

ETHNOCULTURAL COMMUNITY SUPPORT PROGRAM FUNDING AGREEMENT

TERMS AND CONDITIONS

Manitoba and the Organization agree as follows:

SECTION 1.00 – DEFINITIONS

1.01 In this Funding Agreement:

- (a) **“Eligible Costs”** means the ongoing operational costs associated with the Programming / Special Project Activities, including rent and other costs relating to the operation of the program(s) and its provision of ethnocultural support and cultural programming activities. For greater certainty, Eligible Costs shall **not** include any asset purchases or capital expenditures (including, without limitation, construction, renovation, equipment purchases, prizes, food, scholarships, entertainment, travel, accommodation or costume purchases);
- (b) **“Grant Funds”** has the meaning ascribed thereto in subsection 2.01 of this Funding Agreement;
- (c) **“Programming / Special Initiative”** means activities relating to the ongoing programming of the Organization associated with the provision of the following ethnocultural support and cultural programming activities to members of the community in Manitoba. They are specified as Eligible Activities on the Funding Agreement (signature page).
- (d) **“Program”** means the Manitoba Ethnocultural Community Support Program; and
- (e) **“Total Grant Approved”** is specified on the Funding Agreement (signature page).

ACKNOWLEDGMENT OF SUPPORT

1.02 The Organization shall acknowledge publicly Manitoba’s contribution, under the Program, to the Programming / Special Initiative.

SECTION 2.00 – GRANT BY MANITOBA

2.01 Manitoba agrees to make a grant to the Organization, up to an amount not exceeding the Total Grant Approved (the **“Grant Funds”**) as follows:

- (a) 80% of the total amount awarded shall be payable by direct deposit upon execution of this Funding Agreement by both Manitoba and the Organization.
- (b) The remaining 20% (pending actual eligible expense reporting) is payable upon receipt, review and approval of a final report on the event within 13 months of the Intake date for which the organization was approved.

2.02 Payment of the Grant Funds is subject to and conditional upon:

- (a) execution of this Funding Agreement by both the Organization and Manitoba;
- (b) the Legislature of the Province of Manitoba duly appropriating the Grant Funds in Manitoba’s current fiscal year; and
- (c) the Organization strictly complying at all times with all terms and conditions of this Funding Agreement, and fulfilling all of its obligations, undertakings, representations and warranties hereunder.

SECTION 3.00 – PAYMENT OF GRANT FUNDS

3.01 The Grant Funds shall be payable to the Organization as follows:

- (a) The Cash Amount portion, shall be payable by direct deposit upon execution of this Funding Agreement by both Manitoba and the Organization.

3.02 Nothing in this Funding Agreement creates any undertaking, commitment or obligation on the part of Manitoba respecting future or ongoing funding for the purpose of the Organization, and Manitoba shall not be responsible for any deficit incurred by the Organization.

SECTION 4.00 – REPAYMENT OF GRANT FUNDS

4.01 The Organization agrees that:

- (a) any overpayment by Manitoba; and
- (b) any Grant Funds paid by Manitoba which are not expended in accordance with this Funding Agreement, or which are otherwise repayable under this Funding

Agreement; are a debt due and owing by the Organization to Manitoba, payable on demand, and may, in Manitoba's absolute discretion, be set off against any amounts payable by Manitoba to the Organization.

SECTION 5.00 – REPRESENTATIONS AND WARRANTIES OF THE ORGANIZATION

5.01 The Organization represents and warrants that:

- (a) all statements and representations made by the Organization to Manitoba including, without limitation, in the Organization's application for grant funding and the documents submitted with the application, are complete, true and accurate, and all relevant information respecting the Programming / Special Initiative has been provided to Manitoba;
- (b) it is a valid and existing non-profit corporation, duly incorporated under the laws of Canada or one of the provinces therein and registered to carry on business in the Province of Manitoba, and that it shall continue to be a valid and existing non-profit corporation registered in the Province of Manitoba during the currency of this Funding Agreement;
- (c) it has been in existence for at least one year;
- (d) the main purpose and activity of the Organization is to provide ethnocultural support and cultural programming activities to members of the community in Manitoba and that it shall not change its main purpose during the currency of this Funding Agreement;
- (e) its membership is open to the public and shall remain so during the currency of this Funding Agreement;
- (f) it shall ensure that it remains a corporation regulated under an appropriate statute or ordinance in Canada and Manitoba respecting non-profit corporations and which, by its governing legislation or instruments and in fact:
 - (i) is without share capital,
 - (ii) carries on its activities without the purpose of gain for its members, officers or directors,
 - (iii) uses substantially all its profits, gains and accretions to promote its main purpose and activity,
 - (iv) has its directors serve as directors and officers without payment or benefit and with no direct or indirect profit or gain from their positions as directors or officers, provided that they may be paid reasonable expenses incurred by them in the performance of their duties,
 - (v) has its board of directors or executive meet regularly;
- (g) it possesses, and shall continue to possess, all expertise necessary to properly carry out the Programming / Special Initiative and to perform its obligations under this Funding Agreement;
- (h) it is in full compliance with and has all required permits, licences, certificates and authorizations necessary to carry out its obligations under this Funding Agreement; and
- (i) the execution and performance of this Funding Agreement have been properly authorized and the individuals signing this Funding Agreement on behalf of the Organization have authority to do so.

5.02 The Organization declares that all representations and warranties set forth in this Funding Agreement are and shall remain true in substance and in fact, and the Organization acknowledges that Manitoba has entered into this Funding Agreement in reliance thereon.

SECTION 6.00 – RESPONSIBILITIES OF THE ORGANIZATION

6.01 The Organization agrees:

- (a) to perform the Programming / Special Initiative in accordance with the terms and conditions of this Funding Agreement and that the Organization shall not make any changes to the Programming / Special Initiative without the prior written approval of Manitoba;
- (b) to comply with all laws and regulatory requirements, whether federal, provincial or municipal, in administering, managing and performing the Programming / Special Initiative and carrying out its obligations under this Funding Agreement;
- (c) that it shall comply with the provisions set out in its incorporating documents, constitution and by-laws and shall provide Manitoba with true copies of any changes

- to its incorporating documents, constitution or by-laws; and
 - (d) to give Manitoba prompt written notice of the occurrence of any event which constitutes or may with the passage of time constitute a breach or default under this Funding Agreement.
 - (e) Acknowledge Multiculturalism Secretariat funding in all printed material.
- 6.02 The Organization undertakes and agrees that it shall use the Grant Funds only for the payment of Eligible Costs relating to Programming / Special Initiative, unless otherwise agreed to in writing by Manitoba.
- 6.03 The Organization agrees that it shall immediately notify Manitoba, in writing, if the Organization receives funding from any other source and shall provide Manitoba with particulars of such other funding. The Organization further agrees that if it receives funding from any other source for the same purpose which would result in the Organization receiving funding for an amount exceeding the Eligible Costs of the Programming / Special Initiative, Manitoba may demand immediate repayment of the amount by which the total funding received by the Organization exceeds the Eligible Costs. It is not the intent of the Ethnocultural Community Support Program to duplicate assistance provided by the department or other provincial departments and agencies.

SECTION 7.00 – RECORDS AND REPORTING

- 7.01 The Organization shall provide Manitoba with a detailed evaluation report, including a summary of the Programming / Special Initiative and a detailed financial statement of the Organization's revenues and expenses relating to the Operational Activities, certified by the Organization's financial officer within **13 months** of the Ethnocultural Community Support Program Intake date for which the organization was approved (typically April 30, unless otherwise noted). The evaluation report is available on the Multiculturalism Secretariat website. If requested by Manitoba, the financial statements shall also be audited by an external auditor.
- 7.02 Manitoba may monitor and conduct reviews, evaluations and audits of this Funding Agreement and the Programming / Special Initiative. The Organization agrees to cooperate fully in any monitoring, review, evaluation or audit of the Operational Activities or this Funding Agreement and to provide Manitoba and its designates and representatives (which may include external consultants) with access to all financial and Operational Activities records and other documents and information respecting the Operational Activities or this Funding Agreement, including information respecting participants in the Programming / Special Initiative.
- 7.03 The Organization, and its officers, directors and employees, shall cooperate in any evaluation, audit or review by Manitoba, and neither the Organization, nor any of its officers, directors or employees, shall interfere in any evaluation, audit or review by Manitoba, or its authorized representatives or agents, either directly or indirectly, nor will they take any action during the course of any evaluation, audit or review that may prejudice the outcome of that evaluation, audit or review.
- 7.04 In addition to any projections, reports, statements, plans or documents required under this Funding Agreement, the Organization shall promptly provide such further reports, documents and information as may be reasonably requested by Manitoba from time to time with respect to the Operational Activities or this Funding Agreement.
- 7.05 The Organization shall establish and maintain accounting and other records (including proper and accurate accounts and records of all costs incurred and funds received respecting the Programming / Special Initiative and supporting documents) necessary for the proper financial management of the Programming / Special Initiative for no less than six (6) years after the end of the fiscal year in which Grant Funds are received by the Organization and the last of the Grant Funds have been expended. The Organization acknowledges that a longer retention period may be required to comply with applicable legislation (including tax legislation) and with the requirements and standards of good records management.
- 7.06 At any time in the six (6) years after the end of the fiscal year in which Grant Funds are received by the Organization and the last of the Grant Funds have been expended, Manitoba and its representatives and auditors shall be entitled to inspect and audit all accounts and records, financial documents and other records relating to the Operational Activities or this Funding Agreement at all reasonable times, and to make copies of them and to take extracts from them. The Organization agrees to cooperate fully in any inspection or audit of these records.

SECTION 8.00 – LIABILITY AND INDEMNIFICATION

- 8.01 Manitoba shall not be liable for any injury to or loss or damage suffered by the Organization, or any members, directors, officers, employees, agents or contractors of the

Organization, including, without limitation, any injury to persons (including death), damage or loss to property, economic loss, consequential damages or infringement of rights caused by or in any way related to this Funding Agreement or the Programming / Special Initiative.

- 8.02 The Organization shall be solely responsible for, and shall save harmless and indemnify Manitoba, its officers, employees and agents from and against all claims, liabilities and demands with respect to any injury to persons (including, without limitation, death), damage to or loss or destruction of property, economic loss, consequential damages or infringement of rights caused by, or related, either directly or indirectly, to
- (a) the Programming / Special Initiative;
 - (b) the performance of this Funding Agreement or the breach of any term or condition of this Funding Agreement by the Organization, or any of its Board members, officers, employees, agents or contractors;
 - (c) any omission or wrongful or negligent act of the Organization, or its Board members, officers, employees, agents or contractors; and
 - (d) any failure on the part of the Organization or on the part of its Board members, officers, employees, agents or contractors to comply with applicable laws or to make any necessary deductions or remittances required by law.

SECTION 9.00 – TERMINATION AND REPAYMENT

- 9.01 The Organization is in breach of and in default under this Funding Agreement if, at any time:
- (a) the Organization becomes, or is about to become, bankrupt or insolvent, goes into receivership or takes the benefit of any statute from time to time in force relating to bankrupt or insolvent debtors; or
 - (b) an order is made or resolution is passed for the dissolution or winding-up of the Organization or it is otherwise likely to lose its corporate status; or
 - (c) the Organization ceases to operate, or is about to cease operating; or
 - (d) any creditor of the Organization attaches or garnishes any of the Grant Funds; or
 - (e) any representation, warranty or statement made or any information provided by or on behalf of the Organization pursuant to this Funding Agreement or in support of the Organization's application for funding under the Program is false or misleading in any material respect; or
 - (f) Manitoba is of the opinion that:
 - (i) the Organization is not carrying out the Programming / Special Initiative in a manner acceptable to Manitoba or in accordance with the terms and conditions of this Funding Agreement, or
 - (ii) the Organization is not using the Grant Funds exclusively for the payment of Eligible Costs, or
 - (iii) the Organization has failed to comply with, or is about to fail to comply with, any of its other obligations or undertakings under this Funding Agreement, or
 - (iv) the outcome of any review, evaluation or audit by Manitoba is unsatisfactory.
- 9.02 If the Organization is in breach of or in default under this Funding Agreement then, in addition to any other rights and remedies Manitoba may have pursuant to this Funding Agreement or at law, Manitoba may do or require one or more of the following:
- (a) suspend or withhold payment of all or any of the Grant Funds until the Organization has remedied the breach, default or failure to the satisfaction of Manitoba;
 - (b) reduce all or any payments of the Grant Funds under this Funding Agreement;
 - (c) immediately terminate this Funding Agreement and any and all financial obligations of Manitoba under this Funding Agreement, by giving notice in writing, effective immediately or on the date set out in the notice;
 - (d) by notice in writing, require the Organization to repay, in full or in part, the Grant Funds provided to the Organization under this Funding Agreement and such amount shall be a debt due and owing to Manitoba, payable immediately on written demand.
 - (e) Upon notice of termination of this Funding Agreement being given by Manitoba as provided for in this Funding Agreement, the Organization shall:
 - (f) provide to Manitoba all reports, statements and documents required or requested by Manitoba upon termination; and
 - (g) repay to Manitoba any Grant Funds which are unexpended or uncommitted as of the

date of termination, as well as Grant Funds which may otherwise become repayable pursuant to this Funding Agreement, which funds shall be a debt due and owing to Manitoba, payable on demand.

- 9.03 In addition to any other rights and remedies Manitoba may have pursuant to this Funding Agreement or at law, Manitoba shall also be entitled to demand repayment of any Grant Funds which have not been expended on account of Eligible Costs within twelve (12) months following receipt by the Organization of such Grant Funds.

SECTION 10.00 – NOTICES AND OTHER COMMUNICATIONS

- 10.01 All notices shall be in writing and shall be delivered, or sent by prepaid mail or facsimile transmission, to the other party at the address or facsimile number set out in the Funding Agreement (signature page), or to such other address or facsimile number as otherwise provided to the other party in writing in accordance with this provision:

SECTION 11.00 – GENERAL PROVISIONS

- 11.01 The Organization shall not assign or transfer this Funding Agreement or any of the rights or obligations under this Funding Agreement.
- 11.02 This Funding Agreement contains the entire agreement between the parties. Except as otherwise stated herein, there are no undertakings, representations or promises, express or implied, other than as contained in this Funding Agreement.
- 11.03 This Funding Agreement shall be binding upon the Organization and its successors.
- 11.04 Manitoba has the right to require strict observance by the Organization of all deadlines imposed by this Funding Agreement.
- 11.05 This Funding Agreement shall be interpreted, performed and enforced in accordance with the laws of Manitoba, and of Canada as applicable therein.
- 11.06 Those provisions of this Funding Agreement containing obligations that by their very nature are intended to survive the termination or expiration of this Funding Agreement shall survive the termination or expiration of this Funding Agreement.

Document is available in alternate formats upon request.