

ATMS Research Grant Agreement – General Grant Conditions

1. Undertaking the Activity

You agree to undertake the Activity in accordance with this Agreement.

2. Acknowledgements

You agree to acknowledge our support in Material published in connection with this Agreement and agree to use any form of acknowledgment we reasonably specify.

3. Notices

3.1 The Parties agree to notify the other Party of anything reasonably likely to affect the performance of the Activity or otherwise required under this Agreement.

3.2 A notice under this Agreement must be in writing, signed by the Party giving notice and addressed to the other Party's representative.

4. Relationship between the Parties

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

5. Subcontracting

5.1 You remain responsible for compliance with this Agreement, including in relation to any tasks undertaken by subcontractors.

5.2 You agree to make available to us the details of any of your subcontractors engaged to perform any tasks in relation to this Agreement upon request.

5.3 You must ensure any subcontract entered into for the purposes of this Agreement is consistent with your obligations binding on you under this Agreement.

6. Conflict of interest

You agree to notify us promptly of any actual, perceived or potential conflicts of interest which could affect your performance of this Agreement and agree to take action to resolve the conflict.

7. Variation

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

8. Payment of the Grant

8.1 We agree to pay the Grant to you in accordance with the Letter of Agreement.

8.2 We may by notice withhold payment of any amount of the Grant where we reasonably believe you have not complied with this Agreement or is unable to undertake the Activity.

8.3 A notice under clause 8.2 will contain the reasons for any payment being withheld and the steps you can take to address those reasons.

8.4 We will pay the withheld amount once you have satisfactorily addressed the reasons contained in a notice under clause 8.2.

9. Spending the Grant

9.1 You agree to spend the Grant for the purpose of undertaking the Activity only.

9.2 You agree to provide a statement signed by you verifying the Grant was spent in accordance with the Letter of Agreement.

10. Repayment

10.1 If any of the Grant has been spent other than in accordance with this Agreement or any amount of the Grant is unspent at the expiry or earlier termination of this Agreement, you agree to repay that amount to us unless agreed otherwise.

10.2 The amount to be repaid under clause 10.1 may be deducted by us from subsequent payments of the Grant.

11. Record keeping

11.1 You agree to maintain records of the expenditure of the Grant.

12. Intellectual Property

12.1 You own the Intellectual Property Rights in Material created undertaking the Activity.

12.2 You give us a non-exclusive, irrevocable, royalty free, perpetual, worldwide licence to use, reproduce, maintain, modify and alter the Project Intellectual Property for non-commercial research, academic, teaching and publication purposes.

12.3 The Licence in clause 12.2 does not apply to Activity Material.

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

13. Privacy

13.1 When dealing with Personal Information in carrying out the Activity, you agree not to do anything which would be a breach of the *Privacy Act 1988*.

13.2 You must notify us in writing of any breach or possible breach of this clause 13.

14. Confidentiality

14.1 Confidential information means information that:

- (a) The Parties know, or ought to know is confidential.
- or
- (b) Notified by one Party to the other Party in writing.

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

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15. Insurance

You agree to maintain adequate insurance for the duration of this Agreement and provide us with proof when requested.

16. Indemnities

16.1 You indemnify us, our officers, employees and contractors against any claim, loss or damage arising in connection with the Activity.

16.2 Your obligation to indemnify us will reduce proportionally to the extent any act or omission involving fault on our part contributed to the claim, loss or damage.

17. Use of Specified Personnel

17.1 If Specified Personnel are identified in the Letter of Agreement, you must inform us in writing if the Specified Personnel is unavailable or unable to undertake the Activity.

17.2 We must agree to any change in Specified Personnel.

18. Dispute resolution

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

18.2 The Parties agree to continue to perform their respective obligations under this Agreement where a dispute exists.

18.3 The procedure for dispute resolution does not apply to action relating to termination or urgent litigation.

19. Termination for default

19.1 We may terminate this Agreement by notice where we reasonably believe you:

- (a) have breached this Agreement and we consider the breach cannot be rectified.
- (b) have breached this Agreement and you do not rectify the breach within 10 business days after we give notice.
- (c) have provided false or misleading statements in your application for the Grant; or your application for the Grant was incomplete or incorrect.
- (d) have become bankrupt or insolvent, entered into a scheme of arrangement with creditors, or come under any form of external administration.
- (e) have, in relation to this Agreement, breached a law of the Commonwealth, or of a State or Territory.
- (f) you have had a Change in the Control, that we, after discussion with you, believe will negatively affect your ability to comply with this Agreement; or

- (g) you have had a Change in Circumstance, that we, after discussion with you believe will negatively affect your ability to comply with this Agreement, and that cannot be rectified within 20 business days or such longer period agreed by both Parties.

19.2 If we terminate the Agreement in accordance with clause 19.1 (e), (f) or (g) we may at our discretion request you enter into a new agreement on different terms and conditions to deliver the Activity.

20. Termination for convenience

20.1 Even though you are not in default, we may terminate or reduce the scope of this Agreement by written notice.

20.2 You agree on receipt of a notice of termination or reduction under this clause to:

- (a) stop or reduce the performance of your obligations as specified in the notice; and
- (b) take all available steps to minimise loss resulting from that termination or reduction.

20.3 In the event of termination or reduction under this clause we will be liable only to:

- (a) pay any part of the Grant due and owing to you under this Agreement at the date of the notice; and
- (b) reimburse any reasonable expenses you unavoidably incur that relate directly to the termination or reduction and are not covered by 20.3(a).

20.4 Our liability to pay any amount under this clause is subject to:

- (a) your compliance with this Agreement; and
- (b) the total amount of the Grant.

20.5 You will not be entitled to compensation for loss of prospective profits or benefits that would have been conferred on you.

21. Survival

Clauses 10, 11, 12, 13, 14, 16, 21 and 22 survive termination, cancellation or expiry of this Agreement.

22. Definitions

In this Agreement, unless the contrary appears:

- **Activity** means the activities described in the Letter of Agreement.
- **Activity Material means** any Material, other than Reporting Material, created or developed by you as a result of the Activity.
- **Agreement** means the Letter of Agreement, Supplementary Terms (if any), the General Grant

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- Conditions and any other document referenced or incorporated in the Letter of Agreement.
- **Change in the Control** means any change in any person(s) who directly exercise effective control over you.
 - **Change in Circumstance means** any significant change to you, including but not limited to:
 - (a) Loss of Specified Personnel.
 - (b) Significant loss of staff delivering the Activity;
 - (c) Changes to the location of premises where the Activity is delivered.
 - (d) Changes in your governance arrangements;
 - (e) Changes to your financial management of the Grant.
 - (f) Increased adverse issues management outcomes; and
 - (g) Any negative impact on your financial viability.
 - **Completion Date** means the date or event specified in the Letter of Agreement.
 - **Existing Material** means Material developed independently of this Agreement that is incorporated in or supplied as part of Reporting Material.
 - **Grant** means the money, or any part of it, payable by us to you as specified in the Letter of Agreement.
 - **Intellectual Property Rights** means all copyright, patents, registered and unregistered trademarks (including service marks), registered designs, and other rights resulting from intellectual activity (other than moral rights under the *Copyright Act 1968*).
 - **Material** includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of them.
 - **Party** means **you** or **us**.
 - **Personal Information has** the same meaning as in the *Privacy Act 1988*.
 - **Reporting Material means** all Material that you are required to provide to us for reporting purposes as specified in the Letter of Agreement.
 - **Specified Personnel** means the personnel, if any, required to undertake the Activity or part of the Activity as set out the Letter of Agreement.
 - **us, we and our means** Australian Traditional - Medicine Society Limited and includes, where relevant, its officers, employees, contractors and agents.
 - **you** or **your** means the legal entity specified in the Agreement and includes, where relevant, your officers, employees, contractors and agents.