

Supplementary Terms from Clause Bank

Organisation ID:	
Agreement ID:	
Schedule ID:	

1. Other Contributions

CB1.1 In this Agreement, Other Contributions means the financial or in-kind contributions other than the Grant set out in the table below:

Contributor	Nature of Contribution	Amount (GST excl)	Timing
<i>[insert Grantee or name of third party providing the Other Contribution]</i>	<i>[insert description of contribution, e.g., cash, access to equipment, secondment of personnel etc]</i>	<i>[\$[insert amount]]</i>	<i>[insert date or Milestone to which the Other Contribution relates]</i>
		\$	

CB1.2 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 or used 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.

2. Activity budget

CB2.1 In this Agreement, Appropriation means money drawn from the Consolidated Revenue Fund.

CB2.2 The Grantee agrees to use the Grant [and any Other Contributions] and undertake the Activity consistently with the Activity Budget below:

Expenditure Item	Description	Grant Contributions (GST excl)	Other Contributions – Grantee (GST excl)	Other Contributions - Third parties (GST excl)	Total Cost (GST excl)
<i>[insert reference]</i>	<i>[insert description of the expenditure item]</i>	<i>[insert amount of Grant contributed to this budget item]</i>	<i>[insert amount of Grantees own funds contributed to this budget item]</i>	<i>[insert amount of other sources of funding contributed to this budget item]</i>	<i>[insert total amount cost of the budget item]</i>

CB2.3 Subject to sufficient Appropriation being available, the Grant will be paid up to the Annual Capped Amounts over the financial years specified in the table below.

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 \$	[\$amount]

CB2.4 The Commonwealth is not required to make a payment if it would result in the amount paid in a financial year exceeding that Annual Capped Amount for that financial year specified in the table under clause CB2.3.

CB2.5 In accordance with the Activity Budget under clause CB2.2, the Annual Capped Amounts may not be exceeded unless the Commonwealth specifically approves an increase of that amount under clause CB2.7.

CB2.6 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.

CB2.7 The Grantee must give the Commonwealth by:

- (a) 1 February each Financial Year; or
- (b) at any time the Grantee wishes to request a variation to any one or more of the Annual Capped Amounts; or
- (c) 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 an explanation reasons for the proposed changes.

CB2.8 The Commonwealth may, at its discretion, approve or reject a revised Activity Budget provided under clause CB2.7 and/or any proposed changes to the Annual Capped Amounts. The Commonwealth's approval may be granted subject to conditions.

CB2.9 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.

3. Intellectual property in Activity Material

CB3.1 The Grantee agrees, on request from the Commonwealth, to provide the Commonwealth with a copy of any Activity Material in the format reasonably requested by the Commonwealth.

CB3.2 The Grantee provides the Commonwealth a permanent, non-exclusive, irrevocable, royalty-free licence (including a right to sub license) to use, modify, communicate, reproduce, publish, and adapt the Activity Material as specified in the Grant Details for Commonwealth Purposes.

CB3.3 The Grantee warrants that the provision of Activity Material in accordance with the Agreement (and the use of specified Activity Material in accordance with clause CB3.2) will not infringe any third party's Intellectual Property Rights.

CB3.4 The Grantee will obtain written moral rights consents (other than in relation to acts of false attribution) from all authors of Reporting Material, and any Activity Material specified in the Grant Details to the use of that Material by the Commonwealth in accordance with this Agreement, prior to that Material being provided to the Commonwealth.

3A. Intellectual property – research

CB3A.1 In this Agreement:

Application means [insert]

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.

CB3A.1 The Commonwealth agrees not to claim ownership of any Intellectual Property Rights in an Application or in any research arising from the Activity.

CB3A.2 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.

CB3A.3 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.

3B. Creative Commons licence

CB3B.1 The licence in clause 17 includes a right for the Commonwealth to licence the Reporting Material, and any Activity Material specified in the Grant Details, to the public under a Creative Commons Attribution licence (CC BY licence).

4. Access/Monitoring/inspection

CB4.1 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.

CB4.2 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 CB4.1.

CB4.3 This clause CB4 does not detract from the statutory powers of the Auditor-General or an Information Officer (including their delegates).

5. Equipment and assets

CB5.1 In this Agreement

Asset means any item of property purchased, leased, created or otherwise brought into existence wholly, or in part, with the use of the Grant , excluding Activity Material [and/,] Intellectual Property Rights [and real property]].

CB5.2 The Grantee agrees to obtain the Commonwealth's prior written approval to use the Grant to purchase any item of equipment or Asset for \$[insert] (including GST) or more, apart from those listed in the Activity Budget and/or detailed below:

(a) Not Applicable

CB5.3 Unless otherwise agreed in writing by the Commonwealth, the Grantee must ensure that it owns any equipment or Asset acquired in whole or in part using the Grant.

CB5.4 For the term of the Agreement, in relation to any Asset, the Grantee agrees to:

- (a) use the Asset solely for the purposes of the Activity;
- (b) not encumber, grant a security interest over or dispose of the Asset without the Commonwealth's prior written approval;
- (c) hold the Asset securely and safeguard it against theft, loss, damage, or unauthorised use;
- (d) maintain the Asset in good working order;
- (e) ensure the Asset is properly insured for its full replacement value; and
- (f) obtain and maintain all required registrations and licences for the Asset.

CB5.5 The Grantee agrees to maintain a register of all Assets with a value of \$[insert] (including GST) or more at the time of the Asset's purchase, lease, creation or bringing into existence in the form specified below and to provide the register to the Commonwealth upon request.

Item Number	Description	Grant Contributions	Other Contributions - Grantee	Other Contributions – Third Parties	Total Cost	Date of acquisition	Is the Asset owned or leased ?	Date disposed of	Proceeds of any sale or disposal	Undepriciated value of asset
[insert reference]	[insert description of the equipment]	[insert amount of Grant contributed to]	[insert amount of Grantees own funds]	[insert amount of other sources of funding]	[insert total amount cost of the item]					

Item Number	Description	Grant Contributions	Other Contributions - Grantee	Other Contributions – Third Parties	Total Cost	Date of acquisition	Is the Asset owned or leased ?	Date disposed of	Proceeds of any sale or disposal	Undepriciated value of asset
	<i>or asset]</i>	<i>this item]</i>	<i>contributed to this item]</i>	<i>contributed to this item]</i>						

CB5.6 The Grantee agrees that the proceeds from the sale of any Asset disposed of during the term of the Agreement must be treated as part of the Grant and used for the purposes of the Activity.

CB5.7 If an Asset is lost, damaged or destroyed then, unless otherwise agreed in writing by the Commonwealth, the Grantee agrees to ensure that the Asset is promptly repaired, replaced or otherwise reinstated. This clause CB5 continues to apply to the reinstated Asset.

CB5.8 On the expiration or termination of the Agreement, the Grantee agrees to transfer any Asset to the Commonwealth or a third party nominated by the Commonwealth or otherwise deal with the Asset as directed by the Commonwealth.

6. Specified Personnel

CB6.1 The Grantee agrees that the following personnel (Specified Personnel) will be involved in the Activity as set out below:

[insert details, including name and nature of the role or work to be undertaken]

CB6.2 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.

CB6.3 The Grantee agrees to remove any personnel (including Specified Personnel, subcontractors, agents or volunteers) involved in the Activity at the request of the Commonwealth.

CB6.4 If clause CB6.2 or clause CB6.3 applies, the Grantee will provide replacement personnel acceptable to 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.

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

CB7.1 The Grantee agrees to ensure that personnel performing work in relation to the Activity: and

- (a) are appropriately qualified to perform the tasks indicated;
- (b) have obtained the required qualifications, licences, permits, approvals or skills before performing any part of the Activity and
- (c) continue to maintain all relevant qualifications, licences, permits, approvals or skills for the duration of their involvement with the Activity.

8. Vulnerable Persons

CB8.1 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 know 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.

CB8.2 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 CB8.2 remain current for the duration of their involvement in the Activity.

CB8.3 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.

CB8.4 In undertaking a risk assessment under clause CB8.3, 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.

CB8.5 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.

CB8.6 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.

9. Child Safety

CB9.1 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://www.humanrights.gov.au/national-principles-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

CB9.2 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; and
- (b) ensure that Working With Children Checks obtained in accordance with this clause CB9.2 remain current and that all Child-Related Personnel continue to comply with all Relevant Legislation for the duration of their involvement in the Activity.

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

CB9.3 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 CB9.3;
- (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 CB9.3;
 - (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; and
- (f) provide the Commonwealth with an annual statement of compliance with clauses CB9.2 and CB9.3, in such form as may be specified by the Commonwealth.

CB9.4 With reasonable notice to the Grantee, the Commonwealth may conduct a review of the Grantee's compliance with this clause CB9.

CB9.5 The Grantee agrees to:

- (a) notify the Commonwealth of any failure to comply with this clause CB9;
- (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 CB9; 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 CB9.

10 Commonwealth Material, facilities and assistance

CB10.1 In this Agreement, **Commonwealth Material** means any Material:

- (a) provided by the Commonwealth to the Grantee for the purposes of this Agreement;
or
- (b) derived at any time from this Material, including the Material specified in CB10.2, but does not include Reporting Material or Activity Material.

CB10.2 The Commonwealth agrees to provide the following Material to the Grantee:

- (a) Not Applicable

CB10.3 Nothing in this Agreement affects the ownership of Commonwealth Material.

CB10.4 The Commonwealth grants the Grantee a licence to use the Commonwealth Material for the sole purpose of performing the Activity in accordance with this Agreement. The Grantee agrees to return or destroy all copies of the Commonwealth Material at the expiration or earlier termination of this Agreement as directed by the Commonwealth.

CB10.5 The Commonwealth agrees to provide the following facilities and assistance to the Grantee for the purpose of the Activity:

- (b) Not Applicable

CB10.6 The Grantee agrees to comply with any directions or requirements notified by the Commonwealth when accessing the facilities and assistance or using and storing the Commonwealth Material.

11. Jurisdiction

CB11.1 This Agreement is governed by the law of [*insert jurisdiction*].

12. Grantee Trustee of a Trust

CB12.1 In this Agreement, **Trust** means the trust specified in the Parties to the Agreement section of this Agreement.

CB12.2 The Grantee warrants that:

- (a) they are the only trustees of the Trust; and
- (b) they have full and valid power and authority to enter into this Agreement and perform the obligations under it on behalf of the Trust; and
- (c) they have 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) they have the right to be indemnified out of the assets of the Trust for all liabilities incurred by it under this Agreement.

CB12.3 Each trustee of the Trust is jointly and severally liable for the performance of this Agreement and a reference to the Grantee includes a reference to any one or more of the trustees.

13. Fraud

CB13.1 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.

CB13.2 The Grantee must ensure its personnel and subcontractors do not engage in any Fraud in relation to the Activity.

CB13.3 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.

CB13.4 The Grantee must, at its own cost, investigate any Fraud referred to in clause CB13.3 in accordance with the Australian Government Investigations Standards available at www.ag.gov.au.

CB13.5 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.

CB13.6 This clause survives the termination or expiry of the Agreement.

14. Prohibited dealings

CB14.1 In this Agreement:

Listed Terrorist Organisation

means an organisation listed as a terrorist organisation pursuant to Division 102 of the *Criminal Code Act 1995* (Cth). This list is available at:

<https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>;

Consolidated List

means the list of all individuals and entities subject to targeted financial sanctions pursuant to the Charter of the *United Nations Act 1945* (Cth) and the *Autonomous Sanctions Act 2011* (Cth). This list is available at:

<https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx>;

World Bank Listing of Ineligible Firms and Individuals

means the list of firms and individuals ineligible to be awarded a World Bank-financed contract. This list is available at:

<http://web.worldbank.org/external/default/main?theSitePK=84266&c>

CB14.2 The Grantee agrees to take all reasonable steps to ensure that all individuals or entities involved in carrying out the Activity, including the Grantee itself and its officers, employees, contractors and agents:

- (a) are not directly or indirectly engaged in preparing, planning, assisting in or the doing of a terrorist act;
- (b) are not, and do not become a Listed Terrorist Organisation;
- (c) are not, and do not become listed on the Consolidated List;
- (d) are not, and do not become listed on the World Bank Listing of Ineligible Firms and Individuals;
- (e) are not owned or controlled by any individual or entity mentioned in the lists referred to in CB14.2 (b) to (d); and
- (f) do not provide direct or indirect support, resources or assets (including any Commonwealth funding) to any individual or entity associated with terrorism or mentioned in the lists referred to in CB14.2 (b) to (d).

CB14.3 The Grantee agrees to inform the Commonwealth immediately if the Grantee discovers that the Grantee itself or any of its officers, employees, contractors or agents or any other individual or entity involved in carrying out the Activity may have contravened this clause CB14.

15. Anti-corruption

CB15.1 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.

CB15.2 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.

CB15.3 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).

CB15.4 The Grantee agrees to inform the Commonwealth within five business days if the Grantee becomes aware of any activity as described in CB15.3 in relation to the performance of the Activity.

16. Step-in rights

CB16.1 If:

- (a) the Commonwealth issues a notice under clause 2.2;
- (b) an event in clause 19.3.1.c of the Agreement occurs; or

- (c) the Grantee requests that the Commonwealth exercise its rights under this clause, the Commonwealth may, at its discretion, give a notice to the Grantee that the Commonwealth intends to exercise its rights under this clause CB16 and the date from which this notice will take effect (**Step In Notice**).

CB16.2 From the date specified in the Step-in Notice:

- (a) other than as directed by the Commonwealth, the Grantee will cease being responsible for the performance of the Activity;
- (b) the Commonwealth may, acting on its own behalf or through a nominee, take any step to manage the Activity that is reasonably necessary as determined by the Commonwealth and having regard to the trigger event(s) giving rise to the relevant Step-in Notice;
- (c) the Commonwealth's obligation to pay the Grant is suspended; and
- (d) the Grantee agrees to provide all reasonable assistance and comply with any direction of the Commonwealth to enable the Commonwealth to exercise its rights under this clause and manage the Activity.

CB16.3 The Commonwealth may withdraw the Step-in Notice if in the Commonwealth's reasonable opinion:

- (a) the circumstances giving rise to the trigger event have ceased or are able to be appropriately managed by the Grantee; and
- (b) the Grantee will otherwise be able to comply with its obligations under this Agreement.

CB16.4 The Commonwealth will by written notice advise the Grantee of:

- (a) the date when the Step-in Notice will be withdrawn and the Grantee will resume responsibility for the Activity; and
- (b) the amount by which the Grant will be reduced, which will be proportionate to the costs incurred by the Commonwealth in exercising its rights under this clause.

17. Grant Administrator

CB17.1 If the Commonwealth issues a notice under clause 2.2 the Commonwealth may appoint an administrator to oversee the performance of the Activity and the management of the Grant (**Grant Administrator**).

CB17.2 The Commonwealth can appoint a Grant Administrator for any period and on any terms and conditions that the Commonwealth considers appropriate.

CB17.3 The Commonwealth will give the Grantee notice of the appointment of a Grant Administrator that specifies:

- (a) the proposed period of the appointment;
- (b) the roles and responsibilities of the Grant Administrator; and
- (c) a summary of reasons why the Commonwealth has made the appointment, if the Commonwealth considers that providing such a summary is practicable and appropriate.

CB17.4 The Commonwealth may appoint more than one Grant Administrator at the same time.

CB17.5 The Grantee agrees to:

- (a) consider, in a timely manner and in good faith, all advice given to the Grantee by a Grant Administrator;
- (b) co-operate actively, fully and in good faith with, and provide all assistance, material and facilities reasonably required by a Grant Administrator; and
- (c) comply with all directions given by a Grant Administrator relating to the administration of the Grant.

CB17.6 A Grant Administrator that provides a report to the Commonwealth:

- (a) does so independently of the Grantee; and
- (b) does not reduce the Grantee's obligations to provide reports under this Agreement.

CB17.7 A Grant Administrator is not an employee, officer, director, agent or contractor of the Grantee, nor an agent of the Commonwealth, and is not appointed to act, and does not act, in any such capacity. A Grant Administrator cannot enter into agreements for or on behalf of the Grantee or otherwise incur debts or other obligations on the Grantee's behalf.

18. Management Adviser

CB18.1. If the Commonwealth issues a notice under clause 2.2, the Commonwealth may, at its discretion and at its own cost, appoint an adviser to perform functions as determined by the Commonwealth (**Management Adviser**), which may include:

- (a) advising the Grantee on:
 - (i) the Grantee's operations and corporate governance arrangements;
 - (ii) the management of the Activity;
 - (iii) the management of the Grantee's personnel;
- (b) with the Grantee's consent, assisting the Grantee with any of the matters specified in the Grant Details;
- (c) cooperating with any Grant Administrator appointed in respect of the Grantee under this Agreement; and
- (d) providing any other advice to the Grantee that the Commonwealth requires.

CB18.2 The Commonwealth will give the Grantee notice of its intention to appoint a Management Adviser that specifies:

- (a) the proposed period of the appointment;
- (b) the proposed roles and responsibilities of the Management Adviser; and
- (c) if the Commonwealth considers it practicable and appropriate, a summary of reasons why the Commonwealth intends to make the appointment.

CB18.3 Without limiting the Commonwealth's discretion to appoint a Management Adviser and where practicable, the Grantee shall have 14 days after the Grantee receives the Commonwealth's notice of intention given pursuant to CB18.2 to provide the Commonwealth with reasons why a Management Adviser should not be appointed.

CB18.4 Upon appointment of a Management Adviser, the Commonwealth shall inform the Grantee of the scope of the appointment and its duration and of any extensions to the period of appointment.

CB18.5 The Grantee agrees to cooperate with a Management Adviser and comply with any

directions and recommendations given by the Management Adviser in relation to the performance of this Agreement.

CB18.6 A Management Adviser who provides a report to the Commonwealth in relation to the Grantee:

- (a) does so independently of the Grantee; and
- (b) does not reduce the Grantee's obligations to provide Reports to the Commonwealth under this Agreement.

CB18.7 A Management Adviser is not an employee, officer, director, agent or contractor of the Grantee, nor an agent of the Commonwealth, and is not appointed to act, and does not act, in any such capacity. A Management Adviser is not appointed to act, and does not act, as a member or shadow member of the Grantee's governing board. A Management Adviser cannot enter into agreements for or on behalf of the Grantee or otherwise incur debts or other obligations on the Grantee's behalf.

19. Indemnities

CB19.1 The Grantee indemnifies the Commonwealth, its officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.

CB19.2 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.

20. Compliance with Legislation and policies

CB20.1 In this Agreement:

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

CB20.2 The Grantee agrees to comply with all Legislation applicable to its performance of this Agreement.

CB20.3 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).

21. Work health and safety

CB21.1 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.

CB21.2 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 CB21.1.

CB21.3 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.

22. Transition

CB22.1 If the Agreement is reduced in its scope or terminated under clause 19, the Grantee must at its own expense cooperate and give assistance as directed by the Commonwealth to enable the transition of some or all of the Activity to the Commonwealth or a third party nominated by the Commonwealth (**Successor**).

CB22.2 The assistance to be provided under clause CB22.1 may include, among other things:

- (a) making available to the Commonwealth or any Successor information relevant to the performance of the Activity;
- (b) allowing representatives of the Commonwealth or any Successor to observe the performance of the Activity;
- (c) providing a briefing to the Commonwealth or any Successor personnel on the Activity;
- (d) transferring to the Commonwealth or any Successor:
 - (i) Activity Material specified in the Grant Details; and
 - (ii) Assets purchased with the Grant;
 - (iii) Records maintained under clause 12.1
- (e) facilitating the novation or transfer to the Commonwealth or any Successor subcontracts and facilitating discussions with any subcontractors associated with the Activity;
- (f) assigning or licensing Intellectual Property Rights in Reporting Material, and any Activity Material specified in the Grant Details, to the Commonwealth or any Successor on terms acceptable to the Commonwealth;
- (g) preparing and executing any agreement or other documentation reasonably necessary or appropriate to facilitate any of the matters referred to above; and
- (h) any other matter specified in the Grant Details.

CB22.3 This clause does not apply where the Agreement is cancelled or reduced in scope for convenience under clause 20.

23. Corporate governance

CB23.1 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.

CB23.2 The Grantee warrants that nothing in its Constitution conflicts with its obligations under this Agreement.

CB23.3 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.

23A. Incorporation requirement

CB23A.1 If the total value of the Grantee's funding from the Commonwealth (excluding

funding for capital works projects) in a financial year equals \$500,000 or more (excluding GST), and the Grantee:

- (a) is not a statutory body, or a State or Local Government; and
- (b) has not received an exemption from the incorporation requirements from the Commonwealth's Minister (or the Minister's delegate),
then
- (c) the Grantee must be, or become, incorporated in accordance with CB23A.2; and
- (d) the incorporation must occur within 6 months of the execution date of the agreement (or contract variation) that resulted in the total value of all of the Grantee's funding from the Commonwealth (excluding funding for capital works projects) in a financial year equalling \$500,000 or more (excluding GST).

CB23A.2 Where clause CB23A.1 applies, the Grantee must be, or become, incorporated:

- (a) if the Grantee is an Indigenous Organisation – under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth); or
- (b) if the Grantee is not an Indigenous Organisation – under the *Corporations Act 2001* (Cth).

CB23A.3 The Grantee is an Indigenous Organisation if it meets the Indigeneity requirement specified in subsection 29-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

CB23A.4 Once the Grantee is, or becomes, incorporated in accordance with this clause CB23A, it must remain so incorporated until it ceases to receive any grant funding from the Commonwealth and the Agreement expires.

24. Counterparts

CB24.1 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.

25. Employees subject to SACS Decision

Not applicable

26. Program interoperability with National Disability Insurance Scheme

Not applicable

27. Rollover of Surplus and Uncommitted Funds

CB27.1 In this Agreement:

Surplus and Uncommitted Funds means surplus and uncommitted funds provided by the Commonwealth through previous grant agreements relating to activities which are the same as or similar to the Activity and which are confirmed by final financial statements provided under the previous grant agreements.

CB27.1 The Parties acknowledge that the Grantee may hold Surplus and Uncommitted Funds.

CB27.2 The Commonwealth may give the Grantee written approval to retain all or part of any Surplus and Uncommitted Funds and treat those funds as part of the Grant provided

under, and subject to, this Agreement. The Commonwealth may give such approval subject to conditions.

CB27.3 The Grantee agrees to acquit in the Reporting Material any Surplus and Uncommitted Funds that are retained and used to deliver the Activity under this Agreement.

CB27.4 This clause does not affect the Commonwealth's right to require the repayment of the balance of Surplus and Uncommitted Funds.

CB27.5 This clause survives the termination or expiry of the Agreement.

28. Secret and Sacred Indigenous Material

CB28.1 In this clause:

Aboriginal Person has the same meaning given in the *Aboriginal and Torres Strait Islander Act 2005* (Cth);

Aboriginal Tradition has the meaning given in the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth);

Indigenous Person means a person who is or identifies and is accepted as an Aboriginal Person or a Torres Strait Islander;

Secret and Sacred Indigenous Material ... means all information, knowledge or Material of special spiritual, cultural or customary significance which is considered to be sacred or of significance by an Indigenous Person or according to Aboriginal Tradition; and

Torres Strait Islander has the same meaning given in the *Aboriginal and Torres Strait Islander Act 2005* (Cth)

CB28.2 The parties agree that, for the purposes of this Agreement:

- (a) the definition of Activity Material in clause 22 excludes any Secret and Sacred Indigenous Material;
- (b) the definition of Reporting Material in clause 22 excludes any Secret and Sacred Indigenous Material;
- (c) the record keeping requirements in clause 12 do not apply to any Secret and Sacred Indigenous Material; and
- (d) any Secret and Sacred Indigenous Material is the confidential information of the relevant Indigenous Person or Indigenous community.

CB28.3 The Grantee agrees to inform the Commonwealth of the existence of Secret and Sacred Indigenous Material relevant to the performance of the Activity which is not disclosed to the Commonwealth due it being Secret and Sacred Indigenous Material.