

RESEARCH AWARD FUNDING AGREEMENT

Parties **Children's Hospital Foundation Queensland** ABN 11 607 902 687 of 494 Stanley Street, South Brisbane QLD 4101
(**Children's Hospital Foundation**)

Institution Name & ABN of Institution Registered Office Address
(**Administering Institution**)

Introduction

- A. The Children's Hospital Foundation funds research to assist in the discovery and development of treatments and cures for paediatric illnesses and diseases, including research support for significant advancements in understanding causes, diagnosis, treatment, management and prevention of paediatric illnesses and diseases.
- B. The Children's Hospital Foundation employs a rigorous, transparent and independent peer review process to assist in the selection of research award applications for funding.
- C. The Awardee has applied for an Award to carry out the Award Activity.
- D. The Children's Hospital Foundation has agreed to grant the Award for the Activity and the Administering Institution has agreed to administer the Award on the terms and conditions of this Agreement.

It is agreed

- 1. The Children's Hospital Foundation will provide the Award in accordance with the General Conditions.
- 2. The Administering Institution will administer the Award and carry out the Award Activity in accordance with this Agreement.
- 3. The Agreement between the Parties is comprised of:
 - (1) this document entitled Research Award Funding Agreement;
 - (2) Part A - Award Plan;
 - (3) Part B – General Conditions; and
 - (4) Part C – Special Conditions.

SIGNATURES OF THE PARTIES

Signed for and on behalf of **Children's Hospital Foundation Queensland** ABN 11 607 902 687 by its authorised representative in the presence of:

Signed for and on behalf of **Institution Name & ABN** by its authorised representative in the presence of:

Signature of authorised representative

Signature of authorised representative

Name of authorised representative
(BLOCK LETTERS)

Name of authorised representative
(BLOCK LETTERS)

Signature of witness

Signature of witness

Name of witness
(BLOCK LETTERS)

Name of witness
(BLOCK LETTERS)

Address of witness

Address of witness

Date

Date:

Awardee acknowledgement: _____ (signature) Date:

Part A – Award Plan

Application and Award Reference Number			
Award Type			
Award Activity	As defined in Application #XXXXXXXXXX		
Administering Institution representative and contact details	Authorised representative and contact details for notices and consents: Authorised representative and contact details for day to day activities:		
Children’s Hospital Foundation representative and contact details	Authorised representative and contact details for notices, consents and day to day activities: Delivery address: 494 Stanley Street South Brisbane QLD 4101 Postal address: PO Box 8009 Woolloongabba QLD 4102 Email: grants@childrens.org.au Telephone: 07 3606 6100 Facsimile: 07 3606 6199		
Scientific Title			
Specified Personnel			
Awardee			
Supervisor (if applicable)			
Clinical Collaborator (if applicable)			
<i>Enter others here</i>			
<i>Enter others here</i>			
Award Period	Commencement Date		Conclusion Date
Approved Budget			
Financial Year	Amount		
			Total Award
Co-Contribution Funding			
Financial Year	Amount		

Total Co-Contribution Funding			
Co-funding body (if applicable)	Insert terms of co-funder if any or if not enough space, insert 'as set out in the Special Conditions'		
Clearances Required Prior to Funding Commencement			
Clearance Type	Date Due		
Reporting Requirements			
Report Type	Pro-Forma	Personnel responsible	Date Due

Part B – General Conditions

1. **Definitions and interpretation**
- 1.1 In this Agreement:
- (1) **Additional Funding** means funds that are in addition to the Award that the Administering Institution receives for the purposes of the Award Activity, but which must not be expended for the same tasks or expenses that are covered by the Award or Co-Contribution Funds;
 - (2) **Agreement** means this document together with any parts or schedules attached to this document or referenced in this document;
 - (3) **Application** means the funding application for an Award submitted to the Children's Hospital Foundation by the Administering Institution as identified in the Award Plan;
 - (4) **Approved Budget** means the Administering Institution's budget for the Award Activity as approved by the Children's Hospital Foundation in the Award Plan;
 - (5) **Australian Accounting Standards** refers to the standards of that name, as amended from time to time, that are maintained by the Australian Accounting Standards Board and referred to in section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth);
 - (6) **Award** means the award of research funding by the Children's Hospital Foundation specified in the Application, including any co-funding by an external party to the Children's Hospital Foundation to support research, which co-funding may be provided under additional terms and conditions;
 - (7) **Award Activity** means research and necessary ancillary activity conducted by the Administering Institution in connection with the Award;
 - (8) **Award IP** means any Intellectual Property developed in the course of or arising as a result of conducting the Award Activity, including IP in Award Material, copyright in any Reports, and any results of the Award Activity;
 - (9) **Award Material** means all material created, provided or required to be provided as part of, or for the purposes of the Award Activity, and includes any documents, equipment, information or data stored by any means and any material derived from such material by the Administering Institution;
 - (10) **Award Period** means the time period specified in the Award Plan;
 - (11) **Award Plan** means the details of conduct of the Award Activity as specified in Part A of this Agreement;
 - (12) **Awardee** means the person designated by the Administering Institution in the Application as having primary responsibility for the management of the conduct of Award Activity on behalf of the Administering Institution;
 - (13) **Background IP** means Intellectual Property that is in existence at the commencement of the Award Period, or comes into existence independent to the Award Activities, and which is made available by a Party for use, reproduction or other exploitation in connection with the Award Activity, including such Intellectual Property identified in the Application;
 - (14) **Business Day** means a day that is not a Saturday, Sunday, public holiday or any other day on which the Children's Hospital Foundation is closed for business to the public;
 - (15) **Chief Financial Officer** means the person with principal responsibility for accounting and financial management within the Administering Institution, or another person nominated by the Administering Institution who is a qualified public accountant and member of one of the following organisations: CPA Australia, the Institute of Chartered Accountants, or the National Institute of Accountants;
 - (16) **Co-Contribution Funds** means funds contributed by the Administering Institution in support of the Award Activity.
 - (17) **Commercialisation Costs** means all reasonable out of pocket expenses incurred by the Administering Institution in the course of the protection, maintenance, enforcement and Commercialisation of the Award IP, being:
 - (a) legal fees and cost incurred for external attorneys for filing and prosecution of patents, trademarks or other registered rights, maintenance, defence and enforcement;
 - (b) fees and costs incurred for external expert advice (including but not limited to legal, tax, business or Commercialisation);
 - (c) revenue shares agreed to be disbursed to external organisations involved in the creation of the Award IP;
 - (d) royalties or other payments for licences required to Commercialise the Award IP;

- (e) revenue shares required to be distributed under Administering Institution policy sharing arrangements, and
- (f) all taxes paid and payable by the Administering Institution in respect of Commercialisation of the Award IP;
- (18) **Commercialise** means in relation to Intellectual Property, to do or seek to do any one or more of the following:
- (a) manufacture, sell, hire or otherwise exploit a product or process embodying or utilising the Intellectual Property;
- (b) provide a service incorporating that Intellectual Property;
- (c) license, assign, grant an option or otherwise transfer to any third party to do any of those things identified at clause 1.1(18)(a) or (18)(b); or
- (d) otherwise exploit that Intellectual Property,
- with the intention of generating revenue or obtaining financial gain, and includes any necessary preparatory acts such as seeking to register or obtain grant of that Intellectual Property;
- (19) **Confidential Information** means information that:
- (a) is by nature confidential;
- (b) is designated by a party as confidential;
- (c) the other party knows or ought to know is confidential,
- but does not include information which:
- (d) is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligations; or
- (e) has been independently developed or acquired by the other Party as established by written evidence.
- (20) **Conflict of Interest** refers to a current or potential conflict of interest, such as vested private or financial interests, which may affect or influence the Administering Institution in performing the Award Activity fairly and independently;
- (21) **Financial Acquittal** means a statement of receipts and expenditure as specified in Clauses 7.4 and 7.5;
- (22) **Institutional Approvals** means the statements of compliance and ethics clearances specified at clause 19;
- (23) **Intellectual Property or IP** means:
- (a) all copyright and neighbouring rights; and
- (b) all rights in relation to inventions (including patent rights), plant varieties, trade marks (whether registered or unregistered), designs and circuit layouts; and
- (c) all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields,
- but excludes Student IP, Moral Rights and rights in relation to Confidential Information.
- (24) **Law** includes any requirement of any statute, law, rule, regulation, proclamation, order in council, ordinance, by-law or statutory instrument (including but not limited to orders, directions, guidelines or standards with legislative force) relevant to this Agreement;
- (25) **Moral Rights** means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the *Copyright Act 1968* (Cth), and rights of a similar nature of anywhere in the world;
- (26) **Net Proceeds** means all monies received by the Administering Institution from Commercialising the Award IP less Commercialisation Costs. For clarity, Net Proceeds includes signing fees, royalties upon sales, royalties upon sub-license fees, milestone payments, lump sum amounts, dividends, proceeds of sale of shares in a company into which the Award IP may be licensed and all other monies whatsoever, but excludes any monies received where those monies are required to be used to subscribe for shares in a company into which the Award IP is licensed.
- (27) **Parties** means the parties to this Agreement;
- (28) **Personal Information** has the meaning given to that term in the *Information Privacy Act 2009* (Qld);
- (29) **Personnel** means a Party's directors, officers, employees, advisers, contractors, agents and representatives together with, in relation to the Administering Institution, any other persons involved in the management or conduct of the Award Activity;
- (30) **Reports** means those reports required, produced or created as specified in clause 7;
- (31) **Special Conditions** means the special conditions applicable to an Award as described in Part C;

- (32) **Specified Personnel** means in relation to the Administering Institution, the Awardee and any other individuals specified in the Award Plan as conducting any part of the Award Activity;
- (33) **Student IP** means the copyright subsisting in any student's thesis or work submitted for a higher degree, which will remain with the student;
- (34) **Tobacco Policy** means the policy set out in the Special Conditions; and
- 1.2 Except where the context otherwise requires:
- (1) words importing a gender include any other gender;
 - (2) words in the singular number include the plural and words in the plural number include the singular;
 - (3) clause headings are for convenient reference only and have no effect in limiting or extending the meaning of the provisions to which they refer;
 - (4) where any word or phrase is given a defined meaning, any other grammatical form of that word or phrase has a corresponding meaning;
 - (5) "including" and similar expressions are not words of limitation;
 - (6) any reference to legislation or regulations includes legislation or regulations amending or replacing earlier legislation or regulations.
- 1.3 Where the context so admits, a reference to the Administering Institution includes its Personnel.
- 1.4 This Agreement may be executed in any number of counterparts. All of such counterparts taken together shall be deemed to constitute one and the same Agreement.
- 1.5 Where any conflict arises between the terms and conditions contained in the clauses of this Agreement and any attachments to this Agreement, schedule to this Agreement or other document referenced in this Agreement, the documents take precedence in the following order (with most significant first and least last):
- (1) the Special Conditions specified in Part C;
 - (2) the Award Plan in Part A;
 - (3) the terms and conditions contained in the General Conditions in Part B.
- 1.6 Where the Administering Institution consists of more than one person, those persons agree to be jointly and severally bound by the terms of this Agreement.
- 1.7 The laws of the State of Queensland apply to this Agreement.
- 1.8 This Agreement comprises the entire agreement between the parties in relation to its subject matter.
- 1.9 If a party does not exercise (or delays in exercising) any of its rights under this Agreement or at law, that failure or delay does not operate as a waiver of those rights.
- 1.10 A single or partial exercise by a party of any of its rights under this Agreement or at law does not prevent the further exercise of any right.
- 1.11 If a court or tribunal says any provision of this Agreement has no effect or interprets a provision to reduce an obligation or right, this does not invalidate any other provision.
- 1.12 An uncertainty or ambiguity in the meaning of a provision of this Agreement will not be interpreted against a party just because that party prepared the provision.
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- 2. Term**
- 2.1 This Agreement commences on the Commencement Date and expires on the Conclusion Date of the Award Period (as specified in the Award Plan), unless extended by written consent of the authorised representatives of the Parties or terminated earlier in accordance with this Agreement.
- 2.2 A request by the Administering Institution to extend the Award Period must be submitted in writing to the Foundation at least three months prior to the end of the Award Period and contain reasons for the extension.
- 2.3 Where the Award Period is extended, no additional funding will be provided unless agreed in writing between the Parties.
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- 3. Performance of the Award Activity**
- 3.1 The Administering Institution must:
- (1) conduct the Award Activity in accordance with the Application, Award Plan and any Award guidelines;
 - (2) conduct the Award Activity in a diligent manner and to a high professional standard consistent with best Australian research and academic practice;
 - (3) do all things necessary or desirable to complete the Award Activity within the Award Period including achieving any deliverables by their due date;
 - (4) notify the Children's Hospital Foundation as soon as it is practicable of any expected or actual material delay or suspension in the progress of the Award Activity;
 - (5) provide its Co-Contribution Funding, and provide at its own expense all personnel, equipment, facilities, services and premises necessary for the efficient conduct of the Award Activity, including any administrative costs, overhead and operational or indirect costs;
 - (6) ensure that all relevant licences, permits, consents and approvals (including Institutional Approvals) are obtained and

	maintained as required for the duration of the Award (and promptly evidence the same upon written request from the Children's Hospital Foundation);	(3)	upon receipt by it of an invoice identifying this Agreement, the Award and the corresponding payment under the Award Plan.
(7)	take all reasonable steps to ensure that the Specified Personnel complies with the terms of this Agreement;	4.2	The sum of all amounts to be contributed by the Children's Hospital Foundation for the Award Activities shall not exceed the Award.
(8)	if the Award includes co-funding from a co-funder (as identified in the Award Plan), the Administering Institution must comply with any additional terms and conditions specified in the Award Plan;	4.3	Payment of the Award:
(9)	comply with all applicable Laws, regulations, standards and codes (including ethics) in carrying out the Award Activity, including:	(1)	is subject to satisfactory evidence of all applicable Institutional Approvals have been obtained and are provided to the Children's Hospital Foundation, no later than 12 months from the Commencement Date;
(a)	"Australian Code for the Care and Use of Animals for Scientific Purposes 8th edition (2013)";	(2)	all warranty requirements under clause 19 are fulfilled; and
(b)	"National Statement on Ethical Conduct in Human Research 2007 incorporating all updates as at May 2013"; and	(3)	may be terminated or suspended in accordance with clause 14 if Institutional Approvals are withdrawn or not renewed during the Award Period. The Administering Institution must notify the Children's Hospital Foundation as soon as practicable or in any event within 1 month after the withdrawal or expiration of the Institutional Approval.
(c)	the principles that have their origins in the Declaration of Helsinki adopted by the World Medical Association in October 1996 (as accepted by the Australian Government) where the Award Activity involves a clinical trial.	4.4	If there is any actual or expected delay or suspension of the Award Activity:
3.2	The Administering Institution must make its own arrangements with third parties as to the rights and obligations of Personnel involved in the Award Activity who are not parties to this Agreement. All arrangements with third parties must be consistent with the terms of this Agreement including in respect of Intellectual Property rights and compliance with Laws, ethics and research codes. Notwithstanding any third party arrangements, the Administering Institution remains fully liable and responsible for the conduct of the Award Activity.	(1)	the Administering Institution must notify the Children's Hospital Foundation as soon as possible after becoming aware of the delay or expected delay;
		(2)	the Administering Institution must request and obtain the Children's Hospital Foundation's written consent for the continuation of the Award Activity; and
		(3)	the Children's Hospital Foundation may suspend, reduce or terminate payment of the Award for that Award Activity or terminate this Agreement pursuant to clause 14 (in particular, where delays are longer than 6 months).
4.	Payment of Award	4.5	The Administering Institution is responsible for monitoring the expenditure of the Award. If at any time, the Administering Institution considers that any portion of the Award is not being spent for the purpose of the Award Activity in accordance with this Agreement, the Administering Institution must inform the Children's Hospital Foundation immediately and, unless the Children's Hospital Foundation directs otherwise, take all action necessary either to cease or minimise further expenditure in relation to the Award Activity as the Children's Hospital Foundation may decide.
4.1	Subject to the Administering Institution complying with this Agreement on an ongoing basis and any embargo period as notified to the Administering Institution, the Children's Hospital Foundation will pay the Award to the Administering Institution:	5.	Use of Award
(1)	in accordance with the Award Plan and no later than 14 days of the end of each quarter. If the invoice is delayed the Administering Institution must provide written notice to Children's Hospital Foundation providing reasons for the delay and issue the invoice by the last day of the month following the end of the relevant quarter;	5.1	The Administering Institution shall use the Award only for the purpose of performing the Award Activity during the Award Period and in accordance with the Approved Budget as specified in the Award Plan.
(2)	quarterly in arrears in respect of all Approved Budget components based on actual expenditure; and		

- 5.2 The Administering Institution shall deposit all sums comprising or otherwise relating to the Award into a bank account controlled solely by the Administering Institution and keep proper accounts and records of its receipts and use of the Award.
- 5.3 The Administering Institution must obtain the Children's Hospital Foundation's written consent if it wishes to vary the Approved Budget, which consent is not required where such variation is less than 10% of the Approved Budget item.
- 5.4 The Administering Institution may obtain Additional Funding for the purposes of the Award Activity, however such Additional Funding must not be used for the same tasks or expenses that are already covered by the Award or the Co-Contribution Funding.
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- 6. Accountability, evaluation and audit**
- 6.1 The Administering Institution must maintain proper books of account and records in relation to the Award and Award Activity. Such books of account and records must:
- (1) be kept complete and up to date;
 - (2) record all Award sums received and all Award sums used and expended;
 - (3) be kept in a manner that permits them to be conveniently and properly audited;
 - (4) be drawn up in accordance with any applicable Australian Accounting Standards; and
 - (5) relate only to the Award Activity.
- 6.2 Upon reasonable notice by the Children's Hospital Foundation, the Administering Institution must provide the Children's Hospital Foundation (or its representative) access to its premises or to Award Material to evaluate its performance of this Agreement or Award Activity, or verify the Administering Institution's compliance with this Agreement.
- 6.3 The Children's Hospital Foundation (and its representative) agrees that it will comply with any reasonable directions of the Administering Institution whilst on the premises.
- 6.4 The Children's Hospital Foundation may terminate, reduce or suspend the Award in accordance with clause 14 if in its reasonable opinion there has been non-compliance or unsatisfactory performance of the Agreement or Award Activity, and the Administering Institution must pay the Children's Hospital Foundation's costs of such audit.
- 6.5 The Administering Institution acknowledges that any failure to comply with this Agreement may be taken into consideration by the Children's Hospital Foundation in any future application by the Administering Institution for funding from the Children's Hospital Foundation.
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- 7. Reporting**
- 7.1 The Administering Institution must submit the Reports specified in the Award Plan in respect of
- each Award Activity by the dates specified in the Award Plan. Each Report must be provided using the Children's Hospital Foundation pro-forma (or any successor pro-forma) provided by the Children's Hospital Foundation .
- 7.2 Each Report must be prepared and/or provided by the Specified Personnel.
- 7.3 The Administering Institution shall, upon written notice given by the Children's Hospital Foundation or otherwise as specified in the Award Plan, provide the Children's Hospital Foundation with the Administering Institution's independent annual audit report completed most recently in the preceding 12 months.
- 7.4 The Administering Institution shall, by no later than 14 days after the conclusion of each quarter, or upon written notice given by the Children's Hospital Foundation, or otherwise as specified within the Award Plan provide a Financial Acquittal, relating to the previous quarter, that complies with Australian Accounting Standards, in a form to be stipulated by the Children's Hospital Foundation. The acquittal must include a statement of income and expenditure for the Award sums received and expended by the Administering Institution for the entire Award Period (or a time specified by the Children's Hospital Foundation).
- 7.5 The Financial Acquittal provided by the Administering Institution under clause 7.4 shall be certified by the Chief Financial Officer or their delegate that the Award sums were expended in accordance with the Agreement.
- 7.6 The Administering Institution must promptly provide the Children's Hospital Foundation with any additional information or reports as reasonably requested by the Children's Hospital Foundation from time to time during the term of this Agreement or within 60 days from the expiry or termination of this Agreement.
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- 8. Award Material and Intellectual Property**
- 8.1 Nothing in this Agreement alters the ownership of Background IP.
- 8.2 The Administering Institution must inform the Children's Hospital Foundation promptly in writing of the creation of any Award IP that the Administering Institution, acting in good faith, considers to have potential to be Commercialised.
- 8.3 As between the Parties, Award Material and Award IP will be owned by and immediately vest in the Administering Institution upon creation.
- 8.4 The Administering Institution grants to or must procure a grant of, a non-exclusive, perpetual, irrevocable, royalty-free licence to the Children's Hospital Foundation to use, reproduce, modify, and communicate any reports provided to the Children's Hospital Foundation under this Agreement (including the Reports and Background IP in reports) for the Foundation's purposes, including for the purposes of reporting to its governance committees on Award Activity and for promoting the Award or the research funded by the Children's Hospital Foundation.

Moral Rights

- 8.5 The Administering Institution must use its best endeavours to obtain all necessary moral rights consents for the Children's Hospital Foundation to perform any act or omission in respect of the reports provided under this Agreement, other than a consent for false attribution.
- 8.6 The Administering Institution warrants that to the best of its knowledge, use by the Children's Hospital Foundation of reports in accordance with this Agreement will not infringe any person's rights.

9. Commercialisation of Intellectual Property and Sharing of Net Proceeds

- 9.1 In any dealings with either the Background IP or the Award IP, the Administering Institution must not seek to or negotiate with or obtain any benefit from any organisations in the tobacco industry or persons connected with the tobacco industry.
- 9.2 Research funded by the Children's Hospital Foundation might have public health, scientific or commercial value or result in inventions. The Children's Hospital Foundation recognises that the public benefits of the research developed through Children's Hospital Foundation support may be best accomplished through licensing or other transfer of such inventions. Against this background, the Administering Institution must Commercialise the Award IP on commercial arm's length terms and it must inform the Children's Hospital Foundation promptly in writing if it has Commercialised the Award IP.
- 9.3 The Children's Hospital Foundation's share of Net Proceeds is the proportion of the Award amount to the direct costs of the Award Activity (the **CHF Share**).
- 9.4 The Administering Institution must pay the Children's Hospital Foundation the CHF Share on the Net Proceeds, which amounts are payable annually within 90 days of the end of each financial year (being 30 June).
- 9.5 Within 30 days of the last day of each financial year that the Administering Institution receives Net Proceeds, the Administering Institution shall provide to the Children's Hospital Foundation a written notice stating:
- (1) the amount of revenue it receives from Commercialising the Award IP; and
 - (2) calculation of the amount of Net Proceeds owing to the Children's Hospital Foundation,
- in respect to the relevant financial year.
- 9.6 The Children's Hospital Foundation must promptly after receiving the notice in clause 9.4, provide the Administering Institution with an invoice for the payment due to the Children's Hospital Foundation in the notice. The Administering Institution must pay such invoices within 30 days of the date of the invoice.
- 9.7 The Children's Hospital Foundation shall have the right to audit the Administering Institution's books

and records annually in order to verify the CHF Share and the Net Proceeds received by the Administering Institution.

10. Confidentiality

- 10.1 A Party must not, and must not permit any of its Personnel, to disclose any Confidential Information provided by another Party in connection with this Agreement to any person (other than to those of its Personnel 'needing to know' to the extent necessary for the performance of obligations under this Agreement or its professional advisers) or except as required by law without the prior written consent of that other Party.
- 10.2 A Party must not, and must not permit any of its Personnel, to use Confidential Information provided by another Party in connection with this Agreement except in connection with the performance of obligations under this Agreement.
- 10.3 A Party must notify the other party within 14 days if it becomes aware of or suspects misuse or disclosure of Confidential Information.
- 10.4 Notwithstanding this clause 10, the Administering Institution acknowledges and agrees that the Children's Hospital Foundation and if relevant, any co-funding body identified in the Award Plan, may disclose or publish:
- (1) the report or parts of any report provided by the Administering Institution;
 - (2) the Administering Institution's name, names of Specified Personnel, name of the Awardee, title and brief description of the Award,

in any media releases, general announcements about the Award, or in annual reports. The Children's Hospital Foundation must seek prior written consent for any other uses of the names or logos of the Administering Institution and the Specified Personnel that are not contemplated by this clause 10.4.

11. Specified Personnel

- 11.1 The Administering Institution shall ensure that the Specified Personnel perform the activities specified in the Award Plan.
- 11.2 Where Specified Personnel are unable to perform, or to continue to perform, the activities in relation to an Award, the Administering Institution must notify the Children's Hospital Foundation within 30 days and the Children's Hospital Foundation may request the Administering Institution provide, at no additional cost to the Children's Hospital Foundation, replacement personnel suitable to the Children's Hospital Foundation, to perform the activities in relation to the Award, within 30 days of that notice having been provided.
- 11.3 The Children's Hospital Foundation may request the Administering Institution to make available to the Children's Hospital Foundation, the services of Awardees for the purposes of reviewing or assessing applications made to the Children's

Hospital Foundation during the Award Period, and the Administering Institution will use its best endeavours to facilitate compliance by the Awardee.

11.4 If:

- (1) the Specified Personnel are unable to perform the activities in relation to the Award; or
- (2) the Administering Institution otherwise does not comply with this clause,

the Children's Hospital Foundation may terminate this Agreement under clause 14.

11.5 If any Specified Personnel moves to a new institution before completion of this Award, then the Administering Institution must:

- (1) obtain the Children's Hospital Foundation's written consent for the Award to be transferred to such new institution, which consent may be subject to any terms and conditions;
- (2) subject to consent being provided, bring into existence, sign, execute or otherwise deal with any document, which may be necessary or desirable to novate this Agreement and to transfer ownership of any equipment and animals purchased with the Award to the new institution; and
- (3) do all things reasonably required by the Children's Hospital Foundation to facilitate the smooth and orderly transfer of the management and operation of the Award to the new institution.

12. Acknowledgments

12.1 The Administering Institution must acknowledge the Children's Hospital Foundation's support of the Award Activity in all public announcements, advertising material and academic publications relating to the Award Activity or Award IP, including academic journals, at conferences or seminar presentations, in the following ways:

- (1) reference to the Children's Hospital Foundation's name as funder of the Award Activity; or
- (2) by using the Children's Hospital Foundation logo as follows:

"This project [or *insert name of project*] is/was supported by

Research supported by



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12.2 The Administering Institution must not other than in accordance with clause 12.1, use the Children's Hospital Foundation's name or logo without the prior written consent of the Children's Hospital Foundation, which consent may be subject to terms and conditions such as allowing the Children's Hospital Foundation to be present at media opportunities.

12.3 The Administering Institution must promptly provide to the Children's Hospital Foundation a copy of all publications that relate in any way to the Award.

13. Termination for Convenience

13.1 The Children's Hospital Foundation acting reasonably, may at any time by giving 60 days' written notice suspend or defer any payment of the Award sums, terminate this Agreement or reduce the scope of an Award.

13.2 If the Children's Hospital Foundation gives notice under clause 13.1, the Children's Hospital Foundation shall be liable only for:

- (1) Award sums payable under this Agreement up to the effective date of termination (including any acquitted or committed funds) or the reduced Award amount; and
- (2) any reasonable costs incurred by the Administering Institution and directly attributable to the termination, which costs:
 - (a) do not include costs arising from termination of an employment contract which exceed the equivalent of 4 weeks of salary; and
 - (b) are capped at a maximum amount of the remainder of the Award sums that have not yet been paid to the Administering Institution.

13.3 Upon:

- (1) receipt of notice under clause 13.1 and subject to clause 13.2, or
 - (2) any agreement reached between the parties to terminate the Agreement;
- the Administering Institution must:
- (3) stop or reduce work as specified in the notice;
 - (4) take all available steps to minimise loss resulting from that termination or reduction;
 - (5) in the case of reduction in the scope of the Award, continue work on any part of the Award Activity not affected by the notice; and
 - (6) immediately repay to the Children's Hospital Foundation so much of the Award not spent, acquitted or committed to the satisfaction of the Children's Hospital Foundation as they relate to any part of the Award affected by the notice as at the date of the notice.

- 13.4 If the Agreement is terminated under clauses 13 or 14 and the Children's Hospital Foundation is able to arrange (within 3 months of termination) another institution or individual researcher to carry out the Award Activity, the Administering Institution must do all necessary acts to transfer any equipment purchased using the Award and grant to the other institution or individual researcher a non-exclusive, royalty free, non-transferable licence to use the Award IP existing as at the date of termination of this Agreement for the purpose of conducting the Award Activity.
- 13.5 In the event of reduction in the scope of the Award, the Children's Hospital Foundation's obligation to pay Award sums shall abate proportionately to the reduction in the Award.
- 13.6 The Children's Hospital Foundation is not liable to pay any other amount in respect of a termination or reduction under this clause.
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- 14. Termination and Suspension**
- 14.1 Where:
- (1) the Children's Hospital Foundation is reasonably satisfied that any of the terms and conditions of this Agreement have not been complied with by the researchers involved in the Award Activity or the Administering Institution and the breach is either incapable of remedy or remains unremedied within 14 days of being provided written notice of the breach by the Children's Hospital Foundation;
 - (2) the Children's Hospital Foundation is reasonably satisfied that any statement made in the Application to obtain the Award is incorrect or incomplete in a way which would have affected the original decision to approve the Award;
 - (3) the Children's Hospital Foundation is reasonably satisfied that any key performance indicators or performance measurement metrics set out in this Agreement or the Application have not been met;
 - (4) the Children's Hospital Foundation is reasonably satisfied that the Awardee or Specified Personnel are, or have within 3 years prior to the commencement of this Agreement, engaged in research misconduct as defined by the *Australian Code for the Responsible Conduct of Research*;
 - (5) the Administering Institution:
 - (a) has received a formal complaint, or has resolved to conduct or has commenced to conduct, an investigation into allegations of research misconduct by the Awardee or Specified Personnel; and
 - (b) has not informed the Children's Hospital Foundation within 14 days of receipt of the formal
- complaint, or of the resolution to commence the investigation or of the fact that an investigation has commenced;
- (6) the Children's Hospital Foundation is not reasonably satisfied that the purposes and activities of the Administering Institution remain compatible with the objectives of the Award Activity;
 - (7) the Administering Institution in the reasonable opinion of the Children's Hospital Foundation, fails to adequately comply with its reporting obligations under clause 7;
 - (8) the Children's Hospital Foundation has received insufficient funding in relation to the financial year in which payments are to be made under this Agreement;
 - (9) the Administering Institution is using the Award for purposes other than the Award Activity;
 - (10) any of the Administering Institution, its Personnel or the Specified Personnel does not comply with the Tobacco Policy, or seeks or accepts any funding from the tobacco industry or persons connected with the tobacco industry; or
 - (11) a clause of this Agreement provides that this clause 14 applies,
- the Children's Hospital Foundation may, in its discretion, by written notice to the Administering Institution:
- (12) terminate this Agreement; or
 - (13) suspend or reduce payment of the Award, pending a review by the Children's Hospital Foundation of the future performance of the Award Activity.
- 14.2 For the purposes of clause 14.1(5):
- (1) the Administering Institution must have in place procedures for dealing with instances of suspected or alleged research misconduct which are consistent, as a minimum standard for the purposes of clause 14.1(5), with the *Australian Code for the Responsible Conduct of Research*;
 - (2) where formal investigation of possible research misconduct is indicated, the Administering Institution must determine, having regard to the gravity of the suspected or alleged misconduct, whether an independent investigation by a third party is appropriate and must be able to provide justification for this decision if requested by the Children's Hospital Foundation;
 - (3) the Children's Hospital Foundation reserves the right at its discretion, in any instance of suspected or alleged research misconduct notified to the Children's Hospital Foundation by the Administering

<p>Institution in accordance with clause 14.1(4), to discuss or consult with the Administering Institution as to the appropriate form of formal investigation;</p> <p>(4) the Children's Hospital Foundation reserves the right at its discretion, where an Administering Institution is conducting an investigation, whether preliminary or formal, to suspend Award funding to that Administering Institution, for the Award, pending the outcome of the investigation;</p> <p>(5) the Administering Institution must notify the Children's Hospital Foundation of the outcome of any preliminary or formal investigation, whether conducted internally or independently, and reasons for the decision within 10 days following the decision; and</p> <p>(6) the Administering Institution must, in all cases, conduct any investigation or enquiry in such a manner as to ensure that any person who is the subject of such an investigation or enquiry is afforded natural justice.</p>	<p>15. Recovery of Award</p> <p>15.1 If at any time the Children's Hospital Foundation is reasonably satisfied that:</p> <p>(1) any part of the Award has been expended or committed by the Administering Institution other than in accordance with this Agreement; or</p> <p>(2) if there has been a failure to adequately comply with the reporting obligations under clause 7 and after being provided notice of such failure, the Administering Institution fails to remedy such failure within the period of time specified in the notice,</p> <p>the Children's Hospital Foundation may recover as a debt due to the Children's Hospital Foundation:</p> <p>(3) the amount not spent in accordance with the Agreement; or</p> <p>(4) in respect of the failure to provide adequate reports, an amount the Children's Hospital Foundation considers reasonable, having regard to the decreased usefulness of the Award Activity to the Children's Hospital Foundation for analysis of the conduct and outcomes of the Award Activity and future policy initiatives (which provide substantial value to the Children's Hospital Foundation as a source of information for these purposes).</p>
<p>14.3 In this clause 14, 'research misconduct' includes research misconduct, misconduct and scientific misconduct (as those terms are defined in <i>the Australian Code for the Responsible Conduct of Research</i>, or in any replacement document), and includes (without limitation) failure to adhere to research proposals approved by either a Human Research Ethics Committee, Bioethics or Animal Ethics Committee.</p>	<p>15.2 Such amounts referred to in clause 15.1 must be repaid within 20 Business Days after the date of a Children's Hospital Foundation notice requiring the Administering Institution to repay those Award sums.</p>
<p>14.4 Nothing in this clause 14 is intended to prevent the Children's Hospital Foundation from unilaterally suspending or withdrawing all award funding it provides to the Administering Institution in a situation where the Children's Hospital Foundation considers it appropriate having regard to all the circumstances.</p>	<p>16. Indemnity</p>
<p>14.5 Where the Children's Hospital Foundation terminates this Agreement under clause 14.1, the Children's Hospital Foundation shall not be obliged to pay to the Administering Institution any outstanding amount of the Award.</p>	<p>16.1 The Administering Institution shall indemnify, at all times, the Children's Hospital Foundation, its officers, employees, agents and sub-contractors (in this clause referred to as 'those indemnified') from and against all action, claims, demands, costs and expenses (including the cost of defending or settling any action, claim or demand) made, sustained, brought or prosecuted in any manner based upon, occasioned by, or attributable to any loss or damage to any person, or loss or damage to property which may arise from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was directly caused by any act or failure to act by the Administering Institution.</p>
<p>14.6 In the event of the suspension, reduction or termination of the Award, the Administering Institution's obligation to carry out the Award Activity thereafter abates proportionately to the suspension, reduction or termination of the Award but, for the avoidance of doubt, such abatement is without prejudice to any rights or remedies the Children's Hospital Foundation has accrued up to the date of and in relation to the relevant suspension, reduction or termination of the Award (whether under this Agreement or otherwise), and the Children's Hospital Foundation is not precluded from terminating this Agreement pursuant to this clause 14 even if it at first elected to suspend or reduce payment of the Award for that Award Activity. Pursuant to clause 15, the Children's Hospital Foundation may recover any portion of the Award not expended in accordance with this Agreement.</p>	<p>16.2 The Administering Institution's liability to indemnify the Children's Hospital Foundation under clause 16.1 will reduce proportionately to the extent that any negligent or other tortious act or omission of, or breach of contract by, the Children's Hospital Foundation contributed to the relevant liability, loss or damage, or loss or expense, provided that, the Administering Institution acknowledges that the Children's Hospital Foundation is a passive grantor.</p>

<p>17. Insurance</p> <p>17.1 The Administering Institution must, for so long as any obligations remain in connection with this Agreement:</p> <p>(1) effect and maintain workers' compensation insurance as required by law, public liability insurance and professional indemnity insurance policies (or equivalent) for appropriate amounts to cover all the obligations of the Administering Institution under this Agreement, including those which survive the expiration or termination of this Agreement; and</p> <p>(2) upon request, provide proof of insurance acceptable to the Children's Hospital Foundation.</p> <p>17.2 All insurance under clause 17.1 is to be taken out with a reputable insurance company or provided by means of appropriate self-insurance to the extent permitted by law.</p>	<p>principles outlined in all relevant NHMRC guidelines, codes and statements.</p>
<p>18. Negation of Employment, Partnership and Agency</p> <p>18.1 The Administering Institution agrees not to represent itself, and to use its best endeavours to ensure that its officers, employees, agents and sub-contractors do not represent themselves, as being an officer, employee, partner or agent of the Children's Hospital Foundation, or as otherwise able to bind or represent the Children's Hospital Foundation.</p> <p>18.2 The Administering Institution, its officers, employees, agents and sub-contractors do not by virtue of this Agreement become an officer, employee, partner or agent of the Children's Hospital Foundation, nor does the Administering Institution have any power or authority to bind or represent the Children's Hospital Foundation.</p>	<p>20. Conflict of Interest</p> <p>20.1 The Administering Institution warrants that, to the best of its knowledge, at the date of signing this Agreement no Conflict of Interest exists, has existed or is likely to arise in the performance of its obligations under this Agreement.</p> <p>20.2 If a Conflict of Interest arises, or is expected to arise, in respect of the Administering Institution, or an employee or agent of the Administering Institution, the Administering Institution must immediately notify the Children's Hospital Foundation in writing making full disclosure of all relevant information relating to that Conflict of Interest.</p> <p>20.3 The Administering Institution must not permit any of its Personnel working on or in connection with the Award Activity to carry out or be involved in any activity which may adversely affect the Administering Institution's ability to carry out the Award Activity in accordance with this Agreement.</p> <p>20.4 If a Conflict of Interest is experienced by the Administering Institution, or an employee or agent of the Administering Institution, the Administering Institution must take such steps as the Children's Hospital Foundation may reasonably require to resolve or otherwise manage that Conflict of Interest.</p> <p>20.5 If the Administering Institution fails to notify the Children's Hospital Foundation under this clause 20, or is unable or unwilling to resolve or deal with the Conflict of Interest as required, the Children's Hospital Foundation may terminate this Agreement in accordance with clause 14 .</p>
<p>19. Warranties and Institutional Approvals</p> <p>19.1 The Administering Institution warrants that it:</p> <p>(1) is a "National Health and Medical Research Council (NHMRC) Administering Institution";</p> <p>(2) is and will remain registered with the NHMRC for the duration of this Award; and</p> <p>(3) has established administrative procedures for assuring sound scientific practice in accordance with the principles of the Australian Code for the Responsible Conduct of Research (2018).</p> <p>19.2 The Administering Institution must ensure that the ethics clearances required for the Award Activity, as outlined in Award Plan and the Application are obtained and maintained for the duration of the Award and that copies of these clearances are provided to the Children's Hospital Foundation within 30 days of approval, or as requested.</p> <p>19.3 The Administering Institution must ensure that the Award Activity is conducted in accordance with the</p>	<p>21. Protection of Personal Information</p> <p>21.1 If the Administering Institution deals with Personal Information in respect of the Award Activity, it must not do anything which, if done by the Children's Hospital Foundation, would be a breach of an Information Privacy Principle contained in the <i>Information Privacy Act 2009</i> (Qld).</p> <p>21.2 The Administering Institution will ensure that any sub-contract entered into for the purpose of fulfilling the Administering Institution's obligations under this Agreement imposes on the subcontractor the same obligations as the Administering Institution has under this clause 21, including the requirement in relation to subcontracts.</p> <p>22. Dispute Resolution</p> <p>22.1 If a dispute arises in connection with this Agreement, a party to the dispute must give to the other party or parties to the dispute notice specifying the dispute and requiring its resolution under this clause 22 (Notice of Dispute).</p> <p>22.2 The Chief Executive Officer (or equivalent) of each party must confer within 7 days after the Notice of Dispute is given to try to resolve the dispute.</p>

- 22.3 If the dispute is not resolved within 14 days after the Notice of Dispute is given to the other party or parties, the dispute must be referred to mediation. The mediation must be conducted in Brisbane, Queensland by the Resolution Institute in accordance with the Resolution Institute's Rules.
- 22.4 If the parties have not agreed upon the mediator and the mediator's remuneration within 7 days after referring to mediation:
- (1) the mediator is the person appointed by; and
 - (2) the remuneration of the mediator is the amount or rate determined,
- in accordance with the Resolution Institute's Rules.
- 22.5 The parties must pay the mediator's remuneration in equal shares. Each party must pay its own costs of the mediation.
- 22.6 If the dispute is not resolved within 30 days after the appointment of the mediator (such other period as agreed to between the Parties), the Parties are free to commence legal proceedings.
- 22.7 Despite anything in this clause 22, a party at any time may commence court proceedings in relation to any dispute or claim arising under or in connection with this Agreement where that party seeks urgent interlocutory relief.
- 22.8 This clause 22 applies even where the Agreement is otherwise void or voidable.
- 22.9 Notwithstanding the existence of a dispute, each Party must continue to perform its obligations under this Agreement.

23. Notices

- 23.1 Any notice, request or other communication to be given or served pursuant to this Agreement shall be in writing and addressed to the other party at the address provided in the Award Plan or such other address as a party may notify the other party from time to time.
- 23.2 A notice, request or other communication will be deemed to be received:
- (1) if delivered by hand, upon delivery;
 - (2) if sent by pre-paid ordinary post within Australia, upon the expiration of 5 days after the date on which it was sent;
 - (3) if sent by facsimile, on the Business Day following the day of dispatch provided that the sender receives an OK code in respect of the transmission and is not notified by the receiver by close of business of the next Business Day following the day of dispatch that the transmission was illegible; or
 - (4) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

24. Assignment and Other Encumbrances

- 24.1 The Administering Institution shall not assign, mortgage, charge or encumber this Agreement or any benefit, moneys or rights (apart from Intellectual Property benefits or rights) obtained or to be obtained under this Agreement.

25. Variation

- 25.1 Except as provided in clause 2, an amendment or variation to this Agreement is not effective unless it is in writing and signed by the parties.

26. Survival of Provisions

- 26.1 Clauses 6, 7.6, 8, 9, 10, 11.3, 11.5, 12, 13, 14.5, 14.6, 15, 16, 17, 19, 21, 22, 23, 26, 27 and any other obligations which by their nature are intended to survive this Agreement, will survive expiry or termination of this Agreement.

27. Taxes, Duties and Charges

- 27.1 The following terms have the meanings respectively given to them in the *A New Tax System (Goods and Services Tax) Act 1999 (GST Law)*: consideration; GST; input tax credit; supply; taxable supply; and tax invoice.
- 27.2 Unless otherwise indicated, the fees and all other consideration for any supply made under this contract is exclusive of any GST imposed on the supply.
- 27.3 If one party (the supplier) makes a taxable supply to the other party (the recipient) under this Agreement, on receipt of a tax invoice from the supplier, the recipient must pay without setoff an additional amount to the supplier equal to the GST imposed on the supply in question.
- 27.4 No party may claim from the other party under this Agreement any amount for which the first party may claim an input tax credit.
- 27.5 Where the invoice relates to a taxable supply made under this Agreement, the invoice must comply with the requirements for a tax invoice, as defined in the GST Law.

Part C – Special Conditions

Health Services Research Grant

- Item 1:** Award funds may not be used to support salary for the Awardee or as stipend for a PhD student or to support administrative costs. Award funds may be used to support a salary for someone to conduct part of the Award Activity (this person may be a named associate investigator), for consumables to be used in connection with the Award Activity or for other Award Activity related costs not exclusively prohibited elsewhere in this Agreement.
- Item 2:** The Children's Hospital Foundation is to be notified immediately if the Awardee's employment circumstances change during the tenure of an Award, particularly when the ability of the Awardee to undertake the Award Activity may be affected by the change in circumstances. The notification will need to detail any financial and/or administrative implications for the Awardee, and implications of the change on their ability to undertake the roles and responsibilities associated with the Award.
- Item 3:** The funding awarded for Health Services Research support must be used to engage and motivate clinical researchers to undertake high quality Health Services Research and provide ongoing mentoring and support, thereby building knowledge and strengthening innovation capacity.

Tobacco Policy

The individuals, research groups, research institutions or personnel of research institutions associated with a Children's Hospital Foundation award shall not accept any money by way of research grants, consultancies or sponsorships from the tobacco industry or persons connected with the tobacco industry. This includes direct funding, as well as advertising, sponsorship, gifts or loan of goods or services, or funding by any other means.