



Australian Government

Australian Research Council

Funding Agreement

between the

Commonwealth of Australia

as represented by the

Australian Research Council

and

{{Organisation}}

regarding funding for schemes under the
Linkage Program (2017 edition)

- ***Learned Academies Special Projects***
commencing in 2017
- ***Supporting Responses to Commonwealth
Science Council Priorities*** commencing in
2017

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Parties & Recitals

THIS AGREEMENT is made on the _____ day of _____ 20____

between the

COMMONWEALTH OF AUSTRALIA ('the Commonwealth'), as represented by and acting through the Australian Research Council ('the ARC') [ABN 35 201 451 156]

and

{{Organisation}} ('the Administering Organisation').

WHEREAS:

- A. The Commonwealth through the ARC operates the *Linkage Program* ('the Scheme');
- B. The Commonwealth accepts that the Administering Organisation is an eligible body for the purposes of the Scheme, and the Commonwealth may provide financial assistance to support the Administering Organisation to conduct the Projects, including the approved Funding elements, being those described in the Funding Offer;
- C. The Commonwealth is required by law to ensure the accountability of Funding and, accordingly, the Administering Organisation is required to be accountable for all Commonwealth Funding it receives under this Agreement; and
- D. The Commonwealth wishes to provide Funding under the Scheme to the Administering Organisation for the purposes, and subject to the terms and conditions, set out in this Agreement.

IT IS HEREBY AGREED as follows:

Definitions

In this Agreement, unless the contrary intention appears:

ABN has the meaning as given in section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

Administering Organisation means an Eligible Organisation which submits a Proposal for funding and which will be responsible for the administration of the Funding if the Project is approved for funding.

ARC means the Australian Research Council, as established under the ARC Act.

ARC Act means the *Australian Research Council Act 2001*.

ARC website is www.arc.gov.au.

Asset includes personal, real or incorporeal property, but shall not include Intellectual Property.

Chief Executive Officer or **CEO** means the occupant of the position of the Chief Executive Officer of the ARC, or the delegate, as established under the ARC Act.

Chief Investigator (CI) means a participant who satisfies the eligibility criteria for a CI under the Funding Rules.

Commonwealth means the Commonwealth of Australia.

Commonwealth Entity has the meaning as given in Section 10 of the *Public Governance, Performance and Accountability Act 2013*.

Confidential Information means any information which the parties agree is confidential or that is by its nature confidential.

Conflict of Interest means any conflict of interest, any risk of a conflict of interest and any apparent conflict of interest arising through a party engaging in any activity, participating in any association, holding any membership or obtaining any interest that is likely to conflict with or restrict that party participating in the Project. The [ARC Conflict of Interest and Confidentiality Policy](#) is available on the [ARC website](#).

Department means the Commonwealth Department of Education and Training.

Digital Object Identifier (DOI) means a unique persistent identifier for a published digital object, such as an article or a report, which is issued by the DOI Foundation.

Eligible Organisation means an organisation listed in Section A13 of the Funding Rules.

End of Year Report means the report described in clause 28.2.

Field Research means the collection of information integral to the Project outside a laboratory, library or workplace setting and often in a location external to the researcher's normal place of employment.

Final Commencement Date means a date no later than six months after the Project Initialisation Date, when the Project is executed in RMS.

Final Report means the report described in clause 28.3.

FTE means full-time equivalent.

Funding or **Funds** means the amount or amounts payable under this Agreement for each Project as specified in the Funding Offer.

Funding Agreement or **the Agreement** means this document.

Funding Offer means the Project Details listed in RMS under Funding Offers.

Funding Rules means the *Funding Rules for schemes under the Linkage Program (2017 edition)* which applies to the following schemes: *Learned Academies Special Projects* commencing in 2017 and *Supporting Responses to Commonwealth Science Council Priorities*.

GST has the meaning as given in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

HDR means a Higher Degree by Research including a PhD or Masters Degree by Research.

Intellectual Property includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, Confidential Information (including trade secrets and knowhow and circuit layouts), and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Linkage Program refers to the schemes funded under the Linkage Program of the NCGP which consist of: *Industrial Transformation Research Hubs, Industrial Transformation Training Centres, Linkage Projects and Linkage Infrastructure, Equipment and Facilities, Learned Academies Special Projects, Supporting Responses to Commonwealth Science Council Priorities* and other schemes as updated from time to time.

LASP means *Learned Academies Special Projects* scheme

Material includes documents, equipment, software, goods, information and data stored by any means.

Minister means the Minister responsible for the administration of the ARC Act, or the Minister's delegate.

NCGP means the ARC's *National Competitive Grants Program*.

NHMRC means the National Health and Medical Research Council.

Open Researcher and Contributor ID (ORCID) is a persistent digital identifier for an individual researcher, available via the [ORCID website](#).

Other Eligible Organisation means any Eligible Organisation which is listed on a Proposal as a contributor to the Project but is not the Administering Organisation, and includes any replacement organisation or organisations approved by the ARC in accordance with clause 11.2 and 11.3.

Part-time means for less than five full working days per week.

Participating Organisation means any organisation which is listed on a Proposal as a contributor to the Project. All Other Eligible Organisations, Other Organisations, Partner Organisations and the Administering Organisation in the Proposal, or as otherwise approved by the ARC, are Participating Organisations.

Personnel means those persons involved in the conduct of the Project.

PhD is a qualification that meets the level 10 criteria of the *Australian Qualifications Framework Second Edition January 2013*.

Privacy Commissioner means the person occupying the position of Privacy Commissioner from time to time pursuant to the *Privacy Act 1988*.

Progress Report means the report described in clause 28.2.

Project means any Project as described in the Funding Offer or as otherwise approved by the Minister for Funding under this Agreement.

Project Activity Period means the period during which a Project is receiving funding according to the original Funding Offer, or has any carryover funds approved by the ARC, or an approved variation to the Project End Date. During this period, the Project is known as an Active Project.

Project End Date means the date on which the Project concludes research and Funding expenditure.

Project Initialisation Date means the date when the Project's Funding Agreement is executed by the ARC in RMS.

Project Leader means the first-named Chief Investigator on the Proposal, or such other person otherwise approved by the Minister and includes any replacement person approved by the ARC in accordance with this Agreement.

Project Start Date means the date on which the Project commences research and Funding expenditure.

Proposal means a request to the ARC for the provision of funding which is submitted in accordance with the Funding Rules.

Research is defined, for the purposes of this Funding Agreement, as the creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies, inventions and understandings. This could include synthesis and analysis of previous research to the extent that it is new and creative.¹

Research Infrastructure means assets, facilities, services, and coordinated access to major national and/or international research facilities or consortia which directly support research in higher education organisations more broadly and which maintain the capacity of researchers to undertake excellent research and deliver innovative outcomes.

Research Office means a business unit within an Eligible Organisation that is responsible for administrative contact with the ARC regarding Proposals and Projects.

Responsible Officer means the Vice-Chancellor or other corporate head of the Administering Organisation or an officer nominated by that person.

Research Output means all products of the research Project that meet the ARC definition of Research.

RMS means the ARC's online Research Management System.

Scheme has the meaning given in Parties and Recitals.

Special Condition means a special condition specified in this Agreement which governs the use of the Funding provided by the ARC.

Specified Personnel means the Chief Investigator(s) named in the Funding Offer to perform the Project or as otherwise approved by the ARC.

¹ This definition of research is consistent with a broad notion of research and experimental development comprising "creative work undertaken on a systematic basis in order to increase the stock of knowledge, including knowledge of man [humankind], culture and society, and the use of this stock of knowledge to devise new applications"

OECD (2002), *Frascati Manual: Proposed Standard Practice for Surveys on Research and Experimental Development*, Paris (Page 30).

1. Interpretation

- 1.1. In this Agreement, unless the contrary intention appears:
- (a) words in the singular number include the plural and words in the plural number include the singular;
 - (b) words importing a gender include any other gender;
 - (c) words importing persons include a partnership and a body whether corporate or otherwise;
 - (d) clause headings, words capitalised or in bold or italic format and notes in square brackets ('[]') are inserted for convenience only, and have no effect in limiting or extending the language of provisions, except for the purpose of rectifying any erroneous cross-reference;
 - (e) all references to clauses are to clauses in this Agreement and all references to a schedule refer to a schedule in this Agreement;
 - (f) all references to dollars are to Australian dollars and this Agreement uses Australian currency;
 - (g) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, replaced or supplemented, is a reference to that statute or other legislation as amended, replaced or supplemented; and
 - (h) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.2. This Agreement is subject to the ARC Act. If there is any conflict between this Agreement and the ARC Act, then the ARC Act prevails to the extent of any inconsistency.

2. Entire Agreement and Variation

- 2.1. This Agreement, including Schedules, the Proposal for each Project and the Funding Rules constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Agreement.
- 2.2. Notwithstanding clause 2.1, the Minister may at any time impose other requirements or conditions in connection with any Funding covered by this Agreement as provided for under the ARC Act. The Administering Organisation must as soon as possible, or as otherwise agreed in writing with the ARC, comply (or procure compliance) with any other Ministerial conditions or requirements notified by the ARC from time to time. In the event of any inconsistency between this Agreement and any such further requirements or conditions, the Administering Organisation will not be taken to have breached this Agreement where it has acted consistently with any further requirements or conditions notified under this clause.
- 2.3. If any part of this Agreement conflicts with any other part, that part higher in the following list shall take precedence:
- (a) the terms and conditions contained in the clauses of the Agreement;
 - (b) the Schedules;
 - (c) the Funding Rules; and
 - (d) the Proposal.

- 2.4. The Administering Organisation and the Commonwealth may agree to vary this Agreement. Other than as expressly provided for in this Agreement, any variation to this Agreement must be in writing and signed by both parties.
- 2.5. The Administering Organisation is required to do all things incidental or reasonably necessary to give effect to this Agreement, including procuring any third parties to do such incidental or reasonably necessary things. This includes, but is not limited to the Administering Organisation's securing the agreement of all parties involved in Projects to abide by the terms and conditions of this Agreement.

3. Term of Agreement and Project Activity Period

- 3.1. This Agreement takes effect on the date it has been executed by the Administering Organisation and the ARC, and continues to operate until all parties have fulfilled their obligations under this Agreement.
- 3.2. Subject to clauses 3.3 and 4 of this Agreement, the period of Funding is the Project Activity Period unless the Funding is terminated earlier in accordance with this Agreement.
- 3.3. The Project Activity Period for any Project including any element of the Project is indicative only of the intent of the Minister at the time of making the offer of Funding and is not binding on the Commonwealth. In the event that the Minister subsequently makes a determination under section 54 of the ARC Act to vary the Funding, this Agreement will continue to apply to any Project, including Awards or granted financial assistance under such a determination.

4. Payment of Funding

- 4.1. Subject to the provisions of the ARC Act, the terms of this Agreement and sufficient program funding being available for the Scheme, the Commonwealth shall pay the Funds to the Administering Organisation for each Project in progressive monthly instalments in accordance with the Funding Offer.
- 4.2. All Funding for a Project is subject to the following conditions:
 - (a) that the Project commences in accordance with relevant scheme's Final Commencement Dates specified at clause 12, or by any later date approved by the ARC;
 - (b) that the Project Leader listed in the Funding Offer, or as otherwise approved by the ARC, lead and coordinate the Project during the Project Activity Period, including having direct responsibility for the strategic decisions and the communication of results for the Project;
 - (c) that the Administering Organisation conducts the Project substantially in accordance with the 'Project Description' contained in the Proposal, or in the event of any variation to the Project, in accordance with the description, aims and research plan as otherwise approved by the ARC;
 - (d) that the Administering Organisation spends all Funds paid under this Agreement for each Project substantially in accordance with the 'Project Cost' detailed in the Proposal for that Project and any Special Conditions, or the budget as otherwise approved by the ARC and any conditions otherwise imposed by the ARC in accordance with the ARC Act, and in accordance with the requirements of this Agreement and the Funding Rules;
 - (e) that the Administering Organisation only receives Funding under this Agreement to which it is properly entitled;

- (f) that the Administering Organisation enters into (and maintains) an agreement with each other Participating Organisation that meets the requirements of clause 10;
- (g) that the Administering Organisation submits on time all reports required under this Agreement, in the form and with content satisfactory to the ARC;
- (h) that progress of the Project is, in the opinion of the ARC, satisfactory;
- (i) that all Specified Personnel at all times during their participation in a Project, meet the eligibility criteria specified in the Funding Rules, and have direct responsibility for the strategic decisions and the communication of results for the Project;
- (j) that all CIs have the capacity to make a serious commitment to carrying out the Project and will not assume the role of a supplier of resources for work that will largely be placed in the hands of others;
- (k) that all Participating Organisations, at all times during their participation in a Project, meet the eligibility criteria specified in the Funding Rules;
- (l) that each participant or organisation named in a Proposal must declare to the Administering Organisation all Conflicts of Interest, that exist or are likely to arise in relation to any aspect of the Project, which may have the potential to influence or appear to influence the research and/or activities related to the Project;
- (m) that the Administering Organisation has documented and implements processes in place for managing Conflicts of Interest in accordance with the *Australian Code for the Responsible Conduct of Research (2007)*;
- (n) that the ARC is advised in a timely manner of any and all other Commonwealth funding which has been, is being, or is intended to be provided for the research and/or activities funded under this Agreement;
- (o) that there is no duplication of Commonwealth funding for the research and/or activities funded under this Agreement;
- (p) that the ARC is notified in writing in a timely manner if any Specified Personnel is not able to undertake the Project, or to continue to undertake the Project, and that any change in Specified Personnel is approved in accordance with clause 14;
- (q) that the Administering Organisation is responsible for any and all taxation implications associated with receiving the Funds; and
- (r) that the Administering Organisation complies with any other requirements or conditions imposed by the ARC in connection with any Funding covered by this Agreement.

4.3. If the Administering Organisation does not meet any one or more of the conditions listed in clause 4.2 above in respect of a Project, the Commonwealth may do any or all of the following:

- (a) not pay the Administering Organisation any further Funds for that Project;
- (b) recover all or some of the Funds paid under this Agreement for that Project, including all unspent Funds and any Funds not spent in accordance with this Agreement; and/or
- (c) vary the amount of Funding approved for that Project.

4.4. The Administering Organisation must pay to the Commonwealth the amount specified in any notice received under clause 4.3 (b) above within 30 days of the date of that notice.

- 4.5. The Commonwealth will pay to the Administering Organisation, by way of financial assistance in accordance with the ARC Act, the approved amounts set out in the Funding Offer, which is exclusive of any GST which may be imposed on the supply.
- 4.6. Where the invoice relates to a taxable supply made under this contract, the invoice must comply with the requirement for a tax invoice as defined in the GST Act.
- 4.7. The Commonwealth shall have the right to vary, unilaterally, the amounts for any or all Projects.
- 4.8. In the event that the Minister makes a determination under section 54 of the ARC Act, the Commonwealth shall have the right to vary, unilaterally, the rates set out in this Agreement.
- 4.9. Where the Commonwealth exercises its right under clauses 4.3, 4.7 or 4.8 above, it shall inform the Administering Organisation in writing of the variation within 30 days of that variation having been made.

5. Accuracy of Information

- 5.1. The provision of any Funding for a Project is conditional on all information contained in the Proposal for that Project and all reports required by this Agreement from the Administering Organisation being complete, accurate and not misleading. The Commonwealth regards inaccurate and misleading information as including, but not being limited to, claiming fictitious track records, inflating funds obtained from other sources and false claims in the publication record, for example describing a paper as being 'in press' or accepted even though it has only been submitted.
- 5.2. If the Commonwealth considers that a Proposal for a Project or any report provided under this Agreement contains incomplete, inaccurate or misleading information, the Commonwealth may by notice in writing to the Administering Organisation do any or all of the following:
 - (a) not pay the Administering Organisation any further Funds for that Project;
 - (b) recover all or some of the Funds paid under this Agreement for that Project, including all unspent Funds and any Funds not spent in accordance with this Agreement; and/or
 - (c) vary the amount of Funding approved for that Project.
- 5.3. The Administering Organisation must pay to the Commonwealth the amount specified in any notice received under clause 5.2 (b) above within 30 days of the date of that notice.

6. Use of the Funding: Activities, Facilities and Types of Work

- 6.1. The Administering Organisation will ensure that each Project described in the Funding Offer is carried out in accordance with this Agreement in a diligent and competent manner. In addition, each Project will be conducted in accordance with the 'Project Description' contained in the Proposal, or any revised budget, aims and research plan which have been submitted by the Administering Organisation and approved by the ARC. In the case that the Administering Organisation is granted a lesser amount of funding than was requested for a Project, the Administering Organisation should ensure that a revised budget is agreed with the Project Leader before the commencement of the Project.

- 6.2. The Administering Organisation must ensure that expenditure on each Project described in the Funding Offer is in accordance with the 'Project Description' contained in the Proposal and within the broad structure of the proposed 'Project Cost' detailed in the Proposal or any revised budget, aims and research plan submitted by the Administering Organisation which has been approved by the ARC.
- 6.3. The Administering Organisation must not use the Funding:
 - (a) for purposes specifically excluded in the Funding Rules;
 - (b) for items excluded as a Special Condition in the Funding Offer;
 - (c) to purchase alcoholic beverages; or
 - (d) for purposes specifically excluded in this Agreement.
- 6.4. Refer to the Funding Rules for further information regarding supported and not supported budget items.
- 6.5. The Administering Organisation must ensure that the Specified Personnel listed in the Funding Offer (or any replacement person(s) approved by the ARC) have adequate time and capacity to carry out each Project and must provide basic facilities, where relevant, for each Project.
- 6.6. Unless otherwise approved by the ARC, the Funding must not be used to fund any research and/or activities for which other financial assistance from the Commonwealth has been, is being, or is intended to be provided.
- 6.7. Unless otherwise approved by the ARC, the Administering Organisation must provide the relevant resources to undertake each Project as specified in the Proposal.
- 6.8. The Administering Organisation must obtain the agreement of all parties necessary to allow each Project to proceed. Evidence of agreement must be obtained from all relevant persons and organisations involved in the Project and is to be retained by the Administering Organisation. This evidence must be made available if requested by the ARC.
- 6.9. If any other Commonwealth funding is approved for any research and/or activity which is similar to research or activities being conducted for any Project, the ARC must be notified immediately and the ARC may consider whether or not to terminate or recover Funding to the extent that it is duplicated by another Commonwealth source.

7. Use of the Funding: Provision of Salaries and for Other Duties

- 7.1. The Funding specified in the Funding Offer must not be used for the provision of salary support for Specified Personnel.
- 7.2. Subject to clause 6, Funding for Project costs may be used by the Administering Organisation to employ Personnel, other than the Specified Personnel, where provision for such was included in the Proposal in accordance with the Funding Rules and approved by the Minister. They may be employed full-time or part-time, as required.
- 7.3. In respect of Personnel other than Specified Personnel, unless the ARC otherwise determines:
 - (a) in recruiting Personnel, the Administering Organisation shall follow its normal recruitment procedures;
 - (b) the provision of salaries, recreation leave, sick leave and other conditions of employment for Personnel shall be those of the Administering Organisation; and

- (c) the on-costs provisions beyond the ARC contribution of 30 per cent remain the responsibility of the Administering Organisation, for example extended periods of leave, severance pay, and such like must not be provided from ARC Funds.
- 7.4. The Administering Organisation must ensure that any Personnel who are employed full-time on a Project and whose salary is provided from the Funding shall not, without the prior agreement of the ARC, accept any remuneration whatsoever from any source other than the Administering Organisation in respect of work performed on the Project.
- 7.5. Project payments can only commence once the Funding Agreement has been executed by both parties. Retrospective salary payments will not be paid for employment prior to the date the Funding Agreement is executed.

8. Over-expenditure by the Administering Organisation

- 8.1. Any Project expenditure incurred by the Administering Organisation for a Project additional to the approved amount for that Project specified in the Funding Offer, or as otherwise varied by the ARC, is the responsibility of the Administering Organisation. The Commonwealth will not reimburse the Administering Organisation for such costs under any circumstances.

9. Specified Personnel

- 9.1. The Administering Organisation shall provide each Specified Personnel with a copy of this Agreement within a reasonable time after the execution of the Agreement.
- 9.2. The Administering Organisation warrants that it has made proper inquiries of the Specified Personnel in relation to their eligibility to perform the Project.
- 9.3. The Administering Organisation must ensure that, unless otherwise approved by the ARC, all Specified Personnel meet the criteria specified in the Funding Rules for the full term of their participation in the Project.
- 9.4. The Administering Organisation must ensure that each of the Specified Personnel who is to work on a Project has the approval of their employing organisation to participate in the Project. The Administering Organisation does not require the agreement of the employing organisation of an overseas-based PI (unless they are employed by the Administering Organisation) to participate in the Project.
- 9.5. The Administering Organisation shall ensure that all Conditions of Employment as detailed in this Agreement are met.

10. Participating Organisation Agreements

- 10.1. The Administering Organisation must not allow a Project to commence, nor Funding to be expended, until it has entered into an agreement with each other Participating Organisation in accordance with this clause 10.
- 10.2. A written agreement must be entered into with each other Participating Organisation before the Final Commencement Date as stated in clause 12 and must include provisions that:
- (a) outline the roles, contributions and research that will be undertaken by the Administering Organisation and relevant Participating Organisation;
 - (b) outline the roles, contributions and research that will be undertaken by any other Participating Organisation;

- (c) describe the Intellectual Property (IP) arrangements that apply to the IP each party brings to the Project (or background IP) as well as to the outcomes or results generated by the Project (or Project IP). Such arrangements must take into account maximising the return of benefits to Australia and unless otherwise approved by the ARC, comply with the *National Principles of Intellectual Property Management for Publicly Funded Research* and/or any successor document;
 - (d) outline the roles and responsibilities of the Administering Organisation and Other Eligible Organisations in relation to notification of research integrity matters in accordance with the *ARC Research Integrity and Research Misconduct Policy* and the investigation and management of breaches of the *Australian Code for the Responsible Conduct of Research (2007)*;
 - (e) are consistent with details contained in the Proposal; and
 - (f) do not impede or prevent the Administering Organisation from complying with any of its obligations under this Agreement.
- 10.3. The written agreement under clause 10.2 should also consider including provisions that:
- (a) provide an assurance from the Participating Organisation for the continued operation of the Project unhindered by ownership of IP;
 - (b) provide an assurance that following the transfer of any IP by the Administering Organisation to the Participating Organisation, the Administering Organisation may continue to teach and research in any and all areas protected by the IP;
 - (c) provide an assurance that where the ownership of any IP is transferred to a Participating Organisation as a result of the collaboration for which funding is provided, upon the closing down, dissolution and/or liquidation of the Participating Organisation, during the term of the Agreement, the ownership of the IP shall be renegotiated with the Administering Organisation;
 - (d) provide an assurance that upon any sale of the Participating Organisation in part or in full, the Administering Organisation has reasonable opportunity to retain the proposed benefits to Australia on which the funding was awarded;
- 10.4. A written agreement entered into under this clause 10 must continue to satisfy the requirements of this clause 10 at all times during the Project Activity Period for the Project.
- 10.5. The Administering Organisation must ensure that each Participating Organisation is provided with timely notice of progress made on the Project.
- 10.6. The Administering Organisation will retain the written agreement, and make it available to the ARC if required.

11. Default of Participating Organisation

- 11.1. If the Administering Organisation receives notice that a Participating Organisation wishes to withdraw its support for the Project, or reasonably believes that a Participating Organisation is in default of any of its obligations under a written agreement entered into between that Participating Organisation and the Administering Organisation under clause 10, the Administering Organisation must immediately notify the ARC, and dependant on the intended course of action, must follow the procedure outlined in clauses 11.2 or 11.3.
- 11.2. Should the Administering Organisation wish to proceed without the defaulting Participating Organisation, and without a replacement Participating Organisation, it must complete the procedure listed below within three months from the date of notification from the Participating Organisation or from the date on which the Administering Organisation became aware that the Participating Organisation is not meeting its obligations, whichever is the earlier. By the end of the three-month period referred to in this clause:

- (a) the Administering Organisation must request the ARC's approval, via a *Variation to the Funding Agreement* to remove the defaulting Participating Organisation and continue the Project without a replacement Participating Organisation and confirm that the modified arrangement complies with the requirements for Participating Organisations and the respective organisation contributions specified in this Agreement and the Funding Rules;
 - (b) the remaining Participating Organisations must provide a written undertaking to provide (in total) a replacement contribution equivalent to that which would have been provided by the Participating Organisation in default and which satisfies the requirements of this Agreement and the Funding Rules; and
 - (c) the Administering Organisation and the remaining Participating Organisations must amend any existing agreement (as appropriate) consistent with clause 10 to reflect the revised Participating Organisation contribution arrangements.
- 11.3. Should the Administering Organisation wish to proceed with a replacement Participating Organisation or modified Participating Organisation arrangements as allowed under clause 11.1, it must complete the procedure listed below within three months from the date of notification from the Participating Organisation or from the date on which the Administering Organisation became aware that the Participating Organisation is not meeting its obligations, whichever is the earlier. By the end of the three-month period referred to in this clause:
- (a) the Administering Organisation must request the ARC's approval, via a *Variation to the Funding Agreement*, of a replacement Participating Organisation or modified remaining Participating Organisation arrangements which comply with the requirements for Participating Organisations and Participating Organisation contributions specified in this Agreement and the Funding Rules;
 - (b) the replacement or remaining Participating Organisations must provide a written undertaking to provide (in total) a replacement contribution equivalent to that which would have been provided by the Participating Organisation in default and which satisfies the requirements of this Agreement and the Funding Rules);
 - (c) in exceptional circumstances the ARC may accept a lesser contribution which is sufficient for the Project to remain compliant with the contribution requirements of the Funding Rules; and
 - (d) the Administering Organisation and the replacement Participating Organisation or remaining Participating Organisations must enter into a written Participating Organisation Agreement, or amend any existing agreement (as appropriate) consistent with clause 10 to reflect the revised Participating Organisation contribution arrangements.
- 11.4. The ARC may approve a replacement Participating Organisation if the replacement Participating Organisation meets the eligibility criteria as specified in the Funding Rules.
- 11.5. If the ARC approves a modified Participating Organisation arrangement proposed under clauses 11.2 or 11.3 within three months of the date of approval by the ARC, the Administering Organisation must provide to the ARC a revised *Participating Organisation Agreed Contribution Report* in RMS, reflecting the new approved arrangements and provide confirmation to the ARC that the new or revised agreements have been effected. In exceptional circumstances, the ARC may consider a written request for a further extension beyond the three months.
- 11.6. To avoid doubt, the funding condition set out in clause 4.2(f) will not have been satisfied if:
- (a) the ARC does not approve any replacement Participating Organisation or the modified Participating Organisation arrangements proposed under clause 11.2 or 11.3; or

- (b) the Administering Organisation does not attempt to find any replacement Participating Organisation or modify existing Participating Organisation contribution arrangements in accordance with clause 11.2.

12. Commencement of Project: Final Date for Commencement and Participating Organisation Written Agreements

- 12.1. LASP Projects under this Agreement must commence by the Final Commencement Date, i.e. within six months of the Project Initialisation Date.
- 12.2. *Supporting Responses to Commonwealth Science Council Priorities* Projects must commence within one month of the Project Initialisation Date.
- 12.3. Pursuant to clause 6, the Administering Organisation must not allow a Project to commence, nor Funding to be expended, until it has entered into a written agreement with each Participating Organisation in accordance with clause 10. The Administering Organisation must reach agreement with each other Participating Organisation and enter into a written agreement with each such organisation before the applicable Start Date for the Project as determined in accordance with clause 12.1.
- 12.4. If the Administering Organisation wishes to defer the Start Date of a Project for up to six months beyond the Final Commencement Date, a written request justifying the requested deferral in terms of exceptional circumstances must be made to the ARC, through the Administering Organisation's Research Office, by submitting a *Variation of Funding Agreement* request, prior to the Final Commencement Date.

13. Suspension of Project

- 13.1. If any of the Specified Personnel on a Project is not able to perform the Project for a period or periods of time the Project may be suspended for a period or periods totalling up to 12 months. The duration of a Project may be extended for a period equal to the duration of the approved suspension(s). The Funds for the Project which would otherwise have been payable during the suspension period(s) will continue to be paid to the Administering Organisation during the suspension period(s) and the ARC will not supplement the Funds to cover any additional costs incurred as a result of the suspension or delay in finalisation of the Project.
- 13.2. The Responsible Officer must submit a *Variation of Funding Agreement* request to the ARC to seek the ARC's approval to suspend the Project. The ARC will approve such suspensions only if detailed written justification for the request is provided. The approval of a suspension is at the ARC's absolute discretion. If approved, the Administering Organisation must detail the suspension in its next Progress or Final Report for the Project.
- 13.3. Subject to this clause 13, suspensions without the written approval of the ARC will be a breach of this Agreement and may result in the immediate termination of the Project.

14. Change of Specified Personnel

- 14.1. If a CI is at any time during the term of a Project no longer able to continue working on the Project, the Project may continue provided that:
 - (a) there are at least two original CIs working on the Project where one will be the Project Leader and there is at least one Chief Investigator from each Eligible Organisation;

- (b) all replacement CIs meet the eligibility criteria, as specified in the Funding Rules for the particular role they are to perform, for the period for which they are to perform that role;
 - (c) all replacement CIs must have the relevant expertise which is commensurate with the standard of the original research team which was awarded the Project;
 - (d) approval is sought from the ARC for the change in Specified Personnel by submitting a *Variation of Funding Agreement* request to the ARC within three months of the date that the Specified Personnel ceased working on the Project;
 - (e) any replacement CIs ('New Personnel') proposed for a Project will require the Administering Organisation to obtain certifications from the New Personnel and their employers that are equivalent to the certifications for other Specified Personnel on the Project; and
 - (f) the change in Specified Personnel is approved, in writing, by the ARC.
- 14.2. If a CI is the only CI on a Project, and their involvement with the Project is to cease, Funds for the Project will be terminated.

15. Relinquishment of a Project

- 15.1. The relinquishment of a Project will be considered only if the circumstances are exceptional and all Participating Organisations and Specified Personnel agree to the termination of the Project.
- 15.2. If, at any time during the term of the Project Activity Period, the Project is relinquished by the Administering Organisation, Funding for the Project will be terminated. In such cases, any unspent Funding for the Project will be recovered by the ARC.
- 15.3. The Administering Organisation shall immediately advise the ARC of the relinquishment of the Project by means of submitting a *Variation of Funding Agreement* request to the ARC.
- 15.4. The End of Year Report must contain details regarding any Projects that have been relinquished in that reporting year.
- 15.5. A Final Report must be submitted if the Project was active for more than one year, or if more than one year of Funding has been expended, or Research Outputs were produced.

16. Negation of Employment by the Commonwealth

- 16.1. Specified Personnel, any personnel funded by a Project, and any Participating Organisation must not represent themselves as being employees, partners or agents of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.
- 16.2. Specified Personnel, any personnel funded by a Project, and any Participating Organisation shall not by virtue of this Agreement or for any purpose be, or be deemed to be, employees, partners, or agents of the Commonwealth, or as having any power or authority to bind or represent the Commonwealth.

17. Conduct of Research

- 17.1. The Project must be conducted in accordance with any Special Conditions specified in this Agreement and with any other requirements or conditions imposed by the ARC in connection with any Funding covered by this Agreement.

- 17.2. The Administering Organisation must ensure that a Project under this Agreement will not proceed without appropriate ethical clearances from the relevant committees and/or authorities referred to in clause 39 or prescribed by the Administering Organisation's research rules. Responsibility for ensuring such clearances have been obtained remains with the Administering Organisation.
- 17.3. All parties involved in or associated with a Project are required to disclose to the Administering Organisation and the other parties involved in the Project, any actual or potential Conflict of Interest which has the potential to influence, or appear to influence, the research and activities, publications and media reports, or requests for funding related to the Project.
- 17.4. If a Conflict of Interest exists or arises, the Administering Organisation must have documented processes in place for managing the Conflict of Interest for the duration of the Project. Such processes must comply with the *Australian Code for the Responsible Conduct of Research (2007)*, the *ARC Conflict of Interest and Confidentiality Policy* and any relevant successor document.
- 17.5. Each Project must, unless otherwise approved by the ARC in writing, conform to the principles outlined in the following and their successor documents:
- (a) the *Australian Code for the Responsible Conduct of Research (2007)*;
 - (b) as applicable, the *National Statement on Ethical Conduct in Human Research (2007, updated 2015)*;
 - (c) as applicable, *NHMRC Values and Ethics: Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research (2003)*;
 - (d) as applicable, *AIATSIS Guidelines for Ethical Research in Australian Indigenous Studies (2012)*;
 - (e) as applicable, *Australia Council for the Arts Indigenous Cultural Protocols for Producing Indigenous Music; Writing; Visual Arts; Media Arts; and Performing Arts (2007)*;
 - (f) as applicable, the *Australian Code for the care and use of animals for scientific purposes (2013)* endorsed by the NHMRC, the ARC, the Commonwealth Scientific and Industrial Research Organisation and UA.
- 17.6. If there is any conflict between a successor document and its predecessor, then the successor document prevails to the extent of any inconsistency.

18. Material Produced Under this Agreement, Publication and Dissemination of Research Outputs and Research Data

- 18.1. The Administering Organisation must establish and comply with its own policies, procedures and arrangements for the ownership and management of all Material produced as a result of any Project funded under this Agreement.
- 18.2. For any Material produced under this Agreement, the Administering Organisation must ensure that all Specified Personnel:
- (a) take reasonable care of, and safely store, any data or specimens or samples collected during, or resulting from, the conduct of their Project;
 - (b) make arrangements acceptable to the ARC for lodgement with an appropriate museum or archive in Australia of data or specimens or samples collected during, or resulting from, their Project; and

- (c) include details of the lodgement or reasons for non-lodgement in the Progress Reports and the Final Report for the Project.
- 18.3. The ARC will support publication and dissemination costs as per the Funding Rules. Please see Appendix A for further information.
- 18.4. All ARC Funded research projects must comply with the *ARC Open Access Policy* on the dissemination of research findings, which is on the [ARC website](#). In accordance with this policy, any Research Outputs arising from ARC Funded Research must be made openly accessible within a 12 month period from the publication date. Where this requirement cannot be met due to findings being commercially or otherwise sensitive, reasons must be provided in the Final Report for the Project. Metadata for all Research Outputs arising from ARC Funded Research must be made available to the public in an institutional repository immediately upon publication of the Research Output. Metadata must include the ARC Project ID, list the ARC as a funding source and contain a Digital Object Identifier (DOI) to the Research Output. If a DOI is not available, then a link must be provided to the Research Output.
- 18.5. Consistent with the requirements outlined in 18.4 any material published in respect of an ARC-funded research activity must include acknowledgement of the ARC's funding, including the ARC Project ID.
- 18.6. The ARC strongly encourages all researchers receiving ARC funding to have an ORCID identifier in their RMS Profile.
- 18.7. The ARC strongly encourages the depositing of data arising from a Project in an appropriate publicly accessible subject and/or institutional repository. Where appropriate, the Final Report must outline how data has been made publicly accessible.
- 18.8. This clause survives the expiration or earlier termination of this Agreement.

19. ARC Assessments

- 19.1. The Administering Organisation must ensure that, for the term of this Agreement, if requested by the ARC, CIs agree to assess up to 20 new Proposals per awarded Project per annum for each year of Funding.
- 19.2. If the ARC determines that a CI has failed to meet the obligation to assess Proposals assigned by the ARC for assessment, the ARC may notify the Administering Organisation in writing of that failure.
- 19.3. If a CI does not undertake assessment of the assigned Proposals within a period specified by the ARC in the notice referred to in clause 19.2, the Administering Organisation will be considered to be in breach of this Agreement and Funding for the relevant Projects on which the person is listed as Specified Personnel under this Agreement may be terminated.

20. Assets

- 20.1. Unless otherwise approved by the ARC, Assets purchased with Funding must be purchased for the exclusive purposes of the Project for the duration of the Project Activity Period.
- 20.2. The Administering Organisation shall establish and comply with its own procedures and arrangements for purchasing, installing, recording, maintaining and insuring all items of equipment purchased with the Funds.

- 20.3. The Administering Organisation shall ensure that any Specified Personnel shall have first priority in the use and operation of equipment purchased for the Project and the Administering Organisation must, so far as is practicable, permit persons authorised by the ARC to have priority access to that equipment in preference to other persons.
- 20.4. Unless otherwise approved by the ARC, the ownership of any Asset purchased wholly or partly with the Funding shall be vested in the Administering Organisation, located on its campus and listed in its assets register unless:
- (a) otherwise specified in the Proposal; or
 - (b) the Project is terminated, in which case the ARC may, by notice in writing, require the transfer of any such item of equipment to the Commonwealth.

21. Intellectual Property

- 21.1. The Administering Organisation must adhere to an Intellectual Property policy, approved by the Administering Organisation's governing body, which has as one of its aims the maximisation of benefits to Australia arising from publicly funded research. The Administering Organisation should also ensure that all participants on the Project are familiar with the current Intellectual Property and patent landscape for the research areas included in the Proposal.
- 21.2. The ARC makes no claim on the ownership of Intellectual Property brought into being as a result of the Projects for which Funding is provided.
- 21.3. Unless otherwise approved by the ARC, the Administering Organisation's Intellectual Property policy referred to in clause 21.1 must comply with the *National Principles of Intellectual Property Management for Publicly Funded Research* as amended from time to time.
- 21.4. The Administering Organisation, if it is not a Commonwealth Entity which is contracting on behalf of the Commonwealth, will indemnify the Commonwealth, its officers, employees and agents against any liability, loss, damage, costs and expenses arising from any claim, suit, demand, action or proceeding by any person, in respect of any infringement (or alleged infringement) of Intellectual Property rights by the Administering Organisation, its employees, agents or subcontractors in the course of, or incidental to, performing the Project or the use by the Commonwealth of reports provided by the Administering Organisation under this Agreement.
- 21.5. The indemnity referred to in clause 21.4 shall survive the expiration or termination of this Agreement.

22. Protection of Personal Information

- 22.1. The Administering Organisation agrees with respect to all activities related to or in connection with the performance of the Project or in connection with this Agreement:
- (a) to comply with the Australian Privacy Principles set out in Schedule 1 of the *Privacy Act 1988*;
 - (b) not to transfer personal information held in connection with this Agreement outside Australia, or to allow parties outside Australia to have access to it, without the prior approval of the Commonwealth;
 - (c) to cooperate with any reasonable demands or inquiries made by the Privacy Commissioner or the CEO in relation to the management of personal information by the Administering Organisation, or breaches, or alleged breaches, of privacy;

- (d) to ensure that any person who has an access level which would enable that person to obtain access to any personal information (as defined in the *Privacy Act 1988*) is made aware of, and undertakes in writing, to observe the Australian Privacy Principles referred to in paragraph (a) above;
- (e) to comply with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of personal information;
- (f) to comply with any reasonable direction of the CEO to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Administering Organisation that the Privacy Commissioner considers to be a breach of the obligations in paragraph (a) above;
- (g) to comply with any reasonable direction of the CEO to provide the Privacy Commissioner access for the purpose of monitoring the Administering Organisation's compliance with this clause;
- (h) to ensure that any record (as defined in the *Privacy Act 1988*) containing personal information provided to the Administering Organisation by the Commonwealth or any other person pursuant to this Agreement is, at the expiration or earlier termination of this Agreement, either returned to the ARC or deleted or destroyed in the presence of a person authorised by the ARC to oversee such deletion or destruction; and
- (i) to the naming or other identification of the Administering Organisation in reports by the Privacy Commissioner.

22.2. The Administering Organisation must immediately notify the ARC if the Administering Organisation becomes aware of a breach of its obligations under clause 22.1 above.

22.3. This clause survives the expiration or earlier termination of this Agreement.

23. Confidentiality

23.1. Subject to clause 23.2, the ARC agrees not to disclose any Confidential Information of the Administering Organisation, without the Administering Organisation's consent.

23.2. The ARC will not be taken to have breached its obligations under clause 23.1 to the extent that the ARC discloses Confidential Information:

- (a) disclosed by the ARC to its advisors (including assessors), officers, employees or other third parties in order to assess, evaluate or verify the quality, accuracy or completeness of a Proposal, or to exercise rights, under this Agreement;
- (b) to third parties to enable effective management or auditing of the Linkage Program schemes or any Funding Agreement;
- (c) for a purpose directly related to the enforcement or investigation of a possible breach of any Commonwealth, State, Territory or local law;
- (d) to the Minister and their staff, or in response to a demand by a House or a Committee of the Commonwealth Parliament;
- (e) within the ARC, or with another Commonwealth Department or entity, where this serves the Commonwealth's legitimate interests;
- (f) authorised or required by law to be disclosed;
- (g) disclosed in accordance with any other provision of the Funding Rules or this Funding Agreement;
- (h) that is in the public domain other than due to a breach of this clause 23; or
- (i) to comply with obligations, or to exercise rights, under the *ARC Research Integrity and Research Misconduct Policy*.

- 23.3. The Commonwealth warrants that, for a period of three years from the date of submission of the Final Report for the Project, it will consult with the Administering Organisation before any information which is contained in any reports related to the Project, and which the Administering Organisation has indicated is confidential or sensitive and should not be disclosed, is disclosed to any person other than an officer, employee, agent or member of the ARC or the Minister. If disclosure is required to other persons, the Commonwealth will discuss the intended terms of disclosure with the Administering Organisation.

24. Acknowledgments, Publications and Publicity

- 24.1. Subject to commercial sensitivities, other sensitivities, and Intellectual Property considerations, the outcomes of Projects are expected to be communicated to the research community and, where appropriate and possible, to the community at large.
- 24.2. The Administering Organisation must ensure that the ARC's contribution and support of the Project is acknowledged in a prominent place and an appropriate form acceptable to the ARC when, at any time during or after completion of a Project, the Administering Organisation or the researchers or any other party publishes, produces or is involved in promotional material, such as books, articles, television or radio programs, electronic media, newsletters or other literary or artistic works, which relate to the Project. Similar efforts must be made when publicly speaking about a Project. Advice of acceptable forms of acknowledgement and use of the logo is provided on the [ARC website](#). Where the Research Output is a publication, in addition to acknowledging ARC support, the relevant Project ID must be included.
- 24.3. This clause survives the expiration or earlier termination of this Agreement.

25. Administration of the Funding

- 25.1. The Administering Organisation must maintain reasonable, up-to-date and accurate records relating to the Funding in general, and the Projects conducted with the Funding in particular, to verify its compliance with this Agreement.
- 25.2. Records maintained under clause 25.1 must be retained by the Administering Organisation for each Project for a period of no less than seven years after whichever is the later of:
- (a) the final payment of Funds by the ARC for the Project; or
 - (b) the final approved carryover of Funds for the Project.

26. Audit and Monitoring

- 26.1. The Administering Organisation is responsible for monitoring the expenditure of the Funding and certifying to the ARC that the Funding has been expended in accordance with this Agreement in the End of Year Report. If at any time, in the opinion of the Responsible Officer of the Administering Organisation, the Funding is not being expended in accordance with this Agreement, the Administering Organisation must take all action necessary to minimise further expenditure in relation to the Project and inform the ARC immediately.
- 26.2. The ARC may at any time conduct ad hoc on-site reviews to ensure that the terms of this Agreement are being, or were, met and that reports submitted to the ARC are an accurate statement of compliance by the Administering Organisation. Persons nominated by the ARC to conduct these reviews are to be given full access by the Administering

Organisation, if required, to all accounts, records, documents and premises in relation to the Funding and the administration of the Funds in general.

26.3. The Administering Organisation must:

- (a) provide information to the ARC, or a person nominated by the ARC, as reasonably required by the ARC;
- (b) comply with all reasonable requests, directions, or monitoring requirements received from the ARC; and
- (c) cooperate with and assist the ARC in any review or other evaluation that the ARC undertakes.

27. Access to Premises and Records

27.1. The Administering Organisation must, at all reasonable times, give to the CEO or any person authorised in writing by the CEO:

- (a) unhindered access to:
 - i. the Administering Organisation's employees;
 - ii. premises occupied by the Administering Organisation; and
 - iii. Material; and
- (b) reasonable assistance to:
 - i. inspect the performance of any or all Projects;
 - ii. locate and inspect Material relevant to any Project or the Administering Organisation's compliance with this Agreement or the Scheme; and
 - iii. make copies of any such Material and remove those copies and use them for any purpose connected with this Agreement or the Scheme.

27.2. The access rights in clause 27.1 are subject to:

- (a) the provision of reasonable prior notice by the ARC; and
- (b) the Administering Organisation's reasonable security procedures.

27.3. If a matter is being investigated which, in the opinion of the ARC, or any person authorised in writing by the CEO, may involve an actual or apprehended breach of the law, clause 27.2 will not apply.

27.4. Upon receipt of reasonable written notice from the ARC, or any person authorised in writing by the CEO, the Administering Organisation must provide any information required by the Commonwealth for monitoring and evaluation purposes.

27.5. Nothing in clauses 27.1 to 27.4 inclusive affects the obligation of each party to continue to perform its obligations under this Agreement unless otherwise agreed between them.

27.6. The Auditor-General, or a delegate of the Auditor-General for the purpose of performing the Auditor-General's statutory functions, at reasonable times and on giving reasonable notice to the Administering Organisation, may:

- (a) require the Administering Organisation to provide records and information which are directly related to this Agreement;
- (b) have access to the premises of the Administering Organisation for the purposes of inspecting and copying documentation and records, however stored, in the custody or under the control of the Administering Organisation which are directly related to this Agreement; and

- (c) where relevant, inspect any Commonwealth Assets and Commonwealth Material held on the premises of the Administering Organisation.

27.7. This clause survives the expiration or earlier termination of this Agreement.

28. Reporting Requirements

28.1. The Administering Organisation must submit the following reports in accordance with this Agreement and the ARC Act, in the format required by the ARC, if specified.

28.2. End of Year Report and Progress Reporting by Exception

- (a) The Administering Organisation must submit an End of Year Financial Report by 31 March in the year following each calendar year for which the Funding was awarded, in accordance with the instructions to be provided by the ARC each year. The form for this report will be made available by the ARC in RMS, with instructions on the [ARC website](#).
- (b) The End of Year Financial Report will contain information on all expenditure for that year for the Project including:
 - i. any unspent Funds to be recovered by the Commonwealth;
 - ii. any unspent Funds that the Administering Organisation is seeking to have carried over into the next year; and
 - iii. the reasons why the unspent Funds are required to be carried over or recovered.
- (c) Under paragraph 58(1)(e) of the ARC Act, Funds provided by the Commonwealth to the Administering Organisation which are not spent during the year of the Project Activity Period to which those funds were allocated may be carried over if approved by the ARC. If the Administering Organisation wishes any Funds to be carried over from one year to the next year, the Administering Organisation must request this approval in the End of Year Financial Report for the calendar year for which those Funds were initially paid.
- (d) All unspent funds are to be reported to the ARC. If a carryover is requested, it must include all unspent funds allocated to the Project even if they are not located at the Administering Organisation.
- (e) Where a carryover is requested for 75 per cent or more of the Funds allocated for a calendar year (excluding any Funds carried over from the previous calendar year), additional justification must be provided.
- (f) Funds may be carried over more than twelve months only in exceptional circumstances and subject to approval by the ARC. Additional justification must be provided in this instance.
- (g) A Progress Report must indicate if significant issues are affecting the progress of the Project.
- (h) For multi-year Projects under the LASP scheme, the Administering Organisation must submit a Progress Report by 31 March each year following each calendar year for which the Funding was awarded. A form for this report will be made available by the ARC. The Progress Report will seek details regarding the following matters:
 - i. the extent to which the objectives of the Scheme and the Proposal have been met;
 - ii. summary of highlights, achievements in research and other outputs achieved resulting from the use of the Funds, including any advances in knowledge, relevant publications or international collaboration and any issues, including mitigation strategies;

- iii. a detailed activity plan for the next twelve months;
 - iv. funding and/or other resources provided by the Participating Organisations, and any other sources of support; and
 - v. any other matters which from time to time may be requested in writing by the ARC as matters which must be included in a Progress Report.
- (i) If the ARC is not satisfied with the progress of any Project, further payment of Funds will not be made until satisfactory progress has been made on the Project. If satisfactory progress is still not achieved within a reasonable period of time, the Funding may be terminated and all outstanding monies will be recovered by the ARC.
 - (j) Unsatisfactory progress on any Project may be noted against any further Proposals under any ARC scheme submitted on behalf of the CI and will be taken into account in the assessment of those Proposals.

28.3. Final Report

- (a) Unless otherwise approved by the ARC, the Administering Organisation must ensure that Final Reports are provided for each Project within twelve months of the final payment of Funds by the ARC for the Project or within twelve months of the final ARC approved Project end date, whichever is the later. The form for this report will be made available by the ARC in RMS, with instructions on the [ARC website](#). The ARC may review the outcomes against the objective(s) of the Project as stated in the Proposal or any approved revised budget, aims and research plan.
- (b) The Final Report must justify why any Research Outputs from a Project have not been made openly accessible within 12 months from the date the Research Output was published. The Final Report must outline how data arising from the Project have been made publicly accessible where appropriate.
- (c) The ARC may also seek additional information about subsequent outputs and outcomes after submission of the Final Report.
- (d) If a Final Report is considered by the ARC to be inadequate or is not submitted on time, the Administering Organisation of the Project may be contacted for further information. If the ARC is not satisfied with the outcomes of the Project, this may be noted against any further Proposals under any ARC scheme submitted on behalf of any CI on the Project and may be taken into account in the assessment of those Proposals.
- (e) Proposals submitted under any ARC scheme on behalf of any CI on a Project for which the Final Report is outstanding may be deemed ineligible for approval of funding.

28.4. The ARC requires Administering Organisations to inform the ARC when significant problems occur with an ARC-funded Project and/or with any serious matters concerning Specified Personnel. Such reporting matters should be directed to the ARC Post-award team.

28.5. This clause survives the expiration or earlier termination of this Agreement.

29. Complaints and Allegations Relating to Research Integrity and Research Misconduct

29.1. The Administering Organisation must comply with the *ARC Research Integrity and Research Misconduct Policy*, which is available on the [ARC website](#), in relation to all ARC Funded research projects. The ARC will enforce reporting requirements and take precautionary and consequential action, when required, under this policy.

- 29.2. The Administering Organisation must, in all cases, conduct any investigation or inquiry into any alleged research misconduct or breach of the *Australian Code for the Responsible Conduct of Research* in a manner that is consistent with the *Australian Code for the Responsible Conduct of Research*.

30. Australian Research Integrity Committee

- 30.1. The Administering Organisation must provide to the Australian Research Integrity Committee (ARIC) upon request, any documentation and information concerning allegations of its mishandling of internal reviews into alleged cases of research misconduct, and/or non-compliance with the *Australian Code for the Responsible Conduct of Research* (2007).

31. Copyright in Proposals and Reports

- 31.1. Copyright in any Proposal and all reports provided under this Agreement will vest in the Administering Organisation at the time of creation but the Administering Organisation grants to the Commonwealth or must procure for the Commonwealth a permanent, irrevocable, royalty-free, non-exclusive licence to use and reproduce information contained in a Proposal or a report and publish it on a non-profit basis for any purpose related to:
- (a) the evaluation and assessment of Proposals;
 - (b) verifying the accuracy, consistency and adequacy of information contained in a Proposal, or otherwise provided to the ARC;
 - (c) the preparation and management of any funding agreement;
 - (d) the administration, auditing, management or evaluation of the NCGP or any funding scheme administered by the ARC;
 - (e) the sharing of information by the ARC within the ARC's organisation, or with another Commonwealth Department or entity, or Commonwealth Minister or parliamentary committee, where this serves the Commonwealth's legitimate interests; or
 - (f) where the use, reproduction or publication of the material is authorised or required by law.
- 31.2. If a Proposal or a report contains information belonging to a third party, the Administering Organisation must ensure that it has in place all necessary consents sufficient to allow the ARC to deal with the information or any report in accordance with this Agreement.
- 31.3. This clause survives the expiration or earlier termination of this Agreement.

32. Recovery of Unspent Funds or Overpayments of Funds

- 32.1. Any unspent Funds may be recovered by the Commonwealth under paragraph 58(1)(c) of the ARC Act. Any amount of Funding paid to the Administering Organisation which exceeds the amount of financial assistance that is properly payable to it may be recovered under paragraph 58(1)(d) of the ARC Act.
- 32.2. The Commonwealth may offset the unspent or overpaid Funds against the total of any further Funds payable to the Administering Organisation.
- 32.3. This clause survives the expiration or earlier termination of this Agreement.

33. Indemnity

- 33.1. The Administering Organisation, if it is not a Commonwealth Entity which is contracting on behalf of the Commonwealth, will indemnify the Commonwealth, its officers, employees and agents against any liability, loss, damage, costs and expenses arising from any claim, suit, demand, action or proceeding by any person, where such loss or liability was caused by a wilful, unlawful or negligent act or omission of the Administering Organisation, its employees, agents or subcontractors in connection with this Agreement.
- 33.2. The Administering Organisation's liability to indemnify the Commonwealth under clause 33.1 shall be reduced proportionally to the extent that any act or omission of the Commonwealth or its employees or agents contributed to the loss or liability.
- 33.3. The indemnity referred to above shall survive the expiration or termination of this Agreement.

34. Insurance

- 34.1. The Administering Organisation must effect and maintain adequate insurance or similar coverage to cover any liability arising as a result of its participation in Linkage Program Projects and, if requested, provide the Commonwealth with a copy of the relevant policies or when appropriate Certificate of Currency. The Administering Organisation will be responsible for effecting all insurances required under workers' compensation legislation and for taking all other action required as an employer.

35. Dispute Resolution

- 35.1. The Parties agree not to commence any legal proceedings in respect of any dispute arising under this Agreement until the procedure provided by this clause 35 has been followed.
- 35.2. The Parties agree that the following procedure will be used in an expeditious way to resolve a dispute:
- (a) the Party claiming there is a dispute will notify the other Party in writing, setting out the nature of the dispute;
 - (b) the Parties will try to resolve the dispute through direct negotiation, including by referring the matter to persons who have authority to intervene and direct some form of resolution;
 - (c) the Parties have ten business days from the date of the notice to reach a resolution or to agree that the dispute is to be submitted to mediation or some alternative dispute resolution procedure;
 - (d) if:
 - i. there is no resolution of the dispute;
 - ii. there is no agreement on submission of the dispute to mediation or some alternative dispute resolution procedure; or
 - iii. there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 30 business days of the submission, or such extended time as the Parties may agree in writing before the expiration of the 30 business days;
- then, either Party may commence legal proceedings.

- 35.3. This clause 35 does not apply to action that the Commonwealth takes, or purports to take, under clause 4, 32 or 36 or where a Party commences legal proceedings for urgent interlocutory relief.
- 35.4. Despite the existence of the dispute, the Administering Organisation must (unless requested in writing by the Commonwealth not to do so) continue to perform its obligations under this Agreement.

36. Termination of Funding for a Project

- 36.1. The ARC may immediately terminate Funding for a Project by notice in writing to the Administering Organisation if:
- (a) the Administering Organisation commits any breach of this Agreement which the Commonwealth considers is not capable of remedy;
 - (b) in the opinion of the ARC, progress on the Project is not satisfactory;
 - (c) the ARC reasonably believes that one or more of the Funding conditions, as set out in this Agreement, have not been satisfied in relation to that Project;
 - (d) the ARC reasonably believes that it has received inaccurate, incomplete or misleading information in relation to that Project, including in the Proposal or in any report provided under this Agreement;
 - (e) the ARC reasonably believes there is fraud, misleading or deceptive conduct on the part of the Administering Organisation, any Personnel or any Participating Organisation in connection with the Project;
 - (f) the Administering Organisation fails to comply with any additional ARC requirement or condition notified by the ARC under clause 2.2;
 - (g) the ARC receives notice that work on the Project will cease, or has ceased;
 - (h) the Administering Organisation is unable to continue its role for any reason;
 - (i) the Commonwealth terminates its commitment in the event of a change of government policy or other related government requirements; or
 - (j) the ARC considers that the integrity of its grant selection processes, funding recommendations and/or funded research projects have been compromised as a result of the outcome of the investigation of research integrity and research misconduct complaints and allegations.
- 36.2. If the ARC terminates Funding for a Project under clause 36.1:
- (a) the Administering Organisation must immediately take all available and reasonable steps to stop any further expenditure of Funding on the Project;
 - (b) the Administering Organisation must provide the reports required by this Agreement within the timeframes specified in this Agreement, unless otherwise notified by the ARC; and
 - (c) the ARC may recover all or any Funding for the Project in accordance with clause 4.3.
- 36.3. Any amount notified to the Administering Organisation as payable under clause 36.2(c) is a debt due to the ARC (without further proof of the debt being necessary), payable within 30 days of the date of the notice.
- 36.4. Subject to clause 20.4, after the expiration or termination of this Agreement the Administering Organisation retains ownership of all Assets purchased using the Funds.

37. Termination of Agreement

- 37.1. The ARC may immediately terminate this Agreement in writing by notifying the Administering Organisation if:
- (a) the ARC reasonably considers there is fraud, misleading or deceptive conduct on the part of the Administering Organisation, any Personnel or any Participating Organisation in connection with any or all Projects;
 - (b) the Administering Organisation fails to comply as soon as possible with any additional ARC requirement or condition as notified under clause 2.2;
 - (c) the Administering Organisation commits any breach of this Agreement that the ARC, acting reasonably, considers is capable of remedy, and has failed to rectify that breach within 30 days of receiving an earlier notice from the ARC requiring the breach to be remedied;
 - (d) the Administering Organisation is unable to continue in its role for any reason;
 - (e) the Administering Organisation commits any breach of this Agreement which the ARC, acting reasonably, considers is not capable of remedy; or
 - (f) the Commonwealth terminates its commitment in the event of a change of government policy or other related government requirements.
- 37.2. If the ARC terminates this Agreement under clause 37.1:
- (a) the Administering Organisation must immediately take all available and reasonable steps to stop any further expenditure of Funding on all Projects;
 - (b) the Administering Organisation must provide the reports required by this Agreement, within the timeframes specified in this Agreement, unless otherwise notified by the ARC; and
 - (c) the ARC will immediately stop payment of all Funding under this Agreement and may recover any unspent Funds as at the date of termination from the Administering Organisation and any Funds not spent as set out in this Agreement.
- 37.3. Any amount notified to the Administering Organisation as payable under this clause 37.2(c) is a debt due to the ARC (without further proof of the debt being necessary), payable within 30 days of the date of the notice.
- 37.4. Subject to clause 20.4, after the expiration or termination of this Agreement the Administering Organisation retains ownership of all Assets purchased using the Funds.

38. Compliance with Law

- 38.1. The Administering Organisation shall in carrying out this Agreement comply with the provisions of any relevant statutes, regulations, by-laws, and requirements of any Commonwealth, State, Territory or local authority.
- 38.2. The Administering Organisation acknowledges that:
- (a) Chapter 7 of the *Criminal Code Act 1995* provides for offences which attract substantial penalties, including theft of Commonwealth property and other property offences, obtaining property or financial advantage by deception, offences involving fraudulent conduct, bribery, forgery and falsification of documents;
 - (b) it is aware that giving false or misleading information is a serious offence under the *Criminal Code Act 1995*;

- (c) the publication or communication of any fact or document by a person which has come to their knowledge or into their possession or custody by virtue of the performance of this Agreement (other than a person to whom the Administering Organisation is authorised to publish or disclose that fact or document) may be an offence under section 70 of the *Crimes Act 1914*, punishment for which may be a maximum of two years imprisonment;
 - (d) in respect of data, including personal information, held in connection with this Agreement, any unauthorised and intentional access, destruction, alteration, addition or impediment to access or usefulness of the data stored in any computer in the course of performing this Agreement is an offence under Part 10.7 of the *Criminal Code Act 1995* which may attract a substantial penalty, including imprisonment;
 - (e) it is aware of the provisions of section 79 of the *Crimes Act 1914* relating to official secrets;
 - (f) it is aware of its obligations under Part 4 of the *Charter of United Nations Act 1945*;
 - (g) it may have obligations under the *Workplace Gender Equality Act 2012* and it must comply with those obligations; and
 - (h) it is aware of its obligations under relevant work, health and safety laws.
- 38.3. The Administering Organisation undertakes with respect to any officer, employee, agent or subcontractor who will have access to documents, materials or information within the meaning of section 79 of the *Crimes Act 1914* that prior to having access the officer, employee, agent and subcontractor will first be required by the Administering Organisation to provide the Administering Organisation with an acknowledgment that the officer, employee, agent or subcontractor is aware of the provisions of the section.
- Note: Administering Organisations should note also that they may be subject to the provisions and applications of the *Competition and Consumer Act 2010* and the *Archives Act 1983*.
- 38.4. The Administering Organisation must ensure that in performing the obligations under, and arising from this Agreement, all necessary precautions for the health and safety of all persons have been identified and implemented.
- 38.5. The Administering Organisation must ensure that all officers, employees, agents and subcontractors in performing the obligations under and arising from this Agreement comply with any security and safety requirements of which they are or should be reasonably aware.
- 38.6. The Administering Organisation shall at all times comply with the requirements of the *Disability Discrimination Act 1992* and the *Racial Discrimination Act 1975* and shall not treat any person or group of people less favourably than another on the grounds of race, colour, religion, ethnicity, sex, age, disability, nationality, marital status or sexual orientation.

39. Research Special Conditions

- 39.1. Importation of experimental organisms: The Administering Organisation must ensure that, before experimental organisms are imported into Australia for the purposes of a Project, the Administering Organisation or the CI of the Project must obtain agreement in principle for the importation from the appropriate Commonwealth and State authorities.

- 39.2. Research involving humans or other animals: If any Project conducted by the Administering Organisation involves research on or involving humans or other animals, the Administering Organisation must ensure that the codes adopted for these purposes by the National Health and Medical Research Council, ARC and Universities Australia are complied with. The proposed research may not commence without clearance from the Administering Organisation's Ethics or Biosafety Committee (or equivalent) and from any other relevant authority.
- 39.3. Deposition of biological materials: Any biological material accumulated during the course of a Project shall be transferred to an Australian body with statutory responsibility for control of such material. If no such body is available to take control of the biological material, then the Administering Organisation must dispose of the material in accordance with the Administering Organisation's established safeguards.
- 39.4. Genetic manipulation: If a Project involves the use of gene technology (as defined in the *Gene Technology Act 2000*), then before the proposed research commences, the Administering Organisation must ensure that the research has been approved in writing by the relevant Biosafety and/or Ethics Committees (or equivalent) of the Administering Organisation. The Administering Organisation must retain all certificates relating to the above and will provide evidence to the ARC if required to do so. The Administering Organisation must be accredited with the Office of the Gene Technology Regulator.
- 39.5. Ionising radiation: If a Project involves the use of ionising radiation, the Administering Organisation shall ensure that any personnel performing procedures involving ionising radiation are appropriately trained and hold a relevant current licence from the appropriate State authority. The Administering Organisation must retain all such licences and shall provide them to the ARC if required to do so.
- 39.6. Social science data sets: Any digital data arising from a Project involving research relating to the social sciences should be lodged with the Australian Social Science Data Archive (ASSDA) for secondary use by other investigators. This should normally be done within two years of the conclusion of any fieldwork relating to the Project research. If a CI is not intending to do so within the two-year period, they should include the reasons in the Project's Final Report.

40. Liaison

- 40.1. Researchers should direct all queries regarding ARC Funding to their Administering Organisation's Research Office in the first instance. All communications from the Administering Organisation to the ARC or the Minister, relating to the Funding should be made through the Responsible Officer of the Administering Organisation and should be directed to the ARC at the following address:

Post-award team	Phone:	02 6287 6600
Australian Research Council	Fax:	02 6287 6638
	Email:	ARC-Postaward@arc.gov.au

41. Applicable Law

- 41.1. This Agreement will be governed by and interpreted in accordance with the laws of the Australian Capital Territory and the Parties submit to the non-exclusive jurisdiction of the courts of that Territory.

Appendix A - Dissemination of Research Outputs

All researchers named on an ARC Project must comply with the ARC's Open Access Policy, which states "The Australian Government makes a major investment in research to support its essential role in improving the wellbeing of our society. To maximise the benefits from research, publications resulting from research activities must be disseminated as broadly as possible to allow access by other researchers and the wider community."

The ARC is committed to ensuring the widest possible dissemination of the research supported by ARC funding, in the most effective manner and at the earliest opportunity, taking into account any restrictions relating to intellectual property or culturally sensitive data.²

Dissemination of Research Outputs may be in the form of:

- a. publishing in academic journals or book chapters
- b. publishing content on the web
- c. contributing to, or running workshops, focus groups, and conferences.

As per clause 18.3 of this Funding Agreement "ARC will support publication and dissemination costs". The Funding Rules include the following Budget Items Supported as per A5.2.3:

- "f. publication and dissemination of Project Research Outputs and outreach activity costs;"
and
- "j. workshops, focus groups and conferences that are necessary for the conduct of the proposed research (including reasonable hospitality costs such as morning tea, lunch and afternoon tea)"

Dissemination should be a key element of the Project's plan, and the Progress and Final Reports should include statements around the completed, ongoing and planned dissemination methods for the Project.

² Australian Code for the Responsible Conduct of Research, 2007, 4.4