Act 1982*, and following the commencement and operation of the Fisheries Management Act 2007, to the advisory bodies established pursuant to that Act.
- 2.4 SARFAC will undertake the role of the primary venue for consultation between recreational fishers and PIRSA Fisheries and will facilitate equal and fair representation of its key stakeholders.
- 2.5 SARFAC will provide extension services to all regional recreational fisheries committees, through *ex-officio* membership on these committees.
- 2.6 SARFAC will coordinate the functioning of all recreational fishing committees through the provision of reasonable support services to such committees.
- 2.7 SARFAC will communicate to all recreational fishing committees relevant information relating to the activities of SARFAC including outcomes of SARFAC Board meetings, activities of individual recreational fishing committees and matters arising from fisheries management committees. SARFAC will communicate upon the same matters with the Fisheries Management Council established under the Fisheries Management Act 2007.
- 2.8 SARFAC will represent, develop and coordinate submissions from recreational fishing committees and its association members for input into Fisheries Management Committees, PIRSA Fisheries and the Minister for Agriculture, Food and Fisheries. SARFAC will communicate upon the same matters with the Fisheries Management Council established under the Fisheries Management Act 2007.

- 2.9 SARFAC will provide the Director of Fisheries with a quarterly report on its performance in respect of the Activities.