



Australian Government

Department of Health and Aged Care

Commonwealth Standard Grant Agreement

between the Commonwealth of Australia represented by

Department of Health and Aged Care

and

<Grantee>

NB: This is an example standard grant agreement intended for use with the <Program name>. The Commonwealth reserves the option to amend or adjust the form of the grant agreement.

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Grant Agreement <grant number>

Once completed, this document, together with the Grant Details and the Commonwealth Standard Grant Conditions (Schedule 1), forms an Agreement between the Commonwealth of Australia (the Commonwealth) and the Grantee.

Parties to this Agreement

The Grantee

Full legal name of Grantee	<entity name>
Legal entity type (e.g. individual, incorporated association, company, partnership, etc)	<ABR entity type>
Trading or business name	<trading name>
Any relevant licence, registration or provider number	Not applicable
Australian Business Number (ABN) or other entity identifiers	<ABN>
Australian Company Number (ACN)	<ACN>
Registered for Goods and Services Tax (GST)?	<GST status + if statement>
Date from which GST registration was effective?	<GST registered date>
Registered office address	<ABR registered address> <city> <state> <postcode>
Relevant business place	<business street address> <city> <state> <postcode>

The Commonwealth

The Commonwealth of Australia represented by the
Department of Health and Aged Care
of Sirius Building, Furzer Street, Woden Town Centre ACT 2606
ABN 83 605 426 759

The Department of Industry, Science and Resources will manage the Agreement on behalf of the Department of Health and Aged Care.

Background

The Commonwealth has agreed to enter this Agreement under which the Commonwealth will provide the Grantee with a Grant for the purpose of assisting the Grantee to undertake the associated Activity.

The Grantee agrees to use the Grant and undertake the Activity in accordance with this Agreement and the relevant Grant Details.

Scope of this Agreement

This Agreement comprises:

- (a) this document;
- (b) the Supplementary Terms (if any);
- (c) the Standard Grant Conditions (Schedule 1);
- (d) the Grant Details;
- (e) any other document referenced or incorporated in the Grant Details.

If there is any ambiguity or inconsistency between the documents comprising this Agreement in relation to a Grant, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.

This Agreement represents the Parties' entire agreement in relation to the Grant provided under it and the relevant Activity and supersedes all prior representations, communications, agreements, statements and understandings, whether oral or in writing.

Certain information contained in or provided under this Agreement may be used for public reporting purposes.

Grant Details <grant number>

A. Purpose of the Grant

The Grant is being provided as part of the Medical Research Future Fund (MRFF) <grant opportunity name> grant opportunity.

The MRFF, established under the *Medical Research Future Fund Act 2015* (MRFF Act), provides grants of financial assistance to support health and medical research and innovation to improve the health and wellbeing of Australians. The MRFF provides a long-term sustainable source of funding for research that aims to improve health outcomes, quality of life and health system sustainability.

This MRFF investment is guided by the Australian Medical Research and Innovation Strategy 2021-2026 (the Strategy) and related set of Australian Medical Research and Innovation Priorities 2020-2022 (the Priorities), developed by the independent and expert Australian Medical Research Advisory Board following extensive national public consultation.

<Grant opportunity objectives>

<Grant opportunity outcomes>

B. Activity

The Activity is made up of the Grantee's project and all eligible project activities as specified in these Grant Details.

In undertaking the Activity, the Grantee must comply with the requirements of the grant opportunity guidelines (as in force at the time of application).

The Grantee must notify the Commonwealth about events relating to the project and provide an opportunity for the Minister or their representative to attend.

The Grantee must ensure that the grant from the MRFF is appropriately badged and acknowledged in any correspondence, public announcement and publicly available materials including: reporting of key findings; presentations; and publications relating to this activity.

Project title

<project title>

Project scope and description

<detailed project description>

Project outcomes

<project outcomes>

Dissemination of Research Findings

The Grantee will ensure that appropriate safeguards are in place to protect patient privacy, Intellectual property and commercially confidential information for all Activities funded under this Project.

The Grantee is encouraged to ensure that research activities are published and translated into clinical practice. Types of research dissemination may include, making lay summaries available for research participants, and presenting at specific forums.

The Grantee is also encouraged to publish de-identified research data in an open access repository and in accordance with best practice.

C. Duration of the Grant

The Activity starts on <project start date> and ends on <project end date>, which is the **Activity Completion Date**.

The Agreement ends on <agreement end date> which is the **Agreement End Date**.

Activity Schedule

In undertaking the Activity, the Grantee will meet the following milestones by the due dates.

Milestone number	Milestone name and description	Due date
<No>	<milestone name> <milestone description>	<dd/mm/yyyy>

D. Payment of the Grant

The total amount of the Grant is <grant amount> (plus GST if applicable).

The Grant will be provided at up to <grant percentage> per cent of eligible expenditure as defined in the grant opportunity guidelines subject to availability of Program funds.

The Grant will be paid in accordance with clause ST2.

The Grant will be paid according to the following schedule. Payments are subject to satisfactory progress on the project and compliance by the Grantee with its obligations under this Agreement.

Payment event	Payment amount (GST excl)	Anticipated payment date
<Payment trigger>	<insert amount>	<insert date>
<Payment trigger>	<insert amount>	<insert date>
Total	<total grant amount>	

Invoicing

The Grantee agrees to allow the Commonwealth to issue it with a Recipient Created Tax Invoice (RCTI) for any taxable supplies it makes in relation to the Activity.

E. Reporting

The Grantee agrees to provide the following reports to the Commonwealth representative in accordance with the reporting requirements (Schedule 2).

<reporting table>

During the Agreement period, the Commonwealth may ask the Grantee for ad hoc reports on the project. This may be to provide an update on progress, or any significant delays or difficulties in

completing the project, or to support evaluation of the MRFF. The Grantee must provide these reports in the timeframes notified by the Commonwealth.

F. Party representatives and address for notices

Grantee's representative and address

Grantee's representative name	<primary contact name>
Position	<primary contact position>
Address	<primary contact address>
Business hours telephone	<phone number>
Mobile	<mobile phone>
Email	<email address>

Commonwealth representative and address

Name of representative	<CSM name>
Position	<CSM position>
Postal address	GPO Box 2013 CANBERRA ACT 2601
Physical address	<CSM physical address> If blank 10 Binara Street CANBERRA ACT 2600
Business hours telephone	<CSM phone>
Email	<Program email address>

The Parties' representatives will be responsible for liaison and the day-to-day management of the Grant, as well as accepting and issuing any written notices in relation to the Grant.

G. Activity Material

Not applicable

Supplementary Terms

ST1. Other Contributions

ST1.1 In this Agreement, Other Contributions means the financial or in-kind contributions other than the Grant set out in the following table:

Contributor	Nature of Contribution	Amount (GST exclusive)	Timing
Grantee	< insert description of contribution, e.g., cash, access to equipment, secondment of personnel etc>	\$<insert amount>	<project end date>
<name of third party providing the Other Contribution>	<insert description of contribution, e.g., cash, access to equipment, secondment of personnel etc>	\$<insert amount>	<insert date or Milestone to which the Other Contribution relates>
Total		\$<total other contributions>	

ST1.2 The Grantee agrees to provide, or to ensure the provision of, the Other Contributions and to use them to undertake the Activity. If the Other Contributions are not provided in accordance with this clause, then the Commonwealth may:

- (a) suspend payment of the Grant until the Other Contributions are provided; or
- (b) terminate this Agreement in accordance with clause 19 of this Agreement.

ST2. Activity Budget

ST2.1 Not used.

ST2.2 The Grantee agrees to use the Grant and any Other Contributions and undertake the Activity consistently with the Activity Budget in the following table:

<budget table>

Figures in the above table are GST inclusive amounts less GST credits that can be claimed in relation to the expenditure.

ST2.3 Subject to sufficient funding being available, the Grant will be paid up to the Annual Capped Amounts over the financial years specified in the following table.

Annual Capped Amounts

Financial year	Annual capped amount (GST excl)
<Insert financial year: yyyy-yy>	\$<amount>
<Insert financial year: yyyy-yy>	\$<amount>
<Insert financial year: yyyy-yy>	\$<amount>
<Insert financial year: yyyy-yy>	\$<amount>
Total	\$<total grant amount>

ST2.4 The Commonwealth is not required to make a payment if it would result in the amount paid in a financial year exceeding the Annual Capped Amount for that financial year specified in the table under clause ST2.3.

ST2.5 In accordance with the Activity Budget under clause ST2.2, the Annual Capped Amounts may not be exceeded unless the Commonwealth specifically approves an increase of that amount under clause ST2.8.

ST2.6 Subject to this clause, the Grantee may reallocate expenditure in respect of categories of expenditure in the Activity Budget, provided it does not materially change the Activity, any Milestone(s) set out in this Agreement, or cause the Grantee to be in breach of any of its obligations under this Agreement.

ST2.7 The Grantee must give the Commonwealth:

- (a) at any time the Grantee wishes to request a variation to any one or more of the Annual Capped Amounts; or
- (b) if otherwise requested by the Commonwealth,

a revised Activity Budget in a form acceptable to the Commonwealth. The revised Activity Budget must clearly identify any proposed changes, including of any proposed changes to the Annual Capped Amounts, and explain the reasons for the proposed changes.

ST2.8 The Commonwealth may, at its discretion, approve or reject a revised Activity Budget provided under clause ST2.7 and/or any proposed changes to the Annual Capped Amounts. The Commonwealth's approval may be granted subject to conditions.

ST2.9 If a revised Activity Budget and any proposed changes to the Annual Capped Amounts are approved by the Commonwealth, then it will become the Activity Budget and, if relevant, the Annual Capped Amounts will be adjusted accordingly.

ST3. Intellectual property in Activity Material

ST3.1 In this Agreement:

Application means the application form and all supporting documentation submitted by the Grantee in respect of which the Grant has been awarded.

National (IPPF Research) Principles means the *National Principles of Intellectual Property for Publicly Funded Research* (available at: <http://www.arc.gov.au/policy>) and any successor document.

ST3.2 The Commonwealth agrees not to claim ownership of any Intellectual Property Rights in an Application or in any research arising from the Activity.

ST3.3 The Grantee agrees to:

- (a) comply with an intellectual property policy which:
 - (i) is approved by the Grantee's governing body;
 - (ii) has as one of its aims, the maximisation of benefits to Australia arising from publicly funded research; and
 - (iii) complies with the National (IPPF Research) Principles;
- (b) ensure that the Grantee and all applicants for participation in the Activity are familiar with the current intellectual property and patent landscape for the research areas included in the Application.

ST3.4 The Grantee provides the Commonwealth a permanent, non-exclusive, irrevocable, royalty-free licence (including a right to sub-licence) to use, modify, communicate, reproduce, publish and adapt the Activity Material for Commonwealth Purposes.

ST4. Access/monitoring/inspection

ST4.1 The Grantee agrees to give the Commonwealth, or any persons authorised in writing by the Commonwealth:

- (a) access to premises where the Activity is being performed and/or where Material relating to the Activity is kept within the time period specified in a Commonwealth notice; and
- (b) permission to inspect and take copies of any Material relevant to the Activity.

ST4.2 The Auditor-General and any Information Officer under the *Australian Information Commissioner Act 2010* (Cth) (including their delegates) are persons authorised for the purposes of clause ST4.1.

ST4.3 This clause ST4 does not detract from the statutory powers of the Auditor-General or an Information Officer (including their delegates).

ST5. Equipment and Assets

Not applicable

ST6. Specified Personnel

ST6.1 The Grantee agrees that the following personnel (Specified Personnel) be involved in the Activity as set out below:

<specified personnel>

ST6.2 The Grantee agrees to notify the Commonwealth as soon as practicable if the Specified Personnel are unable to perform the work as required under this clause.

ST6.3 The Grantee agrees to remove any personnel (including Specified Personnel, subcontractors, agents or volunteers) involved in the Activity at the request of the Commonwealth.

ST6.4 If clause ST6.2 or clause ST6.3 applies, the Grantee will provide replacement personnel acceptable and at no additional cost to the Commonwealth at the earliest opportunity and without any interruption to the Grantee's compliance with its other obligations under this Agreement.

ST7. Relevant qualifications, licences, permits, approvals or skills

Not applicable

ST8. Vulnerable Persons

ST8.1 In this Agreement

Criminal or Court Record means any record of any Other Offence;

Other Offence means, in relation to a person, a conviction, finding of guilt, on-the-spot fine for, or court order relating to:

- (a) an apprehended violence or protection order made against the person;

- (b) the consumption, dealing in, possession or handling of alcohol, a prohibited drug, narcotic or other prohibited substance;
- (c) violence against another person or the injury, but excluding the death, of another person; or
- (d) an attempt to commit a crime or offence, or to engage in any conduct or activity, described in paragraphs (a) to (c);

Police Check means a formal inquiry made to the relevant police authority in each State or Territory and designed to obtain details of an individual's criminal conviction or a finding of guilt in all places (within and outside Australia) that the Grantee knows the person has resided in;

Serious Offence means:

- (a) a crime or offence involving the death of a person;
- (b) a sex-related offence or a crime, including sexual assault (whether against an adult or child); child pornography, or an indecent act involving a child;
- (c) fraud, money laundering, insider dealing or any other financial offence or crime, including those under legislation relating to companies, banking, insurance or other financial services; or
- (d) an attempt to commit a crime or offence described in (a) to (c);

Serious Record means a conviction or any finding of guilt regarding a Serious Offence; and

Vulnerable Person means an individual aged 18 years and above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation for any reason, including age, physical or mental illness, trauma or disability, pregnancy, the influence, or past or existing use, of alcohol, drugs or substances or any other reason.

ST8.2 Before any person commences performing work on any part of the Activity that involves working or contact with a Vulnerable Person, the Grantee must:

- (a) obtain a Police Check for that person;
- (b) confirm that the person is not prohibited by any law from being engaged in a capacity where they may have contact with a Vulnerable Person;
- (c) comply with all State, Territory or Commonwealth laws relating the employment or engagement of persons in any capacity where they may have contact with a Vulnerable Person; and
- (d) ensure that the person holds all licences or permits for the capacity in which they are to be engaged, including any specified in the Grant Details, and the Grantee must ensure that Police Checks and any licences or permits obtained in accordance with this clause ST8.2 remain current for the duration of their involvement in the Activity.

ST8.3 The Grantee must ensure that a person does not perform work on any part of the Activity that involves working or contact with a Vulnerable Person if a Police Check indicates that the person at any time has:

- (a) a Serious Record; or
- (b) a Criminal or Court Record and the Grantee has not conducted a risk assessment and determined that any risk is acceptable.

ST8.4 In undertaking a risk assessment under clause ST8.3, the Grantee must have regard to

- (a) the nature and circumstances of the offence(s) on the person's Criminal or Court Record and whether the charge or conviction involved Vulnerable Persons;
- (b) whether the person's Criminal or Court Record is directly relevant to, or reasonably likely to impair the person's ability to perform, the role that the person will, or is likely to, perform in relation to the Activity;
- (c) the length of time that has passed since the person's charge or conviction and his or her record since that time;
- (d) the circumstances in which the person will, or is likely to, have contact with a Vulnerable Person as part of the Activity;
- (e) any other relevant matter,

and must ensure it fully documents the conduct and outcome of the risk assessment.

ST8.5 The Grantee agrees to notify the Commonwealth of any risk assessment it conducts under this clause and agrees to provide the Commonwealth with copies of any relevant documentation on request.

ST8.6 If during the term a person involved in performing work on any part of the Activity that involves working or contact with a Vulnerable Person is:

- (a) charged with a Serious Offence or Other Offence, the Grantee must immediately notify the Commonwealth; or
- (b) convicted of a Serious Offence, the Grantee must immediately notify the Commonwealth and ensure that that person does not, from the date of the conviction, perform any work or role relating to the Activity.

ST9. Child safety

ST9.1 In this Agreement

- Child** means an individual(s) under the age of 18 years and **Children** has a similar meaning;
- Child-Related Personnel** means officers, employees, contractors (including subcontractors), agents and volunteers of the Grantee involved with the Activity who as part of that involvement may interact with Children;
- Legislation** means a provision of a statute or subordinate legislation of the Commonwealth, or of a State, Territory or local authority;
- National Principles for Child Safe Organisations** means the National Principles for Child Safe Organisations, which have been endorsed in draft form by the Commonwealth Government (available at: <https://humanrights.gov.au/our-work/childrens-rights/projects/child-safe-organisations>) and subsequently, from the time of their endorsement by the Council of Australian Governments, the final National Principles for Child Safe Organisations as published by the Australian Government;

- Relevant Legislation** means Legislation in force in any jurisdiction where any part of the Activity may be carried out;
- Working With Children Check or WWCC** means the process in place pursuant to Relevant Legislation to screen an individual for fitness to work with Children.

Relevant checks and authority

ST9.2 The Grantee must

- (a) comply with all Relevant Legislation relating to the employment or engagement of Child-Related Personnel in relation to the Activity, including all necessary Working With Children Checks however described;
- (b) ensure that Working With Children Checks obtained in accordance with this clause ST9.2 remain current and that all Child-Related Personnel continue to comply with all Relevant Legislation for the duration of their involvement in the Activity; and
- (c) ensure that any subcontract entered into by the Grantee for the purposes of this Agreement imposes the same obligations in clauses ST9.2(a) and (b) on the subcontractor and also requires the subcontractor to include those obligations in any secondary subcontracts.

National Principles for Child Safe Organisations and other action for the safety of Children

ST9.3 The Grantee agrees in relation to the Activity to:

- (a) implement the National Principles for Child Safe Organisations;
- (b) ensure that all Child-Related Personnel implement the National Principles for Child Safe Organisations;
- (c) complete and update, at least annually, a risk assessment to identify the level of responsibility for Children and the level of risk of harm or abuse to Children;
- (d) put into place and update, at least annually, an appropriate risk management strategy to manage risks identified through the risk assessment required by this clause ST9.3;
- (e) provide training and establish a compliance regime to ensure that all Child Related Personnel are aware of, and comply with
 - (i) the National Principles for Child Safe Organisations;
 - (ii) the Grantee's risk management strategy required by this clause ST9.3;
 - (iii) Relevant Legislation relating to requirements for working with Children, including Working With Children Checks;
 - (iv) Relevant Legislation relating to mandatory reporting of suspected child abuse or neglect, however described;
- (f) provide the Commonwealth with an annual statement of compliance with clauses ST9.2 and ST9.3, in such form as may be specified by the Commonwealth; and
- (g) ensure that any subcontract entered into by the Grantee for the purposes of this Agreement imposes the same obligations in clauses ST9.3(a) to (e) on the subcontractor and also requires the subcontractor to include those obligations in any secondary subcontracts.

ST9.4 With reasonable notice to the Grantee, the Commonwealth may conduct a review of the Grantee's compliance with this clause ST9.

ST9.5 The Grantee agrees to:

- (a) notify the Commonwealth of any failure to comply with this clause ST9;
- (b) co-operate with the Commonwealth in any review conducted by the Commonwealth of the Grantee's implementation of the National Principles for Child Safe Organisations or compliance with this clause ST9; and
- (c) promptly, and at the Grantee's cost, take such action as is necessary to rectify, to the Commonwealth's satisfaction, any failure to implement the National Principles for Child Safe Organisations or any other failure to comply with this clause ST9.

ST10. Commonwealth Material, facilities and assistance

Not applicable

ST11. Jurisdiction

ST11.1 This Agreement is governed by the law of the Australian Capital Territory.

ST12. Grantee trustee of trust (if applicable)

ST12.1 In this Agreement, **Trust** means the trust specified in the Parties to the Agreement section of this Agreement.

ST12.2 The Grantee warrants that:

- (a) it is the sole trustee of the Trust; and
- (b) it has full and valid power and authority to enter into this Agreement and perform the obligations under it on behalf of the Trust; and
- (c) it has entered into this Agreement for the proper administration of the Trust; and
- (d) all necessary resolutions, consents, approvals and procedures have been obtained or duly satisfied to enter into this Agreement and perform the obligations under it; and
- (e) it has the right to be indemnified out of the assets of the Trust for all liabilities incurred by it under this Agreement.

ST13. Fraud

ST13.1 In this Agreement, Fraud means dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes alleged, attempted, suspected or detected fraud.

ST13.2 The Grantee must ensure its personnel and subcontractors do not engage in any Fraud in relation to the Activity.

ST13.3 If the Grantee becomes aware of:

- (a) any Fraud in relation to the performance of the Activity; or
- (b) any other Fraud that has had or may have an effect on the performance of the Activity;

then it must within 5 business days report the matter to the Commonwealth and all appropriate law enforcement and regulatory agencies.

ST13.4 The Grantee must, at its own cost, investigate any Fraud referred to in clause ST13.3 in accordance with the Australian Government Investigations Standards available at www.ag.gov.au.

ST13.5 The Commonwealth may, at its discretion, investigate any Fraud in relation to the Activity. The Grantee agrees to co-operate and provide all reasonable assistance at its own cost with any such investigation.

ST13.6 This clause survives the termination or expiry of the Agreement.

ST14. Prohibited dealings

Not applicable

ST15. Anti-corruption

ST15.1 In this Agreement:

Illegal or Corrupt Practice means directly or indirectly:

- (a) making or causing to be made, any offer, gift, payment, consideration or benefit of any kind to any party, or
- (b) receiving or seeking to receive, any offer, gift, payment, consideration or benefit of any kind from any party, as an inducement or reward in relation to the performance of the Activity, which would or could be construed as an illegal or corrupt practice.

ST15.2 The Grantee warrants that the Grantee, its officers, employees, contractors, agents and any other individual or entity involved in carrying out the Activity have not, engaged in an Illegal or Corrupt Practice.

ST15.3 The Grantee agrees not to, and to take all reasonable steps to ensure that its officers, employees, contractors, agents and any other individual or entity involved in carrying out the Activity do not:

- (a) engage in an Illegal or Corrupt Practice; or
- (b) engage in any practice that could constitute the offence of bribing a foreign public official contained in section 70.2 of the Criminal Code Act 1995 (Cth).

ST15.4 The Grantee agrees to inform the Commonwealth within five business days if the Grantee becomes aware of any activity as described in ST15.3 in relation to the performance of the Activity.

ST16. Step-in rights

Not applicable

ST17. Grant administrator

Not applicable

ST18. Management Adviser

Not applicable

ST19. Indemnities

ST19.1 The Grantee indemnifies the Commonwealth, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.

ST19.2 The Grantee's obligation to indemnify the Commonwealth will reduce proportionally to the extent any act or omission involving fault on the part of the Commonwealth contributed to the claim, loss or damage.

ST20. Compliance with Legislation and policies

ST20.1 In this Agreement:

Legislation means a provision of a statute or subordinate legislation of the Commonwealth, or of a State, Territory or local authority.

ST20.2 The Grantee agrees to comply with all Legislation applicable to its performance of this Agreement.

ST20.3 The Grantee agrees, in carrying out its obligations under this Agreement, to comply with any of the Commonwealth's policies as notified, referred or made available by the Commonwealth to the Grantee (including by reference to an internet site).

ST20.4 In carrying out the Activity, the Grantee must comply with the following applicable policies/laws:

- (a) [Medical Research Future Fund Act 2015](#)
- (b) Ethics and research practices:
 - (i) [NHMRC/ARC/UA Australian Code for the Responsible Conduct of Research \(2018\)](#)
 - (ii) [NHMRC/ARC/UA National Statement on Ethical Conduct in Human Research \(2007, updated 2018\)](#)
 - (iii) [Ethical Conduct in Research with Aboriginal and Torres Strait Islander Peoples and communities \(2018\)](#)

ST21. Work health and safety

ST21.1 The Grantee agrees to ensure that it complies at all times with all applicable work health and safety legislative and regulatory requirements and any additional work health and safety requirements set out in the Grant Details.

ST21.2 If requested by the Commonwealth, the Grantee agrees to provide copies of its work health and safety management plans and processes and such other details of the arrangements it has in place to meet the requirements referred to in clause ST21.1.

ST21.3 When using the Commonwealth's premises or facilities, the Grantee agrees to comply with all reasonable directions and procedures relating to work health and safety and security in effect at those premises or facilities, as notified by the Commonwealth or as might reasonably be inferred from the use to which the premises or facilities are being put.

ST22. Transition

Not applicable

ST23. Corporate Governance

ST23.1 In this Agreement:

Constitution means (depending on the context):

- (a) a company's, body corporate's or incorporated association's constitution, or equivalent documents, which (where relevant) includes rules and any amendments that are part of the constitution;
- (b) in relation to any other kind of body:

- (i) the body's charter or memorandum; or
- (ii) any instrument or law constituting or defining the constitution of the body or governing the activities of the body or its members.

ST23.2 The Grantee warrants that nothing in its constitution conflicts with its obligations under this Agreement.

ST23.3 The Grantee agrees to provide a copy of its constitution to the Commonwealth upon request and inform the Commonwealth whenever there is a change in the Grantee's constitution, structure or management.

ST24. Counterparts

ST24.1 This Agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this Agreement by signing any counterpart.

ST25. Secret and Sacred Indigenous Material

Not applicable

Schedule 1: Commonwealth Standard Grant Conditions

1. Undertaking the Activity

1.1 The Grantee agrees to undertake the Activity for the purpose of the Grant in accordance with this Agreement.

1.2 The Grantee is fully responsible for the Activity and for ensuring the performance of all its obligations under this Agreement in accordance with all relevant laws. The Grantee will not be relieved of that responsibility because of:

- (a) the grant or withholding of any approval or the exercise or non-exercise of any right by the Commonwealth; or
- (b) any payment to, or withholding of any payment from, the Grantee under this Agreement.

1.3 The Grantee agrees that for the term of this Agreement, the Grantee will continue to meet the eligibility obligations relating to the [National Redress Scheme](#)¹ set out under the relevant grant opportunity guidelines to receive the Grant.

2. Payment of the Grant

2.1 The Commonwealth agrees to pay the Grant to the Grantee in accordance with the Grant Details.

2.2 Notwithstanding any other provision of this Agreement, the Commonwealth may by notice withhold payment of any amount of the Grant and/or take any other action specified in the Supplementary Terms if it reasonably believes that:

- (a) the Grantee has not complied with this Agreement;
- (b) the Grantee is unlikely to be able to perform the Activity or manage the Grant in accordance with this Agreement; or
- (c) there is a serious concern relating to this Agreement that requires investigation.

2.3 A notice under clause 2.2 will contain the reasons any action taken under clause 2.2 and, where relevant, the steps the Grantee can take to address those reasons.

2.4 The Commonwealth will only be obliged to pay the withheld amount once the Grantee has addressed the reasons contained in a notice under clause 2.2 to the Commonwealth's reasonable satisfaction.

3. Acknowledgements

3.1 The Grantee agrees not to make any public announcement, including by social media, in connection with the awarding of the Grant without the Commonwealth's prior written approval.

3.2 The Grantee agrees to acknowledge the Commonwealth's support in all Material, publications and promotional and advertising materials published in connection with this Agreement. The Commonwealth may notify the Grantee of the form of acknowledgement that the Grantee is to use.

¹ The National Redress Scheme can be found at <https://www.nationalredress.gov.au>

4. Notices

4.1 Each Party agrees to promptly notify the other Party of anything reasonably likely to adversely affect the undertaking of the Activity, management of the Grant or its performance of any of its other requirements under this Agreement.

4.2 A notice given by a Party under this Agreement must be in writing and addressed to the other Party's representative as set out in the Grant Details or as most recently updated by notice given in accordance with this clause.

5. Relationship between the Parties

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

6. Subcontracting

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

6.2 The Grantee agrees to make available to the Commonwealth the details of any of its subcontractors engaged to perform any tasks in relation to this Agreement upon request.

7. Conflict of interest

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

7.2 If during the term of the Agreement, any actual, perceived or potential conflict arises or there is any material change to a previously disclosed conflict of interest, the Grantee agrees to:

- (a) notify the Commonwealth promptly and make full disclosure of all relevant information relating to the conflict; and
- (b) take any steps the Commonwealth reasonably requires to resolve or otherwise deal with that conflict.

8. Variation, assignment and waiver

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

8.2 The Grantee cannot assign its obligations, and agrees not to assign its rights, under this Agreement without the Commonwealth's prior approval.

8.3 The Grantee agrees not to enter into negotiations with any other person for the purposes of entering into an arrangement that will require novation of, or involve any assignment of rights under, this Agreement without first consulting the Commonwealth.

8.4 A waiver by a Party of any of its rights under this Agreement is only effective if it is in a signed written notice to the other Party and then only to the extent specified in that notice.

9. Taxes, duties and government charges

9.1 The Grantee agrees to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement, except as provided by this Agreement.

9.2 If Goods and Services Tax (GST) is payable by a supplier on any supply made under this Agreement, the recipient of the supply will pay to the supplier an amount equal to the GST payable on the supply, in addition to and at the same time that the consideration for the supply is to be provided under this Agreement.

9.3 The Parties acknowledge and agree that they each:

- (a) are registered for GST purposes;
- (b) have quoted their Australian Business Number to the other; and
- (c) must notify the other of any changes to the matters covered by this clause.

9.4 The Grantee agrees that the Commonwealth will issue it with a recipient created tax invoice for any taxable supply it makes under this Agreement.

9.5 The Grantee agrees not to issue tax invoices in respect of any taxable supplies.

9.6 If the Grantee is not, or not required to be, registered for GST, then:

- (a) clauses 9.3(a), 9.4 and 9.5 do not apply; and
- (b) the Grantee agrees to notify the Commonwealth in writing within 7 days of becoming registered for GST if during the term of the Agreement it becomes, or is required to become, registered for GST.

10. Spending the Grant

10.1 The Grantee agrees to spend the Grant for the purpose of performing the Activity and otherwise in accordance with this Agreement.

10.2 Within 90 days after the Activity Completion Date, and at least every 12 months during the term of the Agreement, the Grantee agrees to provide the Commonwealth with an independently audited financial acquittal report verifying that the Grant has been spent in accordance with this Agreement.

10.3 The reports under clause 10.2 must be audited by:

- (a) a Registered Company Auditor registered under the *Corporations Act 2001* (Cth); or
- (b) a certified Practising Accountant; or
- (c) a member of the Institute of Public Accountants; or
- (d) a member of Chartered Accountants Australia and New Zealand;

who is not a principal member, shareholder, officer or employee of the Grantee or a related body corporate.

11. Repayment

11.1 If any amount of the Grant:

- (a) has been spent other than in accordance with this Agreement; or
- (b) is additional to the requirements of the Activity

then the Commonwealth may, by written notice:

- (c) require the Grantee to repay that amount to the Commonwealth;
- (d) require the Grantee to deal with that amount as directed by the Commonwealth; or

- (e) deduct the amount from subsequent payments of the Grant or amounts payable under another agreement between the Grantee and the Commonwealth.

11.2 If the Commonwealth issues a notice under this Agreement requiring the Grantee to repay a Grant amount:

- (a) the Grantee must do so within the time period specified in the notice;
- (b) the Grantee must pay interest on any part of the amount that is outstanding at the end of the time period specified in the notice until the outstanding amount is repaid in full; and
- (c) the Commonwealth may recover the amount and any interest under this Agreement as a debt due to the Commonwealth without further proof of the debt being required.

12. Record keeping

12.1 The Grantee agrees to keep financial accounts and other records that:

- (a) detail and document the conduct and management of the Activity;
- (b) identify the receipt and expenditure of the Grant and any Other Contributions separately within the Grantee's accounts and records so that at all times the Grant is identifiable;
- (c) enable all receipts and payments related to the Activity to be identified and reported.

12.2 The Grantee agrees to keep the records for five years after the Activity Completion Date or such other time specified in the Grant Details and provide copies of the records to the Commonwealth upon request.

13. Reporting and liaison

13.1 The Grantee agrees to provide the Reporting Material specified in the Grant Details to the Commonwealth.

13.2 In addition to the obligations in clause 13.1, the Grantee agrees to:

- (a) liaise with and provide information to the Commonwealth as reasonably required by the Commonwealth; and
- (b) comply with the Commonwealth's reasonable requests, directions, or monitoring requirements,

in relation to the Activity.

13.3 If the Commonwealth acting reasonably has concerns regarding the performance of the Activity or the management of the Grant, the Commonwealth may by written notice require the Grantee to provide one or more additional reports, containing the information and by the date(s) specified in the notice.

13.4 The Grantee acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under the *Criminal Code Act 1995* (Cth).

14. Privacy

14.1 When dealing with Personal Information in carrying out the Activity, the Grantee agrees:

- (a) to comply with the requirements of the *Privacy Act 1988* (Cth);

- (b) not to do anything which, if done by the Commonwealth, would be a breach of an Australian Privacy Principle;
- (c) to ensure that any of the Grantee's subcontractors or personnel who deal with Personal Information for the purposes of this Agreement are aware of the requirements of the *Privacy Act 1988* (Cth) and the Grantee's obligations under this clause;
- (d) to immediately notify the Commonwealth if the Grantee becomes aware of an actual or possible breach of this clause by the Grantee or any of the Grantee's subcontractors or personnel.

14.2 In carrying out the Activity, the Grantee agrees not to send any Personal Information outside of Australia without the Commonwealth's prior written approval. The Commonwealth may impose any conditions it considers appropriate when giving its approval.

15. Confidentiality

15.1 The Parties agree not to disclose each other's confidential information without the other Party's prior written consent unless required or authorised by law or Parliament to disclose.

15.2 The Commonwealth may disclose the Grantee's confidential information where;

- (a) the Commonwealth is providing information about the Activity or Grant in accordance with Commonwealth accountability and reporting requirements;
- (b) the Commonwealth is disclosing the information to a Minister of the Australian Government, a House or Committee of the Commonwealth Parliament; or
- (c) the Commonwealth is disclosing the information to its personnel or another Commonwealth agency where this serves the Commonwealth's legitimate interests.

16. Insurance

16.1 The Grantee agrees to maintain adequate insurance for as long as any obligations remain in connection with this Agreement and provide proof of insurance to the Commonwealth upon request.

17. Intellectual property

17.1 Subject to clause 17.2, the Grantee owns the Intellectual Property Rights in Activity Material and Reporting Material.

17.2 This Agreement does not affect the ownership of Intellectual Property Rights in Existing Material.

17.3 The Grantee provides the Commonwealth a permanent, non-exclusive, irrevocable, royalty-free licence to use, modify, communicate, reproduce, publish, adapt and sub-license the Reporting Material for Commonwealth Purposes.

17.4 The licence in clause 17.3 does not apply to Activity Material.

18. Dispute resolution

18.1 The Parties agree not to initiate legal proceedings in relation to a dispute arising under this Agreement unless they have first tried and failed to resolve the dispute by negotiation.

18.2 Unless clause 18.3 applies, the Parties agree to continue to perform their respective obligations under this Agreement when a dispute exists.

18.3 The Parties may agree to suspend performance of the Agreement pending resolution of the dispute.

18.4 Failing settlement by negotiation in accordance with clause 18.1, the Parties may agree to refer the dispute to an independent third person with power to intervene and direct some form of resolution, in which case the Parties will be bound by that resolution. If the Parties do not agree to refer the dispute to an independent third person, either Party may initiate legal proceedings.

18.5 Each Party will bear their own costs in complying with this clause 18, and the Parties will share equally the cost of any third person engaged under clause 18.4.

18.6 The procedure for dispute resolution under this clause does not apply to any action relating to termination, cancellation or urgent interlocutory relief.

19. Reduction, Suspension and Termination

19.1 Reduction in scope of agreement for fault

19.1.1 If the Grantee does not comply with an obligation under this Agreement and the Commonwealth believes that the non-compliance is incapable of remedy, or if the Grantee has failed to comply with a notice to remedy, the Commonwealth may by written notice reduce the scope of the Agreement.

19.1.2 The Grantee agrees, on receipt of the notice of reduction, to:

- (a) stop or reduce the performance of the Grantee's obligations as specified in the notice;
- (b) take all available steps to minimise loss resulting from the reduction;
- (c) continue performing any part of the Activity or the Agreement not affected by the notice if requested to do so by the Commonwealth;
- (d) report on, and return any part of the Grant to the Commonwealth, or otherwise deal with the Grant, as directed by the Commonwealth.

19.1.3 In the event of reduction under clause 19.1.1, the amount of the Grant will be reduced in proportion to the reduction in the scope of the Agreement.

19.2 Suspension

19.2.1 If:

- (a) the Grantee does not comply with an obligation under this Agreement and the Commonwealth believes that the non-compliance is capable of remedy;
- (b) the Commonwealth reasonably believes that the Grantee is unlikely to be able to perform the Activity or manage the Grant in accordance with this Agreement; or
- (c) the Commonwealth reasonably believes that there is a serious concern relating to this Agreement that requires investigation;

the Commonwealth may by written notice:

- (d) immediately suspend the Grantee from further performance of the Agreement (including expenditure of the Grant); and/or

- (e) require that the non-compliance or inability be remedied, or the investigation be completed, within the time specified in the notice.

19.2.2 If the Grantee:

- (a) remedies the non-compliance or inability specified in the notice to the Commonwealth's reasonable satisfaction, or the Commonwealth reasonably concludes that the concern is unsubstantiated, the Commonwealth may direct the Grantee to recommence performing the Activity; or
- (b) fails to remedy the non-compliance or inability within the time specified, or the Commonwealth reasonably concludes that the concern is likely to be substantiated, the Commonwealth may reduce the scope of the Agreement in accordance with clause 19.1 or terminate the Agreement immediately by giving a second notice in accordance with clause 19.3.

19.3 Termination for fault

19.3.1 The Commonwealth may terminate this Agreement by notice where the Grantee has:

- (a) failed to comply with an obligation under this Agreement and the Commonwealth believes that the non-compliance is incapable of remedy or where clause 19.2.2(b) applies;
- (b) provided false or misleading statements in relation to the Grant; or
- (c) become bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration; or
- (d) in addition to clause 19.3.1(a), breached the requirements in subclause 1.3.

19.3.2 The Grantee agrees, on receipt of the notice of termination, to:

- (a) stop the performance of the Grantee's obligations;
- (b) take all available steps to minimise loss resulting from the termination; and
- (c) report on, and return any part of the Grant to the Commonwealth, or otherwise deal with the Grant, as directed by the Commonwealth.

20. Cancellation or reduction for convenience

20.1 The Commonwealth may cancel or reduce the scope of this Agreement by notice, due to:

- (a) a change in government policy; or
- (b) a Change in the Control of the Grantee which the Commonwealth reasonably believes will negatively affect the Grantee's ability to comply with this Agreement.

20.2 On receipt of a notice of reduction or cancellation under this clause, the Grantee agrees to:

- (a) stop or reduce the performance of the Grantee's obligations as specified in the notice; and
- (b) take all available steps to minimise loss resulting from that reduction or cancellation; and
- (c) continue performing any part of the Activity or the Agreement not affected by the notice if requested to do so by the Commonwealth;
- (d) report on, and return any part of the Grant to the Commonwealth, or otherwise deal with the Grant, as directed by the Commonwealth.

20.3 In the event of reduction or cancellation under this clause, the Commonwealth will be liable only to:

- (a) pay any part of the Grant due and owing to the Grantee under this Agreement at the date of the notice; and
- (b) reimburse any reasonable and substantiated expenses the Grantee unavoidably incurs that relate directly and entirely to the reduction in scope or cancellation of the Agreement.

20.4 In the event of reduction, the amount of the Grant will be reduced in proportion to the reduction in the scope of the Agreement.

20.5 The Commonwealth's liability to pay any amount under this clause is:

- (a) subject to the Grantee's compliance with this Agreement; and
- (b) limited to an amount that when added to all other amounts already paid under the Agreement will not exceed the total amount of the Grant.

20.6 The Grantee will not be entitled to compensation for loss of prospective profits or benefits that would have been conferred on the Grantee but for the cancellation or reduction in scope of the Agreement under clause 20.1.

20.7 The Commonwealth will act reasonably in exercising its rights under this clause.

21. Survival

21.1 The following clauses survive termination, cancellation or expiry of this Agreement:

- clause 10 (Spending the Grant);
- clause 11 (Repayment);
- clause 12 (Record keeping);
- clause 13 (Reporting);
- clause 14 (Privacy);
- clause 15 (Confidentiality);
- clause 16 (Insurance)
- clause 17 (Intellectual property);
- clause 19 (Reduction, Suspension and Termination);
- clause 21 (Survival);
- clause 22 (Definitions);
- ST3 (Intellectual property in Activity Material)
- ST4 (Access/monitoring/inspection);
- ST19 (Indemnities); and
- any other clause which expressly or by implication from its nature is meant to survive.

22. Definitions

22.1 In this Agreement, unless the contrary appears:

- **Activity** means the activities described in the Grant Details and includes the provisions of the Reporting Material.
- **Activity Completion Date** means the date or event specified in the Grant Details.

- **Activity Material** means any Material, other than Reporting Material, created or developed by the Grantee as a result of the Activity and includes any Existing Material that is incorporated in or supplied with the Activity Material.
- **Agreement** means the Grant Details, Supplementary Terms (if any), the Commonwealth Standard Grant Conditions and any other document referenced or incorporated in the Grant Details.
- **Agreement End Date** means the date or event specified in the Grant Details.
- **Australian Privacy Principle** has the same meaning as in the *Privacy Act 1988*.
- **Change in the Control** means any change in any person(s) who directly exercise effective control over the Grantee.
- **Commonwealth** means the Commonwealth of Australia as represented by the Commonwealth entity specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
- **Commonwealth Purposes** includes the following:
 - (a) the Commonwealth verifying and assessing grant proposals, including a grant application;
 - (b) the Commonwealth administering, monitoring, reporting on, auditing, publicising and evaluating a grant program or exercising its rights under this Agreement;
 - (c) the Commonwealth preparing, managing, reporting on, auditing and evaluating agreements, including this Agreement; and
 - (d) the Commonwealth developing and publishing policies, programs, guidelines and reports, including Commonwealth annual reports;
 but in all cases:
 - (e) excludes the commercialisation (being for-profit use) of the Material by the Commonwealth.
- **Commonwealth Standard Grant Conditions** means this document.
- **Existing Material** means Material developed independently of this Agreement that is incorporated in or supplied as part of Reporting Material or Activity Material.
- **Grant** means the money, or any part of it, payable by the Commonwealth to the Grantee for the Activity as specified in the Grant Details and includes any interest earned by the Grantee on that money once the Grant has been paid to the Grantee.
- **Grantee** means the legal entity other than the Commonwealth specified in the Agreement and includes, where relevant, its officers, employees, contractors and agents.
- **Grant Details** means the document titled Grant Details that forms part of this Agreement.
- **Intellectual Property Rights** means all copyright, patents, registered and unregistered trademarks (including service marks), registered designs, and other rights resulting from intellectual activity (other than moral rights under the *Copyright Act 1968*).
- **Material** includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.
- **Party** means the Grantee or the Commonwealth.
- **Personal Information** has the same meaning as in the *Privacy Act 1988*.

- **Records** includes documents, information and data stored by any means and all copies and extracts of the same.
- **Reporting Material** means all Material which the Grantee is required to provide to the Commonwealth for reporting purposes as specified in the Grant Details, and includes any Existing Material that is incorporated in or supplied with the Reporting Material.

SAMPLE

Signatures

Executed as an agreement:

Commonwealth

Signed for and on behalf of the Commonwealth of Australia as represented by the Department of Health and Aged Care.

Name (print)	
Position (print)	
Signature	
Date	
Witness name (print)	
Signature	
Date	

Grantee

Full legal name of the Grantee	<name of the grantee> <ABN of the grantee>
Name (print)	
Signature	
Date	
Witness name (print)	
Signature	
Date	

Schedule 2: Reporting requirements

Appendix 1

Please ensure that you are using the latest version of the Progress Report, End of Project (Final) Report, and Independent Audit Report templates. Templates are available on business.gov.au.

You must submit your reports on the business.gov.au [portal](#). You can enter the required information in stages and submit when the report is complete.

SAMPLE

Appendix 2

<grant opportunity name> - Compliance with working with children obligations

Where applicable, you will need to answer the following questions in your annual statement of compliance. The Commonwealth reserves the right to amend or adjust the requirements.

You must submit your annual statement of compliance as you would a report on the [portal](#).

Statement of compliance

- 1 Is the organisation, and persons working with children on behalf of the organisation in relation to the Activity, compliant with Commonwealth, state or territory legislation?
- 2 Has the organisation completed a risk assessment in relation to the Activity and all persons who may engage with children in association with the Activity?
- 3 Has the organisation put in place an appropriate strategy to manage risks identified through the risk assessment?
- 4 Has the organisation delivered training and established a compliance regime to ensure that all persons who may engage with children are aware of, and comply with:
 - the National Principles for Child Safe Organisations
 - the risk management strategy in item 3 above
 - relevant legislation relating to requirements for working with children, including working with children checks
 - relevant legislation relating to requirements for working with vulnerable people, including working with vulnerable people checks; and
 - relevant legislation relating to mandatory reporting of suspected child abuse or neglect however described?

Declaration

You must ensure an authorised person completes the report and can declare the following:

- The information in this report is accurate, complete and not misleading and that I understand the giving of false or misleading information is a serious offence under the *Criminal Code 1995* (Cth).
- I am aware of the grantee's obligations under their grant agreement.

I am aware that the grant agreement empowers the Commonwealth to terminate the grant agreement and to request repayment of funds paid to the grantee where the grantee is in breach of the grant agreement.

Schedule 3: Commercialisation Terms and Conditions (General)

1. Definitions and Interpretation

1.1 Definitions

In this Schedule 3:

Commercialisation Agreement means any proposed or final agreement, undertaking, commitment, dealing or other arrangement (including any subcontracting arrangement that provides some or all of the Grant to a subcontractor to perform and deliver some or all of the Activity):

- (a) involving the Grantee in; or
- (b) under which it is contemplated that there will be, the Commercialisation of Relevant Intellectual Property.

Commercialisation Plan means the plan required to be developed and delivered in accordance with clauses 4.2 and 4.3 of this Schedule 3.

Commercialise or **Commercialisation** in relation to Relevant Intellectual Property means:

- (a) the use, research, development, testing, manufacture or exploitation of;
- (b) the creation or development of a product, good, process, treatment or service incorporating or based on;
- (c) the transfer, assignment, sale, hire or disposal of;
- (d) the granting of a licence (including any sublicense) for the exclusive or non-exclusive use of; or
- (e) any other transaction or arrangement dealing with (including via trust), that Relevant Intellectual Property (whether in whole or in part).

Commercialised Product means any product, good, process, treatment or service which is:

- (a) created, developed, derived or otherwise brought about from performing or delivering the Activity;
- (b) funded under or through the Grant; or
- (c) Commercialised under a Commercialisation Agreement.

Commitment Deed Poll means a deed poll in favour of the Commonwealth substantially in the form of Attachment A to this Schedule 3.

Commitment Deed Poll Register means a register of all Commitment Deed Polls.

Relevant Intellectual Property means any Intellectual Property Rights which are:

- (a) created, developed, derived or otherwise brought about from performing or delivering the Activity; or
- (b) funded under or through the Grant.

1.2 Interpretation

In this Schedule 3, unless a contrary indication appears or is expressed:

- (a) headings are used for ease of reference and do not affect the interpretation of this Schedule 3;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a reference to one gender includes all other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Schedule 3 have a corresponding meaning;
- (e) the word 'includes' in any form is not a word of limitation; and
- (f) a reference to a Party includes that Party's successors and permitted assigns.

Capitalised terms used in this Schedule 3 that are not defined in clause 1.1 of this Schedule 3, will have the meanings given to them in clause 22 [Definitions] of Schedule 1.

2. Intellectual Property Framework and Acknowledgements

2.1 Management of commercialisation and intellectual property framework

Where the Activity:

- (a) involves the Grantee undertaking health and medical research and medical innovation projects that have, or could have, commercial potential; and
- (b) contemplates the Grantee entering, or already having entered, into Commercialisation Agreements,

the Grantee must manage and implement a commercialisation and intellectual property framework in accordance with this Schedule 3.

2.2 Commonwealth Acknowledgements

The Commonwealth acknowledges and agrees that:

- (a) it will not make or have any claim to ownership of the Relevant Intellectual Property (whether in whole or in part); and
- (b) except for the rights specified in this Agreement (including this Schedule 3) or in a Commitment Deed Poll, it will not claim any commercial or financial right outside this Agreement or a Commitment Deed Poll.

2.3 Grantee Acknowledgements

The Grantee acknowledges and agrees that:

- (a) it may only Commercialise the Relevant Intellectual Property in accordance with its rights and obligations under this Agreement (including this Schedule 3); and
- (b) it must not:
 - (i) Commercialise any Commercialised Product; or
 - (ii) enter into a Commercialisation Agreement,inconsistent with, or contrary to, those rights and obligations set out in this Agreement (including this Schedule 3), unless otherwise agreed by the Commonwealth in writing.

3. Commercialisation

3.1 Acknowledgement

The Grantee acknowledges and agrees that:

- (a) opportunities to Commercialise products or services may arise or be contemplated during or after the term of this Agreement; and
- (b) if these opportunities to Commercialise result in Commercialised Products, the Commonwealth will be granted the opportunity to secure these Commercialised Products at the earliest possible time by entering into an agreement or other arrangement with the Grantee or other relevant party to purchase or acquire these resulting Commercialised Products (but excluding the purchase or transfer of the Relevant Intellectual Property).

3.2 Right of First Offer

- (a) The Grantee agrees:
 - (i) to offer to the Commonwealth, or to procure for the Commonwealth an offer, to purchase or acquire any Commercialised Products at the earliest possible time; and
 - (ii) to make, or to procure that such offer is made, to the Commonwealth first before any other offers are made to any other party and, when received by the Commonwealth, that offer is irrevocable and cannot be withdrawn until 60 days have lapsed following the date on which the Commonwealth first received that offer.
- (b) When making or procuring an offer under clause 3.2(a) of this Schedule 3, the Grantee must make or procure such offer on commercial terms not more onerous or less favourable than terms to be offered to any other party in relation to the purchase or acquisition of the Commercialised Products, including in relation to:
 - (i) product specifications and product support arrangements;
 - (ii) product volume and supply;

- (iii) manufacturer's warranties;
 - (iv) timing and delivery schedule; and
 - (v) price.
- (c) For clarity, nothing in this Schedule 3 prevents the Grantee from making and accepting other offers once the Commonwealth has received the first offer, even if the Commonwealth has not yet accepted its first offer.

3.3 Commitment Deed Polls

- (a) When entering into, or proposing to enter into, a Commercialisation Agreement with a counterparty, the Grantee must procure from each counterparty a duly executed Commitment Deed Poll on or before execution of that Commercialisation Agreement by the Grantee.
- (b) If and when any counterparty in clause 3.3(a) of this Schedule 3 enters into, or proposes to enter, another Commercialisation Agreement with a third party, the Grantee must ensure that the counterparty is contractually required:
- (i) to procure a duly executed Commitment Deed Poll from each third party on or before execution by the counterparty of that other Commercialisation Agreement; and
 - (ii) to promptly provide a copy of each duly executed Commitment Deed Poll to both the Grantee and the Commonwealth.

3.4 Management of Commitment Deed Polls

The Grantee must:

- (a) promptly provide to the Commonwealth a copy of each duly executed Commitment Deed Poll required to be procured under clauses 3.3(a) and (b) of this Schedule 3, unless already delivered to the Commonwealth;
- (b) establish, maintain and keep current a complete Commitment Deed Poll Register setting out:
- (i) details of each Commitment Deed Poll procured under clauses 3.3(a) and (b) of this Schedule 3 including attaching or linking a duly executed copy of each Commitment Deed Poll as part of the Commitment Deed Poll Register;
 - (ii) the details of each organisation or entity that executed a Commitment Deed Poll; and
 - (iii) a summary of the subject matter of each Commercialisation Agreement to which the Commitment Deed Poll relates;
- and
- (c) deliver a complete copy of the Commitment Deed Poll Register to the Commonwealth:
- (i) upon the expiry or termination of the Agreement, and
 - (ii) at any other time requested by the Commonwealth during or after the term of this Agreement.

4. Commercialisation Plans and Reporting

4.1 Content of a Commercialisation Plan

A Commercialisation Plan developed for the purposes of this clause 4 of this Schedule 3 must include as a minimum:

- (a) an overview of how the Grantee proposes to Commercialise the Relevant Intellectual Property;
- (b) details of the key milestones and timelines anticipated by the Grantee in relation to the Commercialisation of the Relevant Intellectual Property;
- (c) details of all relevant parties involved in Commercialising the Relevant Intellectual Property (including potential counterparties and third parties for the purposes of any and all Commercialisation Agreements);
- (d) details of all proposed and executed Commercialisation Agreements in respect of the Relevant Intellectual Property and, once executed, details of relevant milestones achieved under each of those Commercialisation Agreements; and
- (e) details of a business plan or other document identifying possible Commercialised Products and the strategy to bring Commercialised Products to market.

4.2 Review and approval of Commercialisation Plan

- (a) Within 60 days of the date of this Agreement, the Grantee must deliver a draft Commercialisation Plan to the Commonwealth for review.
- (b) The Commonwealth (or its nominee) will promptly review the draft Commercialisation Plan submitted by the Grantee under clause 4.2(a) of Schedule 3 and may:
 - (i) approve the draft Commercialisation Plan as the approved Commercialisation Plan; or
 - (ii) require the Grantee to make further amendments to the draft Commercialisation Plan which the Commonwealth (acting reasonably) considers necessary for approval.
- (c) If clause 4.2(b)(ii) of this Schedule 3 applies, the Grantee must promptly resubmit the amended draft Commercialisation Plan to the Commonwealth for review as contemplated under clause 4.2(a) of this Schedule 3 and the Commonwealth may approve the amended draft Commercialisation Plan as the approved Commercialisation Plan.
- (d) Where a draft Commercialisation Plan has been approved by the Commonwealth as the approved Commercialisation Plan under clause 4.2(b)(i) or 4.2(c) of this Schedule 3, the Grantee must use all reasonable endeavours to comply with the approved Commercialisation Plan.

4.3 Replacement of approved Commercialisation Plan

- (a) If at any time the Grantee becomes aware of circumstances or events that require significant or material changes to the approved Commercialisation Plan, then within 21 days of becoming aware, the Grantee must deliver a draft replacement Commercialisation Plan to the Commonwealth for review.

- (b) The Commonwealth (or its nominee) will promptly review the draft replacement Commercialisation Plan submitted by the Grantee under clause 4.3(a) of this Schedule 3 and may:
 - (i) approve the draft replacement Commercialisation Plan as the latest approved Commercialisation Plan; or
 - (ii) require the Grantee to make further amendments to the draft replacement Commercialisation Plan which the Commonwealth (acting reasonably) considers necessary for approval.
- (c) If clause 4.3(b)(ii) of this Schedule 3 applies, the Grantee must promptly resubmit the amended draft replacement Commercialisation Plan to the Commonwealth for review as contemplated under clause 4.3(a) of this Schedule 3 and the Commonwealth may approve the amended draft replacement Commercialisation Plan as the latest approved Commercialisation Plan.
- (d) Where a draft Commercialisation Plan has been approved by the Commonwealth as the latest approved Commercialisation Plan under clause 4.3(b)(i) or 4.3(c) of this Schedule 3, the Grantee must use all reasonable endeavours to comply with the latest approved Commercialisation Plan.
- (e) This clause 4.3 of this Schedule 3 is to be followed each time (no matter how many times) significant and material changes are made to an approved Commercialisation Plan.

4.4 Reporting

- (a) Without limiting any other requirements the Grantee has under this Agreement, the Grantee must provide a report to the Commonwealth when the signing of any of the following occurs:
 - (i) any preliminary agreement, terms sheet, memorandum of understanding or other non-binding arrangement relating to the Commercialisation of the Relevant Intellectual Property; and
 - (ii) any Commercialisation Agreement,such report to be provided within 21 days after:
 - (iii) the date of this Agreement; or
 - (iv) the date on which the signing has occurred,whichever is the later.
- (b) As a minimum, the report in clause 4.4(a) of this Schedule 3 needs to:
 - (i) identify the type and subject matter of the non-binding arrangement or Commercialisation Agreement entered into, and when it was signed;
 - (ii) provide details of the parties that have signed the relevant non-binding arrangement or Commercialisation Agreement;
 - (iii) include a summary of the commercial objectives and outcomes sought by entering into that non-binding arrangement or Commercialisation Agreement; and

- (iv) provide confirmation (upon which the Commonwealth will rely) that the non-binding arrangement or Commercialisation Agreement will not impact or affect the Commonwealth's benefit under this Schedule 3 or under any Commitment Deed Polls in any detrimental or negative way.

4.5 Compliance

- (a) Without limiting any other rights the Commonwealth has under this Agreement, the Commonwealth may request further information from the Grantee at any time for the purposes of evaluating and determining compliance with this Schedule 3 and with any Commitment Deed Polls, including by requesting:
 - (i) a copy of the relevant non-binding arrangement and any supporting information or documentation to be read alongside that arrangement;
 - (ii) a copy of the relevant Commercialisation Agreement and any supporting information or documentation to be read alongside that agreement; and
 - (iii) such other information as may be required or desired by the Commonwealth to assist the Commonwealth in evaluating and determining compliance with this Schedule 3 and with any Commitment Deed Polls.
- (b) Without limiting clause 4.5(a) of this Schedule 3 in any way, the Commonwealth may request further information from the Grantee at any time if the Commonwealth:
 - (i) receives a report that fails to provide an adequate confirmation in accordance with clause 4.4(b)(iv) of this Schedule 3;
 - (ii) receives a Commitment Deed Poll Register that is incomplete or inaccurate; or
 - (iii) otherwise decides to undertake an audit or review for the purposes of evaluating and determining compliance with this Schedule 3 and with any Commitment Deed Polls.
- (c) The Grantee must provide, or procure the provision of, the requested information to the Commonwealth within 21 days of receiving the request from the Commonwealth.

5. Survival

Without limiting clause 21 of Schedule 1, this Schedule 3 survives the expiration or earlier termination of this Agreement.

Attachment A to Schedule 3 Commitment Deed Poll

Made by [insert name and ABN] of [insert address]
(Organisation)

In favour of the Commonwealth of Australia represented by the Department of Health and Aged Care ABN 83 605 426 759 of 23 Furzer Street, Phillip ACT 2606
(Commonwealth)

Recitals

- A. The Commonwealth and [insert name of Grantee] (**Grantee**) entered into a Commonwealth Standard Grant Agreement [insert reference number] in relation to the [insert name of program] (**Program**) on or around [insert date] (**Grant Agreement**).
- B. The Organisation is, or will be, a party to a Commercialisation Agreement in relation to that Grant Agreement. The activities to be performed and delivered by the Organisation under the Commercialisation Agreement involve the use of Relevant Intellectual Property.
- C. In consideration and recognition of the Commonwealth funding contribution, the Organisation makes the commitments set out in this deed poll for the benefit and in favour of the Commonwealth.

1. Definitions and Interpretation

1.1 Definitions

In this deed poll:

Commercialisation Agreement means any proposed or final agreement, undertaking, commitment, dealing or other arrangement:

- (a) involving the Organisation in; or
- (b) under which it is contemplated that there will be,

the Commercialisation of Relevant Intellectual Property.

Commercialise or **Commercialisation** means, in relation to Relevant Intellectual Property:

- (a) the use, research, development, testing, manufacture or exploitation of;
- (b) the creation or development of a product, good, process, treatment or service incorporating or based on;
- (c) the transfer, assignment, sale, hire or disposal of;

- (d) the granting of a licence (including any sublicense) for the exclusive or non-exclusive use of; or
- (e) any other transaction or arrangement dealing with (including via trust),

that Relevant Intellectual Property (whether in whole or in part).

Commercialised Product means any product, good, process, treatment or service which is:

- (a) created, developed, derived or otherwise brought about from performing or delivering the Program activities under the Grant Agreement;
- (b) funded under or through the Grant Agreement; or
- (c) Commercialised under a Commercialisation Agreement.

Grant Agreement has the same meaning as given to it in Recital A of this deed poll.

Grantee has the same meaning as given to it in Recital A of this deed poll.

Intellectual Property Rights means all rights in relation to copyright, inventions (including patent rights), registered and unregistered designs, circuit layouts, plant varieties, registered and unregistered trademarks (including service marks and goodwill associated with trademarks), and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields but does not include Moral Rights.

Moral Rights has the same meaning as given to it in the *Copyright Act 1968* (Cth).

Objective has the same meaning as given to it in clause 2.1 of this deed poll.

Program has the same meaning as given to it in Recital A of this deed poll.

Relevant Intellectual Property means any Intellectual Property Rights which are:

- (a) created, developed, derived or otherwise brought about from performing or delivering the Program activities under the Grant Agreement; or
- (b) funded under or through the Grant Agreement.

1.2 Interpretation

In this deed poll, unless a contrary indication appears or is expressed:

- (a) headings are used for ease of reference and do not affect the interpretation of this deed poll;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a reference to one gender includes all other genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed poll have a corresponding meaning;
- (e) the word 'includes' in any form is not a word of limitation; and
- (f) a reference to a party includes that party's successors and permitted assigns.

1.3 Nature of deed poll

- (a) The Organisation acknowledges and agrees that this deed poll is for the benefit of the Commonwealth and may be relied on and enforced directly by the Commonwealth against the Organisation in accordance with its terms, even though the Commonwealth is not party to it.
- (b) This deed poll is irrevocable and cannot be unilaterally terminated or amended by the Organisation without the prior written approval of the Commonwealth, such termination or amendment (if approved) to be in the form of a deed.

2. Organisation Commitments

2.1 Objective

The Organisation acknowledges that the Commonwealth:

- (a) has contributed to funding the Relevant Intellectual Property; and
- (b) has strategic priorities and functions to ensure better health outcomes for all Australians,

and in this context the objective of this deed poll is to provide a right of first offer for the Commonwealth to purchase or acquire any resulting Commercialised Products, excluding the purchase of the Relevant Intellectual Property (**Objective**).

2.2 Right of First Offer

- (a) The Organisation agrees:
 - (i) to offer to the Commonwealth, or to procure for the Commonwealth an offer, to purchase or acquire any Commercialised Products at the earliest possible time; and
 - (ii) to make, or to procure that such offer is made, to the Commonwealth first before any other offers are made to any other party and, when received by the Commonwealth, that offer is irrevocable and cannot be withdrawn until 60 days have lapsed following the date on which the Commonwealth first received that offer.
- (b) When making or procuring an offer under clause 2.2(a) of this deed poll, the Organisation must make or procure such offer on commercial terms not more onerous or less favourable than terms to be offered to any other party in relation to the purchase or acquisition of the Commercialised Products, including in relation to:
 - (i) product specifications and product support arrangements;
 - (ii) product volume and supply;
 - (iii) manufacturer's warranties;
 - (iv) timing and delivery schedule; and
 - (v) price.

- (c) For clarity, nothing in this deed poll prevents the Organisation from making and accepting other offers once the Commonwealth has received the first offer, even if the Commonwealth has not yet accepted its first offer.

2.3 Entering into Commercialisation Agreements

When entering into, or proposing to enter into, a Commercialisation Agreement with any third party, the Organisation must:

- (a) procure from that third party a duly executed deed poll substantially in the form of this deed poll (including this clause 2.3) in favour of the Commonwealth on or before execution of that Commercialisation Agreement by the Organisation; and
- (b) promptly provide a copy of that duly executed deed poll to both the Commonwealth and the Grantee.

2.4 Good faith

The Organisation must:

- (a) act in good faith in the performance of this deed poll; and
- (b) not:
 - (i) use any technique or strategy; or
 - (ii) enter into any arrangement with any third party (including a related party), which has, or would have, the aim or effect of defeating, removing, diminishing or eroding the Objective (in whole or in part) in any way.

2.5 Access to information

- (a) Upon a written request from the Commonwealth, the Organisation agrees to provide the requested information to the Commonwealth to the extent reasonably necessary or desirable for the Commonwealth to evaluate and determine to demonstrate the Organisation's compliance with clause 2 of this deed poll.
- (b) The Organisation agrees to provide, or procure the provision of, the requested information to the Commonwealth within 21 days of receiving the request from the Commonwealth.

3. Warranties

The Organisation represents and warrants (upon which the Commonwealth relies) that:

- (a) it has taken all necessary corporate and other action to authorise the entry into, and the performance of all obligations under, this deed poll;
- (b) the persons signing this deed poll are fully authorised and have all necessary power to execute this deed poll on behalf of the Organisation and to legally bind the Organisation to it; and
- (c) when signed, this deed poll is valid and legally binding on the Organisation, and enforceable against it in accordance with its terms.

4. Injunctive Relief

The Organisation:

- (a) acknowledges that damages may not be a sufficient remedy for the Commonwealth for any breach of this deed poll; and
- (b) agrees that the Commonwealth may seek injunctive relief (including specific performance seeking an order that the Organisation comply with its obligations under this deed poll) as remedies for any breach or threatened breach by the Organisation, in addition to any other remedies available at law or in equity.

5. Confidentiality

The Organisation agrees to treat the terms of this deed poll as confidential, and to only disclose such terms on a confidential basis:

- (a) in order to pursue and achieve the Objective;
- (b) as required by law; or
- (c) with the prior written approval of the Commonwealth.

6. General

6.1 Further assurances

The Organisation agrees to do all things and execute all documents necessary or desirable to give full effect to this deed poll and the transactions contemplated by it.

6.2 Cumulative rights

The rights and remedies provided under this deed poll are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy provided under any other deed or agreement, including the Grant Agreement.

6.3 Waiver and variation

- (a) The provisions of this deed poll cannot be waived or varied by the Organisation except with the prior written approval of the Commonwealth.
- (b) Failure at any time by the Commonwealth to enforce a provision of this deed poll will not be construed in any way as affecting the enforceability of that provision or this deed poll as a whole.

6.4 Governing law and jurisdiction

- (a) The laws of the Australian Capital Territory apply to this deed poll.

- (b) The courts of the Australian Capital Territory have non-exclusive jurisdiction to decide any matter relating to this deed poll.

6.5 Assignment

The Organisation must not assign, transfer or novate any rights or obligations under this deed poll without the prior written approval of the Commonwealth.

6.6 Severability

If a term or part of a term of this deed poll is found to be illegal or unenforceable, that term or part of the term may be severed from this deed poll and the remaining terms or parts of the terms of this deed poll will continue in force.

Executed as a deed poll

Executed by the **Organisation** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of Director

Signature of Director/Company Secretary

Full name (print)

Full name (print)

Date

Date

SAMPLE