

# CATALYST FUND FUNDING AGREEMENT

between

**THE MINISTRY OF BUSINESS,  
INNOVATION AND  
EMPLOYMENT**

and

**{Contractor}**

Contract Number

**This Agreement is made on DATE**

**between** the Ministry of Business, Innovation & Employment ("**MBIE**")

**and** [insert contractor name and details] ("**you**" or "**your**")

together referred to as "**we**", "**us**", "**our**", or "**Parties**".

## **Background**

- A MBIE provides funding grants to support activities that initiate, develop and foster collaborations leveraging international science and innovation for New Zealand's benefit.
- B You have applied for funding under the Catalyst Fund for a research, science, or technology or related activities Project. Your proposal has been approved by MBIE.
- C The purpose of this Agreement is to:
  - (a) set out the terms of the Project;
  - (b) set out the terms under which Funding is provided to you;
  - (c) recognise that the Parties to this Agreement have a mutual goal of achieving the delivery of the Project, and enable both Parties to achieve that goal;
  - (d) deal with any change in the delivery of or risks to the delivery of the Project; and
  - (e) ensure that MBIE can get information about the progress of the Project from you.

## **1. Interpretation**

1.1 In this Agreement, unless the context requires otherwise:

**Business Day** means any day not being a Saturday or Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003.

**Change Event** has the meaning set out in clause 5.1.

**Confidential Information** means information identified by either of us as being confidential, and information that would reasonably be expected to be confidential.

**Cost of Dissemination** means the costs incurred by you in providing access to the Primary Results on an ongoing and sustainable basis.

**End Date** means the contract end date set out in Schedule 1.

**Intellectual Property Rights** includes copyright, and all rights conferred under statute, common law or equity in relation to inventions (including patents), trademarks, designs, circuit layouts, domain names, rights in databases, confidential information, trade secrets, know-how, and all other proprietary rights, whether registered or unregistered, and all equivalent rights and forms of protection anywhere in the world, together with all right, interest or licence in or to any of those.

**Key Personnel** means, in relation to the Project, the science leader, the impact statement leader, the key individuals, and key researchers, together with any other of your, or your subcontractor's key personnel, or Key Personnel who are co-funded by a co-funder; all as identified in the Schedules to this Agreement.

**Nationally Significant Database or Collection** means a database or collection that is identified on MBIE's website as being nationally significant.

**Notice** means a notice given in accordance with clause 9.

**Primary Results** means the data and findings produced as part of a Project and the available interpretations and explanations of such data and findings in a form that facilitates their uptake and application by the public, and includes any part of the data and findings but does not include primary data that is an input into creating the primary results.

**Project** means the project described in Schedule 2.

**Project Intellectual Property Rights** means Intellectual Property Rights arising directly from the performance of the Project.

**Start Date** means the contract start date set out in Schedule 1.

**Transaction** means a formal agreement between you and an Overseas Party under which any Project Intellectual Property Right is to be transferred for a defined term or permanently (by way of assignment, licence to use, or otherwise), but does not include:

- (a) any proprietary information exchange agreement or confidentiality agreement made in anticipation of a formal agreement;
- (b) any option or preliminary agreement which has not resulted in a final agreement;
- (c) any agreement relating solely to a common law right in the nature of know-how, trade secrets, biological material, or the like, except where a trade secret, or the like, is subject to statutory definition in the Overseas Party's jurisdiction; or
- (d) any agreement made by a third party in New Zealand, to whom you have previously transferred a Project Intellectual Property Right, with an Overseas Party.

1.2 References to money are references to New Zealand currency, unless stated otherwise.

## **2. TERM**

2.1 This Agreement starts on the Start Date and ends on the End Date, unless earlier terminated.

## **3. MBIE'S OBLIGATIONS**

### *Funding*

3.1 In consideration of you carrying out the Project and meeting your obligations under this Agreement, MBIE will provide the Funding to you subject to the terms and conditions of this Agreement.

3.2 MBIE will provide Funding in accordance with the Payment Schedule in Schedule 1.

3.3 The Funding is exclusive of GST, and you are responsible for all taxation liabilities, rates, and levies payable in relation to the Funding.

### *Intellectual Property Rights*

- 3.4 MBIE agrees that all Project Intellectual Property Rights are your property and will make no claim to ownership of any Project Intellectual Property Rights arising from this Agreement.

## **4. YOUR OBLIGATIONS**

### *Project*

- 4.1 You agree to:
- (a) use your best endeavours to carry out and complete the project described in Schedule 2 ("Project") to MBIE's reasonable satisfaction; and
  - (b) ensure the Key Personnel named in Schedule 1 carry out and complete the Project.

### *Warranties*

- 4.2 You warrant that:
- (a) you are not insolvent or bankrupt or similar and no action has been taken to initiate any form of insolvency or administration in relation to you;
  - (b) all information provided by you to MBIE in connection with this Agreement (including any funding application or similar document) was, at the time it was provided, true, complete and accurate in all material respects to the best of your knowledge;
  - (c) you are not aware of any material information that has not been disclosed to MBIE that may, if disclosed, materially adversely affect the decision to provide you with the Funding;
  - (d) you will, to the best of your ability, ensure that you do not infringe any Intellectual Property Rights in carrying out the Project; and
  - (e) all consents required to carry out the Project have been, or will be, obtained. You must notify MBIE immediately if any required consent is not able to be obtained, expires, is withdrawn, or otherwise lapses.

### *Funding*

- 4.3 If invoicing is required you must invoice MBIE as specified in the Payment Schedule in Schedule 1. If GST is payable, the invoice must be a valid GST invoice.
- 4.4 You agree to apply all Funding you receive under this Agreement towards:
- (a) agreed costs incurred in carrying out the Project between the Start Date and the End Date;
  - (b) your reporting requirements in accordance with clause 4.7;
  - (c) carrying out activities that are reasonably necessary to deliver the Project;
  - (d) meeting your reasonable costs of providing access, information and reports to MBIE if MBIE undertakes an audit, review or evaluation as set out in clauses 4.7, 4.8 and 4.9.

### *Communications and Media*

- 4.5 You will acknowledge, the provision of funding support from the New Zealand Government by including words to the effect of, "Supported by the Catalyst: Strategic Fund from Government Funding, administered by the Ministry of Business Innovation and Employment" in all public facing communications about

the Project, including but not limited to, presentations, website content, external news articles, scientist publications and social media.

- 4.6 You will include the Catalyst: Strategic Fund and MBIE logos as provided by MBIE when you make any publication in accordance with clause 4.5 relating to this Agreement, the Funding, or the Project.

#### *Reporting, Reviews and Audit*

- 4.7 You must:

- (a) report to MBIE in accordance with Schedule 1 and Schedule 2, including by providing a final report;
- (b) provide any other reports or information reasonably requested by MBIE; and
- (c) maintain true and accurate records, including appropriate accounting records of your use of the Funding for at least 7 years after termination or expiry of this Agreement.

- 4.8 You must:

- (a) on reasonable Notice from MBIE, provide reasonable access, information and reports to MBIE:
  - (i) during work hours for the term of the Agreement to allow MBIE to review its investment in the Project; and
  - (ii) for a period of up to 7 years after the Project ends, to allow MBIE to review or evaluate whether the post-contract outcomes or outputs for New Zealand described in Schedule 2 have been delivered; and
- (b) comply with any additional evaluation requirements specified in the Schedules.

- 4.9 There are no scheduled audits planned for this Agreement. However, MBIE may appoint an independent auditor to audit all records relevant to this Agreement:

- (a) if MBIE has cause to believe that you are in breach of your obligations under this Agreement;
- (b) as part of a random audit programme required by MBIE in order to satisfy its obligations as a Government funder; or
- (c) if directed to do so by the Minister responsible for the Vote (as defined in the Public Finance Act 1989) from which the Funding originates.

- 4.10 MBIE will use its best endeavours to ensure that any audit carried out under clause 4.9 minimises:

- (a) disruption to you; and
- (b) overlap with other audits and/or reviews that have been carried out in respect of your use of funds.

#### *Intellectual Property*

- 4.11 You must comply with Principles 1 – 3 of Appendix 1 in respect of the Project, including by adopting Intellectual Property Policies and Principles as required by principle 2 of Appendix 1.

- 4.12 Your Intellectual Property Policies and Principles must be published on your website or, where this is inappropriate, made available if requested by a member of the public. However, you are not required to publish individual agreements relating to your Intellectual Property Rights on your website.

- 4.13 You will maintain the Intellectual Property Management Plan specified in Schedule 2 (if any), and will manage any Project Intellectual Property Rights arising from the Project in accordance with that plan, in order to contribute towards delivering the Project.
- 4.14 Clauses 4.11 to 4.13 (inclusive) do not apply where the Funding is a Travel Grant (as set out in Schedules 1 and/or 2).
- 4.15 You give MBIE a royalty free, perpetual, irrevocable, non-transferrable, non-exclusive licence to use (including publish, copy, assign or license) any report that you provide to MBIE under clause 4.7 of this Agreement.
- 4.16 You will not release a copy of any report that you provide to MBIE under clause 4.7 of this Agreement to any other party without prior written approval from MBIE.

#### *Making data available*

- 4.17 You will make any data available, at the Cost of Dissemination and in the least aggregated form, from any Nationally Significant Database or Collection, for which you have any responsibility.
- 4.18 Subject to clause 4.19, you will make the Primary Results of the Project available at the Cost of Dissemination to the public and stakeholder groups, on request through appropriate means in order to contribute towards delivering the Project outputs and outcomes specified in this Agreement.
- 4.19 You are not required to make the Primary Results of this Agreement available under clause 4.18 if you consider that:
- (a) making the Primary Results available would prejudice your commercial position;
  - (b) withholding the Primary Results is necessary to protect the privacy of a person;
  - (c) making the Primary Results available would breach an ethical standard;
  - (d) the request for the Primary Results is vexatious or frivolous;
  - (e) making the Primary Results available would prejudice the Project;
  - (f) making the Primary Results available would be contrary to your statutory or existing legal obligations; or
  - (g) making the Primary Results available would prejudice the filing of a valid patent application in New Zealand or overseas, or a similar application for intellectual property protection, or the commercial value of developed intellectual property.

## **5. CHANGE EVENTS**

- 5.1 In relation to the Project, the following matters constitute a Change Event:
- (a) any significant aspect of the Project cannot be, or is unlikely to be, delivered by the dates specified in, or in the manner contemplated by, this Agreement;
  - (b) MBIE is not satisfied with the progress you have made in relation to the delivery of any significant aspect of the Project;
  - (c) there is a change in the involvement of a Key Personnel without the prior written approval of MBIE;
  - (d) you materially fail to deliver any part of the Project described in this Agreement;
  - (e) your overseas partner fails to deliver any material part of its project;
  - (f) the funding for your overseas partner is altered, suspended or terminated.
- 5.2 If a Change Event occurs:

- (a) the Party that is aware of the Change Event will give the other Party Notice of the Change Event as soon as reasonably practicable after becoming aware of the Change Event; and
  - (b) MBIE may suspend payment of all or part of the Funding for the Project to you.
- 5.3 We may, at any time after receipt of the Notice of a Change Event:
- (a) agree that the circumstances giving rise to the Change Event no longer exist;
  - (b) agree to vary any part (or parts) of the Project as described in Schedule 2; or
  - (c) agree that no further action is required in respect of the Change Event.
- 5.4 If we reach agreement in accordance with clause 5.3:
- (a) MBIE will pay you the Funding suspended under clause 5.2(b) (if any), if it determines that the Funding must be paid to you; and
  - (b) no further action will be required under this clause 5.
- 5.5 You must try to remedy the Change Event by no later than 1 month (or any other period agreed in writing by the Parties) after the date the Notice of the Change Event was given in accordance with clause 9 (“remedy date”).
- 5.6 MBIE may, at any time after the date the Notice of the Change Event was received, obtain an independent review of the Project that considers the impact of the Change Event on the delivery of the Project.
- 5.7 If the Change Event has not been remedied to the satisfaction of the Parties by the remedy date, MBIE will make its determination in accordance with Clause 5.9.
- 5.8 If the Change Event is to be determined by MBIE, you can provide any information that you want MBIE to take into account when making its determination (subject to such information being received within the timeframes set by MBIE).
- 5.9 The Parties agree that if MBIE determines that:
- (a) no further action is required in respect of the Change Event:
    - (i) MBIE will pay you any Funding suspended under clause 5.2(b); and
    - (ii) no further action will be required under this clause 5;
  - (b) the Project must be varied (which may include a change to the amount of Funding payable), subject to clause 5.10 the Parties will do anything necessary to give effect to that decision, including by entering into a variation of agreement;
  - (c) this Agreement must be terminated, the Agreement will terminate with effect from the date specified by MBIE (which may provide for a disengagement period, if MBIE considers that is appropriate).
- 5.10 If MBIE determines that a Change Event must be resolved by varying this Agreement and you do not wish to continue delivering the Project, you may, at any time before the variation is executed by the Parties, terminate this Agreement immediately by Notice to MBIE.
- 5.11 If this Agreement is terminated by MBIE under clause 5.9(c) or by you under clause 5.10, MBIE:
- (a) is not required to pay any Funding suspended under clause 5.2(b) (if applicable), unless it determines that such Funding should be paid to you;
  - (b) may require you to return all Funding not spent and for which contractual liabilities have not yet been incurred as at the date of termination.

5.12 The Parties agree that:

- (a) neither Party may raise a dispute under clause 8 if a Change Event is notified under clause 5.2; and
- (b) nothing in this clause 5 prevents MBIE from terminating this Agreement under clause 6.

## **6. TERMINATION**

6.1 MBIE may terminate this Agreement immediately by notice to you if:

- (a) the government reduces, stops or freezes funding;
- (b) you are in breach of, or are likely to breach, your obligations under this Agreement and that breach is not capable of being remedied;
- (c) you commit or are likely to commit a material breach of your obligations under the Agreement that is capable of being remedied, but you fail to remedy the breach to MBIE's satisfaction within any reasonable time specified by MBIE in a Notice;
- (d) you fraudulently misuse or misappropriate any Funding;
- (e) you do or omit to do something in relation to this Agreement that in MBIE's reasonable opinion may cause damage to the business or reputation of MBIE or of the Government of New Zealand;
- (f) you have given or give any information, representation, or statement to MBIE in relation to this Agreement that is misleading or inaccurate in any material respect;
- (g) you become insolvent (or are deemed or presumed to be so under any applicable law) to be unable to pay your debts, or in the case of an individual or partnership, commits an act of bankruptcy;
- (h) makes an assignment for the benefit of, or makes any arrangement or composition with, its creditors;
- (i) has a receiver, liquidator, administrator, trustee, or manager (including the statutory manager) appointed in respect of all or any of its property;
- (j) passes any resolution, or proceedings are commenced, for amalgamation with any other company (except for the purposes of a reconstruction approved by MBIE, for which approval may be withheld by MBIE in its absolute discretion); or
- (k) the parties are unable to resolve a dispute and Notice has been served under clause 8.4.

6.2 If MBIE terminates this Agreement under clause 6.1:

- (a) MBIE may require you to provide evidence of how the Funding has been spent;
- (b) any Funding that has not yet been paid by MBIE will not be paid;
- (c) MBIE may require you to repay to MBIE:
  - (i) any Funding that has not been committed by you; or
  - (ii) any Funding that relates to the uncompleted part of the Project (if any), as reasonably determined by MBIE; or
  - (iii) up to all Funding paid at the date of termination of this Agreement if, as reasonably determined by MBIE, you breach any of your material obligations under this Agreement and such breach was within your control, and you fail to use your best endeavours to remedy the breach.



- (d) if the Agreement is terminated under clause 6.1(d) MBIE may require you to return all Funding paid up to the date of termination under the Agreement, together with interest on all sums due, which will be charged on a daily basis at a rate that is same as the credit and debit rate that is charged by Inland Revenue on each day on which interest is charged by MBIE, from the date on which you were paid the money by MBIE to the date you return the money, or set off the amount against any payment to be made to you under any other contract, existing or future, with MBIE.
- 6.3 Termination of this Agreement does not affect the rights and obligations of both of us accrued up to and including the date of termination.

## **7. CONFIDENTIALITY**

- 7.1 Except as required by the law, and subject to clauses 4.15, 7.2 to 7.7, we will both keep any Confidential Information of the other party confidential and will not use, or allow the use of, the other Party's Confidential information other than the purpose for which it was disclosed.
- 7.2 You recognise that from time to time MBIE may release the following information relating to this Agreement:
- (a) your name;
  - (b) the Contract ID;
  - (c) the title of the Project;
  - (d) the research fund from which the Project is funded;
  - (e) the relevant sector;
  - (f) the total amount of Funding paid to you by MBIE in the current financial year and previous years;
  - (g) the total amount of Funding payment to you over the duration of the Agreement;
  - (h) the year that the Funding was approved; and
  - (i) the period of time for which Funding will be provided in respect of the Project.
- 7.3 Subject to clauses 4.15 and 7.5, information arising from this Agreement provided by you to MBIE, will remain confidential to the extent to which the Ministry is able to protect confidentiality in accordance with the Official Information Act 1982 or any other statutory or evidentiary requirement.
- 7.4 MBIE may release any information in an aggregated form that does not specifically identify you.
- 7.5 Nothing in this clause 7 prevents the Ministry from disclosing Confidential Information to:
- (a) a Minister; or
  - (b) any of the Ministry's advisors (including relevant third parties) or any other government agency (including any Crown entity), provided that any person to whom Confidential Information is disclosed is bound in writing by obligations no less onerous than those contained in this clause 7 prior to any disclosure.
- 7.6 Subject to any legal requirements, MBIE will give Notice to you if it receives a request for information other than the information listed in clause 7.2 concerning you.
- 7.7 You must not make any public statements about this Agreement, the Funding, or the Project without first getting MBIE's written agreement.

## **8 DISPUTE RESOLUTION**

- 8.1 Subject to clause 5.12, if any dispute arises between the Parties in relation to this Agreement, then a Party may give Notice to the other Party of the initiation of the dispute resolution process set out in this clause 8.
- 8.2 The Parties will attempt in good faith to settle the dispute amicably.
- 8.3 If the Parties cannot settle the dispute amicably within 10 Working Days of Notice being given, a Party may give Notice to the other Party to have the dispute mediated. If the Parties agree to attend mediation, they will agree upon a mediator, or failing agreement within 5 Working Days of the Notice regarding mediation, a mediator will be nominated, on the application of a Party, by the President of the New Zealand Law Society or his/her nominee.
- 8.4 If we cannot resolve the dispute within 2 weeks of the dispute being referred to the mediator, either of us may serve a Notice of intention to terminate this Agreement.

## **9. NOTICES**

### **Delivery of Notices**

- 9.1 All Notices to a Party must be delivered by hand or sent by post, courier or email to that Party's address stated in clause 9.5 (MBIE) and Schedule 1 (you).
- 9.2 Notices must be signed or in the case of email sent by the appropriate manager or person having authority to do so.

### **Receipt of Notices**

- 9.3 A Notice will be considered to be received:
  - a. if delivered by hand, on the date it is delivered;
  - b. if sent by post within New Zealand, on the 3rd Business Day after the date it was sent;
  - c. if sent by post internationally, on the 7th Business Day after the date it was sent;
  - d. if sent by courier, on the date it is delivered;
  - e. if sent by email, at the time the email enters the recipient's information system as evidenced by a delivery receipt requested by the sender and it is not returned undelivered or as an error.
- 9.4 A Notice received after 5pm on a Business Day or on a day that is not a Business Day will be considered to be received on the next Business Day.
- 9.5 In respect of MBIE, Notices given by post will be sent to: The General Manager, Science, Innovation and International, Ministry of Business, Innovation and Employment, PO Box 1473, Wellington. Notices given by email will be sent to [imssupport@mbie.govt.nz](mailto:imssupport@mbie.govt.nz).
- 9.6 In respect of you, Notices will be addressed to the contact person for the Project specified in Schedule 1.

## **10. VARIATIONS**

- 10.1 No modification to or variation of this Agreement will be effective and binding on the Parties unless made in writing and signed by the Parties.

## **11. FORCE MAJEURE EVENTS**

- 11.1 No Party will be liable for any delay or default due to natural calamities, acts or demands of government or any government agency, wars, riots, strikes, floods, accidents or any other unforeseen cause beyond its control and not due to that Party's or those Parties' fault or neglect.
- 11.2 If an event described in clause 11.1 occurs, in which resources employed in this Agreement are required for public good purposes in relation to the event, the Ministry will negotiate a reasonable variation to the Agreement to take account of the diversion of resources.

## **12. NO EMPLOYMENT RELATIONSHIP**

- 12.1 This Agreement does not create a relationship between the Parties of employer and employee, principal and agent, partners, or joint ventures.
- 12.2 You will not lead any person to believe that remuneration for work or any other payment received by that person is met directly by MBIE.
- 12.3 The relationship between the Parties is a relationship only for the supply of Funding on the terms set out in this Agreement.

## **13. ENTIRE CONTRACT**

- 13.1 This Agreement represents the entire contract between the Parties and supersedes and extinguishes all prior agreements, discussions, and arrangements between the Parties that relate to the subject matter contained in this Agreement.

## **14. PARTIAL INVALIDITY**

- 14.1 The illegality, invalidity, or unenforceability of a provision of this Agreement under any law, will not affect the legality, validity, or enforceability of any other provision of this Agreement (as the case may be).
- 14.2 If any clause of this Agreement is held to be unenforceable or in conflict with the law, the invalid or unenforceable clause will be replaced with a clause which, as far as possible, accomplishes the original purpose of the clause.

## **15. ASSIGNMENT**

- 15.1 You may not assign, or otherwise transfer its rights and obligations under this Agreement to a third party, except with the prior written consent of MBIE.
- 15.2 Any change affecting your control will be deemed a transfer and an assignment.

## **16. SURVIVAL OF CLAUSES**

- 16.1 Expiry or termination of this Agreement for any reason will not affect the validity and enforceability of this clause and the intellectual property, confidentiality, reporting, audit, termination, dispute resolution, and governing law clauses of this Agreement.

## **17. GOVERNING LAW**

- 17.1 This Agreement will be governed by and construed in accordance with the laws of New Zealand, and the Parties submit to the jurisdiction of the Courts of New Zealand.

**Signed for and on behalf of the Sovereign in Right of New Zealand acting by and through the Chief Executive of the Ministry of Business, Innovation & Employment:**

Signature:

Name:

Date:

Title:

**In the presence of:**

Signature:

Name:

Title:

**Signed for and on behalf of [insert contractor name]:**

Signature:

Date:

Name:

Title:

**In the presence of:**

Signature:

Name:

Title:

## SCHEDULE 1

### Agreement Details – Catalyst Fund

#### Your Details:

Name	
Address	
Contact person	
Contact phone	
Email	

#### Key Personnel Details:

Name	Please refer to Schedule 2 for Project Team details
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#### Approval Details:

Contract ID	
Proposal ID	
Project Title	
Funding	\$
Investment Area	The Funding is provided under the Catalyst Fund appropriation, which is limited to grants for international science partnerships.
Co-Funding Amount	Not applicable
Investment Approval Reference	Not applicable
Payment Schedule	You must provide an invoice to MBIE for the Funding on completion of the Project or as follows: <ul style="list-style-type: none"><li>•</li></ul>
Contract Start Date	

Contract End Date	
Reporting Schedule	You must prepare and provide to MBIE the following progress updates and reports by the specified dates: a.
Final Report Date	

**Special Terms or Conditions:**

	<b>Term or Condition</b>	<b>Date Due</b> (if applicable)
1		
2		
3		

**SCHEDULE 2**

**THE PROJECT**

## **APPENDIX 1 – INTELLECTUAL PROPERTY POLICIES AND PRINCIPLES**

You must ensure that your staff and researchers are aware of your obligations under the Agreement. In the following principles, “should” indicates a non-obligatory best practice.

### **INTELLECTUAL PROPERTY**

1. You must use your best endeavours to maximise the benefits to New Zealand of each Research Programme through its management of any Research Programme Intellectual Property Rights.
2. You must, before this Agreement commences, have a set of Intellectual Property Policies and Principles in place in respect of this Agreement.
3. Your Intellectual Property Policies and Principles must:
  - (i) determine the ownership and/or assignment, if any, of Research Programme Intellectual Property Rights and require employees, or grant holders using you for that purpose, to acknowledge the relevant ownership and rights associated with Research Programme Intellectual Property;
  - (ii) ensure that researchers are advised of the potential value of Research Programme Intellectual Property Rights and of the options available to them to add value to those rights;
  - (iii) ensure that researchers are advised of any actual or potential confidentiality issues relating to Research Programme Intellectual Property Rights;
  - (iv) make clear and binding to your staff the separate and mutual obligations of the staff and you in relation to Research Programme Intellectual Property Rights management and protection;
  - (v) set out a review process to identify protectable and potentially valuable Research Programme Intellectual Property Rights and associated commercial activities and to prevent the infringement of existing protected Research Programme Intellectual Property Rights and associated commercial activities;
  - (vi) provide guidance on the prompt disclosure and resolution of potential conflicts of interest concerning the generation, ownership, management and use of Research Programme Intellectual Property Rights, such as on:
    - a) staff members' financial interests in external firms that contract with you, particularly where these entail research contracts and the exchange of Intellectual Property Rights;
    - b) the nature and terms of institutional support for start-up companies and the equity holdings of you and your staff.
  - (vii) satisfy all legal and regulatory obligations with such amendments promptly incorporated as may be necessary to comply with all changes or additions to



legal or regulatory obligations that may be made during the term of this Agreement Research Programme; and

- (viii) cover good scientific conduct, including sound record keeping and human and animal experimentation ethics.
4. The Intellectual Property Policies and Principles should ensure that cultural, Treaty of Waitangi and Māori issues are properly taken into consideration.
  5. You should give preferential access to competent New Zealand-based firms to develop the Research Programme Intellectual Property Rights. Where you believe that it is best to commercialise the Research Programme Intellectual Property Rights outside of New Zealand, you should seek to retain ongoing research, science, and technology in New Zealand and reinvest any net income derived from the commercialisation of the Research Programme Intellectual Property Rights in research, science, and technology in New Zealand.
  6. You should, wherever possible:
    - (i) provide assistance to researchers in fulfilling Research Programme Intellectual Property Rights obligations and responsibilities;
    - (ii) encourage participation by researchers in any subsequent commercialisation process of any Research Programme Intellectual Property Rights; and
    - (iii) develop policies that incentivise staff and other stakeholders to generate benefits to New Zealand from the work.

## **DATA MANAGEMENT**

7. The Data Management Plan should ensure that the Data Management Principles and Policies are properly taken into consideration.

The plan should set out which policies are guiding the data management approach, including:

- (i) The New Zealand Government Open Access and Licensing Framework. This framework advocates the use of Creative Commons licences;
- (ii) MBIE's Environmental Data Management Policy Statement. If you receive new funding for research that includes environmental science you must agree to license under a Creative Commons Attribution 3.0 New Zealand licence (CC-BY) copyright works produced;
- (iii) Principles for safe and effective use of data and analytics when appropriate. These principles were developed by the Privacy Commissioner and Government Chief Data Steward and are designed to support safe and trusted use of data and analytics by New Zealand government agencies;

- i. the FAIR data principles for scientific data management and stewardship: Findable, Accessible, Interoperable and Reusable; and
- ii. any other policies or protocols relevant to the area of research.

## **RISK MANAGEMENT**

8. The Risk Management Plan should ensure that the Risk Management Principles and Policies are properly taken into consideration.
9. You must maintain a risk management plan that sets out how all actual and potential identified risks in relation to the Research Programme will be mitigated and/or managed. The plan should consider risks associated with:
  - (i) delivery of excellent science;
  - (ii) availability of key personnel;
  - (iii) duplication of research internationally and domestically and how they will be managed;
  - (iv) collaborations, internationally and domestically;
  - (v) attraction or retention of required capability;
  - (vi) unintended or improper use of research technological application that is contrary to responsible and ethical scientific conduct; and
  - (vii) the misuse of the research to develop technology with dual use applications.
10. You will maintain a register that identifies actual and potential risks in relation to the Research Programme, and how the risk was mitigated and/or managed. The register must be updated annually or at the time a risk or potential risk is identified. You will report these risks to MBIE annually, and MBIE may request a copy of the risk register at any time.

The Parties will work together to mitigate and/or manage the risks and, where appropriate, seek advice from relevant government agencies on suitable risk mitigation and/or management requirements.