**STRATEGIC RELATIONSHIP UMBRELLA AGREEMENT**

**THIS AGREEMENT IS BETWEEN**

**AUSTRALIAN NUCLEAR SCIENCE AND TECHNOLOGY ORGANISATION** (ABN 47 956 969 590)**,** a body corporate established pursuant to the *Australian Nuclear Science and Technology Organisation Act 1987* (Cth) of New Illawarra Road, Lucas Heights, New South Wales 2234, Australia (**ANSTO**)

**AND**

**[INSERT UNIVERSITY NAME] [INSERT UNIVERSITY**] a body corporate established under [*Insert details of establishing legislation*], of [Insert address] (**University**)

**BACKGROUND**

1. ANSTO is Australia’s national nuclear research organisation, with capabilities in nuclear science and technology. At the heart of ANSTO’s research capabilities are the state-of-the-art OPAL reactor, which is one of the world’s most effective multi-purpose reactors and the Australian Synchrotron, a world-class research facility that uses accelerator technology. ANSTO’s vision is to deliver excellence in innovation, and discovery through its people, partnerships, nuclear expertise and landmark infrastructure.
2. The University is a leading research-intensive university and aims to educate students in a number of fields; as well as to increase its research productivity and to translate the outcomes of its research.
3. This Agreement facilitates increased opportunities for research collaboration and access to the resources and infrastructure of both Parties, especially in the research areas of nuclear science, the nuclear fuel cycle, human health, agriculture, manufacturing, minerals and the environment. It is not intended to affect any other arrangements or agreements that are currently in effect between the Parties.
4. ANSTO and the University have a history of collaboration between them, governing a number of research projects and other arrangements. The Parties wish to implement a streamlined approach to future collaborations by implementing this Agreement.
5. This Agreement is intended to be a framework agreement with any specific activities agreed and specified in a separate Activity Agreement.
6. The Parties have the objective standardising the agreements between them in order to reduce both Parties costs and in order to streamline operations. Under the terms of this Agreement, those standardised agreements are known as Schedule Agreements. The Parties will consider further opportunities for Schedule Agreements to be developed which will operate under the general terms of this Agreement.
7. Where appropriate, or where no Schedule Agreement is in force between the Parties, the Parties acknowledge and agree that they will operate under the terms of a Speciality Agreement, which will be subject to the terms of this Agreement if the Parties so agree. The Parties agree that only those Speciality Agreements which refer to this Agreement will operate under the auspices of this Agreement.
8. Where an agreement between the Parties is entered into before or after the Commencement Date, which makes no reference to this Agreement, it will be considered to be a stand-alone agreement and not subject to the terms of this Agreement. In addition, any existing project, student or research collaboration agreement in force at the Commencement Date will continue to be governed by its terms rather than to this Agreement.
9. The Parties agree and acknowledge that any other agreements in effect between them are not affected by this Agreement unless the Parties amend those agreements to specifically to this framework.

IT IS NOW AGREED:

1. DEFINITIONS
   1. In this Agreement or any Activity Agreement (unless the contrary intention appears):

**Activity Agreement** means a Schedule Agreement or a Speciality Agreement, which refers to or adopts this Agreement or framework.

**Adjunct** means a person who will not be a salaried member of the University’s staff, but who, following an appointment, is intended to make contributions to the teaching, research or scholarship of the University.

**Advisers** means a Party’s agents, contractors or advisers engaged in, or in relation to, the performance or management of this Agreement or an Activity Agreement, but does not include Personnel of a Party.

**Agreement** means this Strategic Relationship Umbrella Agreement and any Schedules or Annexures.

**Australian Protective Security Manual** means the protective security policy framework set by the Commonwealth Attorney-General’s Department as in force from time to time.

**ARC** means the Australian Research Council.

**Annexure** means an annexure to an Activity Agreement.

**ANSTO Research Cyclotron Facility** means the 18 MeV cyclotron and associated facilities located at Camperdown, which produce radioisotopes and radiolabelled molecules for preclinical and clinical research studies leading to new methods of cancer and neurological diagnosis and therapy.

**Approved Purpose** means the specific use approved by the Party providing the Material as detailed in an Activity Agreement or Speciality Agreement.

**Background IP or Background Intellectual Property** means Intellectual Property of a Party which is in existence at the date of the parties entering into an Activity Agreement or which comes into existence after the date of commencement of an Activity Agreement, otherwise than in the course of performance of that Activity Agreement or another Project, which is the subject of an Activity Agreement, and includes the Background Intellectual Property of a Party identified in an Activity Agreement.

**Commencement Date** of this Agreementmeans the date both Parties sign this Agreement, or if it is signed on separate days, the date on which the last Party to sign this Agreement does so.

**Commercialise** includes to:

1. manufacture, sell, hire, lease or otherwise exploit a product or process;
2. provide a service for a fee (excluding the provision of educational or teaching services for a fee or other reward);
3. licence or assign Intellectual Property, other than to licence (for no fee):
   * 1. a Student of the University for the purposes of that Student’s studies, research or thesis at the University; or
     2. another university with whom a Party has entered a strategic relationship agreement on substantially the same terms as this Agreement, for research or educational purposes; or
     3. another university, research institution or Australian Government body which a Party enters into a collaboration with for research or educational purposes; or
4. licence or authorise any third party to do any of the above,

but excludes:

1. the conduct of research which does not involve, or result in the occurrence of, any of the matters referred to in paragraphs (a) to (d);and

**Commercial** and **Commercialisation** have corresponding meanings.

**Commonwealth Purposes** means:

1. any purpose within the power of the Commonwealth of Australia with respect to the defence or security of the Commonwealth of Australia;
2. activities for the purposes of peacekeeping or emergency aid to the civil community;
3. any activity involving, or for the benefit of, Australia's defence, national security, law enforcement or border security;
4. any activity involving, or for the benefit of, an overseas government or overseas government agency with whom the Commonwealth collaborates for or in connection with any purpose contemplated in paragraphs (a), (b) or (c);
5. purposes that are necessary for or incidental to any of those purposes referred to in paragraphs (a) to (d) inclusive; and
6. use by third parties for the purpose of providing, or offering to provide, goods or services for any of those purposes referred to in paragraphs (a) to (d) inclusive, including on commercial terms, but not for any other purpose,

but excludes (other than in accordance with paragraph (f) above), Commercialising any Material or Intellectual Property Rights;

**Confidential Information** means information of a Party that:

1. is by its nature confidential;
2. is referred to in clause 5.5; or
3. the receiving Party knows or ought to know is confidential,

and includes all commercial, confidential and other sensitive information and Materials revealed during discussions and other exchanges between the Parties in relation to the development of a proposal for a Project, negotiation of a Project or the negotiation of the terms and conditions of an Activity Agreement but does not include information that:

1. is or becomes public knowledge otherwise than by breach of this Agreement or any other confidentiality obligation;
2. is already known to the receiving Party prior to receipt from the disclosing Party; or
3. is developed or acquired by the receiving Party independent of this Agreement without having had access to the information of the disclosing Party and free of any other confidentiality obligation.

**Contribution** means the contribution of a Party towards a Project as described in an Activity Agreement including any agreed Funding and In-Kind Contributions or any Material.

**Corporations Law** refers to the laws in, and regulations made under, the *Corporations Act 2001 (Cth)*

**Discloser** means a Party which discloses Confidential Information or Background Intellectual Property, as the case may be, to the Recipient.

**Dispute** means a dispute which arises out of or in relation to this Agreement or arises out Activity Agreement or a Project governed by this Agreement.

**Dispute Notice** means written notice to a Party specifying the nature of a Dispute.

**Force Majeure** means an act of God, fire, bushfire, lightning, explosions, flood, subsidence, insurrection or civil disorder or military operations, government or quasi-government restraint, strike, lockout, prohibition, embargo, and any other analogous event outside of the affected Party’s control which affect the ability of any party to perform its obligations under an Activity Agreement.

**Funding** means the financial Contribution, excluding In-Kind Contributions of a Party to a Project.

**Further Term** means the period of time described in Item 2.2 of Schedule 1**.**

**GST** means Goods and Services Tax as defined under *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**In-Kind Contribution** means a non-financial Contribution to a Project or other arrangement including the provision of materials, facilities, supervision or indirect support.

**Insolvency Event** means a Party being in liquidation or provisional liquidation or under administration, having a controller or analogous person appointed to it or any of its property, being taken to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, taking any step that could result in the person becoming an insolvent under administration, entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

**Insurance** means the insurances or other coverage, including self insurance, set out in clause 19 of this Agreement.

**Intellectual Property or IP** includes all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions, plant varieties, trademarks (including service marks), designs and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, but does not include the moral rights of authors or similar non-assignable personal rights of any person.

**Internship** means an industrial or other work experience placement at ANSTO and **Intern** has corresponding meaning for the person or student undertaking the placement.

**Know How** means scientific, technical and other information which is not in the public domain including inventions, discoveries, concepts, data, biological and chemical formulae, biological and chemical materials, ideas, specifications, procedures for experiments and tests and results of experiments, experimentation and testing, results of research and development and information in laboratory records, case reports, data analyses and summaries and submissions to and information from ethics committees and regulatory authorities.

**Material/s** includes documents, equipment, software (including source code and object code), goods, compounds, samples, information and data stored by any means including all copies and extracts of the same.

**Milestone** means each milestone set out in the relevant Activity Agreement.

**MRFF** means the Medical Research Future Fund operated by the Commonwealth Department of Health.

**NHMRC** means the National Health and Medical Research Council.

**Objectives** means the objectives described in clause 3.

**OPAL** means the Open Pool Australian Light Water Reactor at Lucas Heights, NSW, Australia.

**Party** to this Agreement, means ANSTO or the University, as the context implies, and **Parties** shall mean ANSTO and the University.

**Performance Measures** means the performance measures set out in Item 4 of Schedule 1.

**Personal Information** has the meaning given in the *Privacy Act 1988 (Cth)*.

**Personnel** means the personnel or staff of a Party; including officers, employees, servants, contractors or other agents, and including persons who work on a Project on behalf of one Party or who are listed in an Activity Agreement.

**Project** means an activity undertaken by one or both of the Parties, their Related Bodies Corporate, a Student or Students of the University, under this Agreement, the terms of which are set out, or are intended by the Parties to be set out, in an Activity Agreement.

**Project Committee** means the committee to be established by the Parties in accordance clause 6 for a particular Project.

**Project IP** means:

1. all Intellectual Property in the Project Results; and
2. all Intellectual Property created or developed as part of or in the course of performance of a Project,

but does not include Background IP.

**Project Leader** means the leader of a Project or an activity appointed by a Party as specified in the relevant Activity Agreement.

**Project Plan** means the plan for conducting a Project as set out in the relevant Activity Agreement.

**Project Records** means the records of the results achieved in a Project and reflects all work done in performance of the project.

**Project Reports** means the reports to be prepared by each Party as described in the relevant Activity Agreement.

**Project Results** means all Know How, Project Records, and all other materials or information arising in the course of conducting a Project, or developed by the Universityor ANSTO in the course of and for the purpose of conducting a Project, but excludes Background IP.

**Project Start Date** has the meaning given in the relevant Activity Agreement, or if no date is specified, the date on which the Activity Agreement is executed.

**Project Term** means the term of a Project, which commences on the Project Start Date and ends on the date specified in the Activity Agreement.

**Publication Principles** means the principles of publication for a Project as set out in the relevant Activity Agreement.

**Purpose** means the purpose of exercising rights and performing obligations under a Project or this Agreement.

**Recipient** means a Party to this Agreement, a Student or other person obtaining, receiving or handling the other Party’s Confidential Information, Contributions or Materials.

**Related Body Corporate** has the meaning given in the *Corporations Act 2001***.**

**Research Fellow** means a research fellow, post-doctoral fellow or visiting fellow nominated, appointed or employed by the University and/or ANSTO and assigned under an Activity Agreement to conduct or participate in a Project.

**Research Plan** means a plan as set out in the Activity Agreement setting out the role that the Student or Research Fellow will undertake on a Project.

**Schedule** means a schedule to this Agreement.

**Schedule Agreement** means an agreement that:

1. is signed by the Parties in relation to a Project; and
2. is substantially in the form of a Schedule Agreement Template.

**Schedule Agreement Template** means a template agreement attached to this Agreement in the Schedules as amended or agreed from time to time under this Agreement., or to be developed and incorporated into this Agreement by way of further Schedules, as described in clause 5.8.

**Software** means software, computer programs, and databases, including for the management of publications, science research and administration, project planning and information management, which is owned or controlled by one of the Parties, whether in existence at the time this Agreement is entered into or developed after the Commencement Date.

**Speciality Agreement** means an agreement that:

1. is signed by the Parties in relation to a Project;
2. is substantially in the form and style of a Schedule Agreement Template;
3. makes reference to this Agreement; and
4. is subject to the terms of this Agreement.

**Special Conditions** means any special conditions for the performance of a Project as set out in an Activity Agreement.

**Strategic Relationship** means the framework for co-operation that is established under this Agreement in accordance with the Objectives.

**Strategic Relationship Committee** means the committee to be established by the Parties in accordance clause 4.

**Strategic Relationship Manager** means the person nominated under clause 22 of this Agreement or as otherwise specified by the relevant Party.

**Student** means a student of a University (including an Intern) who will assist with or work on a Project under an Activity Agreement.

**Tax Invoice** means *tax invoice* as defined under *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Term** means the period of time described in Item 2.1 of Schedule 1.

**Working Day** in relation to the doing of an action in a place means any day other than a Saturday, Sunday or public holiday in that place.

**Thesis** means a thesis or research paper by a Student that relates to a Project as defined in this agreement, which must meet certain academic requirements for the making of an academic award.

* 1. In this Agreement and any Activity Agreement, unless the contrary intention appears:

1. words importing a gender include any other gender;
2. words in the singular include the plural and words in the plural include the singular;
3. clause headings are inserted for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
4. a reference to a person includes a body politic, body corporate or a legal partnership;
5. a reference to any legislation, legislative provision, or instrument made under legislation includes any statutory modification, substitution or re-enactment of such legislation, legislative provision, or instrument;
6. where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
7. a reference to a clause includes a reference to a sub-clause or paragraph in that clause;
8. the word “include” in any form is not a word of limitation;
9. a provision or expression is not to be construed against a Party merely because that Party (or its Advisers) were responsible for its drafting;
10. a reference to a Schedule (or an Annexure or attachment) is a reference to a Schedule (or an Annexure or attachment) to this Agreement, including as amended or replaced from time to time by agreement in writing between the Parties;
11. a reference to a Party includes that Party’s administrators, successors, and permitted assigns, including any person to whom that Party novates any part of this Agreement or an Activity Agreement; and
12. if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action shall be done no later than the end of the next Working Day.
    1. If a requirement in the following list conflicts, or is inconsistent with, any other requirement in the list, then the requirement referred to earlier in the list will take precedence to the extent of any conflict or inconsistency:
13. a Special Condition which is expressly described as such and which is set out in an Annexure to an Activity Agreement;
14. a clause in this Agreement;
15. an Item in Schedule 1 to this Agreement;
16. a clause in an Activity Agreement;
17. an Item in an Annexure to an Activity Agreement, other than the Special Conditions referred to in clause 1.3(a);
18. any other document attached to an Activity Agreement.
    1. The Parties expressly agree that:
19. where an agreement between the Parties is entered into before or after the Commencement Date, which makes no reference to this Agreement, it will be considered to be a stand-alone agreement and not subject to the terms of this Agreement;
20. any existing project, student or research collaboration agreement in force at the Commencement Date will continue to be governed by its terms; and
21. any other agreements in effect between them at the Commencement Date will not be affected by this Agreement unless the Parties amend those agreements to specifically refer to this Agreement and apply to this framework.
22. Term and scope
    1. Subject to the express terms of this Agreement, the Parties agree that they will conduct the Strategic Relationship for the Term.
    2. The Parties may extend the Term for a Further Term by mutual agreement in writing prior to the expiry of the initial Term, in which case all the provisions of this Agreement will continue to apply to the Further Term (other than this clause 2.2).
    3. Any agreements currently in effect between the Parties are not affected by this Agreement.
    4. The scope of this Agreement is limited to the conduct of Projects under the Strategic Relationship Agreement and does not govern any activities of the Parties beyond that scope unless otherwise agreed in writing between the Parties.
    5. Notwithstanding any other provisions of this Agreement, each Party is free to engage in any research or commercial activities with any other person independently of this Agreement.
    6. Nothing in this Agreement prevents the Parties from entering into Strategic Relationship Agreements with anyone else.
    7. In this Agreement and any Activity Agreement:
23. the liabilities of the Parties are not joint nor joint and several, but are several liabilities and obligations; and
24. nothing shall be considered or interpreted as constituting a legal partnership, association or other relationship in which a Party may be liable generally for the acts or omissions of the other Party.
25. neither Party is the general agent of the other Party.
26. OBJECTIVES
    1. The Parties’ Objectives of the Strategic Relationship are to:
27. engage in long-term strategic engagement and foster long term strategic activities;
28. identify alignment of academic and research priorities where appropriate;
29. utilise complementary skills bases;
30. leverage infrastructure access rights and resource sharing;
31. improve mutual access to world class research infrastructure;
32. increase access to research programs;
33. develop capabilities and technologies;
34. identify and promote new and innovative research opportunities and contribute to the broader innovation agenda;
35. investigate future technologies;
36. work collaboratively to foster development of scientific excellence and to become recognised leaders in their fields;
37. develop and conduct postgraduate programs and enhance Personnel skills;
38. identify and develop education and training programs and promote them to the Parties’ Personnel and Students;
39. encourage publication of papers and articles, including joint publications;
40. collaborate in the development of niche areas of expertise;
41. streamline the entering into of Activity Agreements;
42. contribute to the broader promotion of:
    * 1. science, technology, engineering, mathematics and medicine (STEMM) in schools and the follow through in the tertiary sector;
      2. women in STEMM studies and employment opportunities in the research sector;
      3. (Australian indigenous Student take up of STEMM disciplines and interest in schools and the tertiary sector.
    1. The Parties will use their reasonable endeavours to achieve the Objectives by the means outlined in Item 1 of Schedule 1.
43. Management

**Strategic Relationship Committee**

* 1. The Strategic Relationship of the Parties (including this Agreement and any Activity Agreements) will be managed at the strategic level by the Strategic Relationship Committee, having regard to, and consistently with, the Objectives.
  2. The Strategic Relationship Committee’s functions include making recommendations to their organisation’s decision makers and delegates in the following areas:

1. overseeing the implementation and operation of the Strategic Relationship;
2. providing strategic and policy direction for the Strategic Relationship;
3. receiving reports regarding proposals for Projects, Activity Agreements and Speciality Agreements;
4. evaluation and reporting to the executive of the Parties on the success of the Strategic Relationship (including a review of its performance on an annual or as otherwise mutually agreed basis) in accordance with the Performance Measures; or as may be agreed by the Strategic Relationship Committee from time to time;
5. consideration of any proposed Adjunct or other roles at the University by ANSTO Personnel under clause 13.5;
6. identification of areas of mutual research strengths, interests and priorities as well as the identification of, and strategic planning for, joint research programs for such areas;
7. strategic planning of joint research programs and Projects;
8. where agreed, to provide oversight of particular Projects;
9. exploration of opportunities for joint applications for grants, tenders or other opportunities; especially under the ARC, NHMRC and MRFF programs and other schemes;
10. collation of data and reporting on the results from joint research programs and Projects;
11. transfer and sharing opportunities for Software, technology and equipment;
12. consultation on the specification for and purchase of significant items of equipment, including consideration of the joint purchase or development of any equipment;
13. appointments and funding issues for Personnel, research and other Students, and post-doctoral fellows, including considering joint or shared funding for such roles;
14. Intellectual Property opportunities, registrations, and Commercialisation opportunities for such Intellectual Property;
15. opportunities for research or Projects utilising the Parties’ infrastructure including in the case of ANSTO, the OPAL reactor, the Australian Synchrotron, and ANSTO Research Cyclotron Facility;
16. opportunities for agreements and collaborations outside the scope of this Agreement, including with third parties or other educational and research establishments (including international collaborations);
17. consideration of the development of further Schedule Agreements that could be entered into between the Parties to operate under the terms of this Agreement;
18. discuss and agree on which Schedule Agreement Templates are to be developed and to recommend default position clauses in relation to matters such as Project IP ownership and confidentiality; and
19. at least once a year, review this Agreement and the Schedule Agreement templates.

Composition

* 1. The Parties will appoint equal numbers of members to the Strategic Relationship Committee with a maximum of three members each, and may replace any of their appointees by giving at least fourteen (14) days written notice to the other Party. The Committee shall include:

1. the University Strategic Relationship Manager (or their authorised representative as agreed between the Parties);
2. the ANSTO Strategic Relationship Manager (or their authorised representative, as agreed between the Parties); and
3. other persons, preferably with executive, technical or business expertise as agreed by the Parties.
   1. The Parties’ initial Strategic Relationship Managers are specified in Item 3 of Schedule 1. Unless the Parties otherwise agree, Strategic Relationship Managers must:
4. in the case of the University, be at Pro Vice Chancellor or Executive Dean level or higher; and
5. in the case of ANSTO, be at the Executive or upper Management level.
   1. Members of the Strategic Relationship Committee may also be delegates or decision makers for their organisation with the authority to make binding decisions outside of their role on the Strategic Relationship Committee.
   2. The Parties may invite other individuals from time to time to participate in meetings of the Strategic Relationship Committee in order to make specific contributions as required.

Meetings

* 1. The Strategic Relationship Committee will meet a minimum of twice per year to execute its responsibilities as outlined in clause 4.2 and will maintain regular contact as mutually determined.
  2. Parties must hold at least one meeting per year in person, at an agreed location.
  3. The Strategic Relationship Managers will generally attend all Strategic Relationship Committee meetings and arrange a Chair for the meeting and an agenda which will be distributed a fortnight before each meeting where possible.

Powers

* 1. The Parties acknowledge and agree, that while the Strategic Relationship Committee is not granted any decision making power or any right or authority to bind the Parties under this Agreement or otherwise, and cannot impose any obligations on the Parties or grant any rights to the Parties under this Agreement or otherwise, to carefully consider recommendations of the Strategic Relationship Committee in the exercise of the relevant power, authority or delegation.

Managing Material Personal Interests

* 1. Each Party must take reasonable actions to ensure that its representatives on the Strategic Relationship Committee disclose any actual or potential material personal interest in the issues to be considered by the Committee under this Agreement or an Activity Agreement (including any interest in an actual or potential Project).
  2. For the purposes of clauses 4.11 and 8, a Strategic Relationship Committee member has a material personal interest in an issue if the member has:

1. a direct or indirect personal financial interest in the issue; or
2. a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the member’s functions in relation to the Strategic Relationship Committee’s consideration of the issue.

**Managing Schedule Agreements**

* 1. Where the Strategic Relationship Committee determines that it is appropriate to develop other Schedule Agreements to operate under the terms of this Agreement, they will refer the matter to their appropriate legal or contracts’ administration areas and those areas will prepare a Schedule Agreement for consideration by the Strategic Relationship Committee and approval by the Parties’ authorised representatives for adoption under the auspices of this Agreement.

1. ACTIVITY AGREEMENTS

**Form of Agreement**

* 1. If the Parties identify a potential Project or relationship they wish to pursue, the Parties will negotiate in good faith to enter into a legally binding written Activity Agreement in relation to that potential Project or relationship. The Activity Agreement for the Project will be:

1. in the form of an agreed Schedule Agreement Template; or
2. if there is no Schedule Agreement Template, and the Parties do not wish to develop such a Schedule Agreement Template, in a form that is relevant to the Project, as a Specialty Agreement that is developed specifically for the Project but that aligns with the Schedule Agreement Templates as far as practicable.
   1. To the extent that a Project of the Parties is within the scope of the Strategic Relationship, the Parties will conduct the Project under this Agreement or an Activity Agreement. This includes any of the following activities:
3. research activities;
4. secondments and exchanges;
5. funding of scholarships and academic positions; and
6. equipment loans and infrastructure access.
   1. Notwithstanding any discussions or other exchanges between the Parties in relation to an Activity Agreement, neither Party is under any obligation to proceed with the Project unless and until an Activity Agreement has been signed by both Parties in relation to that Project.
   2. The Parties acknowledge that they may enter into Activity Agreements through a Related Body Corporate. The Parties will ensure any such Related Body Corporate is made aware:
7. of the terms of this Agreement;
8. that it will be required to comply with clauses of this Agreement that are incorporated by reference into Activity Agreements; and
9. that it agrees to be bound by the terms of this Agreement.
   1. All commercial, confidential and other sensitive information and materials revealed during discussions and other exchanges between the Parties in relation to the development of a proposal for a Project, negotiation of a Project or the negotiation of the terms and conditions of an Activity Agreement must be treated by the Parties as Confidential Information.
   2. Without limiting the provisions of clauses 13.3 and 13.4, a Party may require as a condition of access to its facilities pursuant to this Agreement, or of an Activity Agreement, that Personnel seeking access must:
10. meet all necessary security vetting requirements required by a Party, to be set out in the relevant Activity Agreement;
11. agree to comply with terms of the access, including reasonable obligations of confidentiality and security, unless they have already entered into such an agreement with the relevant Party or have entered into an Activity Agreement with the Parties;
12. successfully complete any necessary safety and security training, and
13. obtain all regulatory and other approvals required for the Project or the facility prior to gaining access to that Party’s premises.
    1. Unless otherwise agreed each Party agrees to conduct each Project:
14. in accordance with any Activity or Speciality Agreement;
15. diligently and in a competent manner, using professional care and skill, and to a high scientific standard;
16. with a view to achieving any Milestone efficiently and expeditiously;
17. in compliance with all applicable laws and the requirements of any applicable code or good laboratory practices;
18. to ensure all Project Results are in sufficient detail and in good scientific form and are complete and accurate and which fully and properly describe and detail the results of the Project; and
19. by obtaining and complying with all authorisations from government agencies and ethics committees which are required to carry out the Project.

**Variations to this Agreement or Activity Agreements**

* 1. The Parties agree to develop further suitable Schedule Agreement Templates for their use in Activities under this Agreement. The Parties agree that development of a Schedule Agreement Template will not constitute an amendment to this Agreement.
  2. Subject to clause 5.8, no agreement or understanding varying or extending this Agreement or an Activity Agreement is legally binding unless it is in writing and signed by both Parties.

**Compliance with Codes, Authorities and Ethics Standards**

* 1. The University warrants that it is an accredited research establishment.
  2. Each Party agrees to comply with applicable legislation, codes and standards when undertaking Projects.
  3. The Parties agree that if a particular permit, authority or approval must be obtained for a Project that they will do so before commencing that particular Project or research.
  4. The Parties expressly agree that when using animals or human subjects for a Project or other scientific purposes they will comply with the relevant Australian Code of Practice applicable to that Project, as amended from time to time, and any animal ethics approvals by the relevant Party’s ethics committee.
  5. The Parties agree to detail arrangements in the relevant Activity Agreement where research involving human subjects or animals is necessary or likely, setting out the specific arrangements in place for the performance of the relevant Project, including setting out the role and involvement of each Party’s ethics committee. The Activity Agreement will also set out procedures for the reporting obligations of the Parties if an ethics approval or other standard is breached or compromised.

**Force Majeure**

* 1. If, during a Project, a Party is affected, or likely to be affected, by Force Majeure:

1. that Party must immediately give the other Party prompt notice of that fact including:
2. full particulars of the Force Majeure;
3. an estimate of its likely duration;
4. the obligations affected by it and the extent of its effect on those obligations; and
5. the steps taken to rectify it; and
6. the obligations of the Party giving the notice are suspended to the extent that they are affected by the relevant Force Majeure for so long as the Force Majeure continues.
   1. A Party claiming Force Majeure must use its best endeavours to remove, overcome or minimise the effects of the Force Majeure as quickly as possible. However, this does not require a Party to settle any industrial dispute in any way it does not wish to.
   2. If the Force Majeure continues for more than 30 days, either Party may terminate any affected Project by giving at least 30 days' notice to the other Party and the relevant Activity Agreement will be used to determine the outcomes for the Project.

**Student, Post-Doctoral and Research Fellow Involvement**

* 1. Where a Party proposes to include a Student, Intern, Research Fellow, visitor or the like in a Project or for an Project, it will ensure that the Parties and (if appropriate and agreed by the Parties) the relevant individual enters into the appropriate Schedule Agreement/s for the Project.
  2. Where there is more than one Schedule Agreement or Speciality Agreement concerning a Project, the Parties will modify the relevant agreements to ensure a consistent approach to matters such as Confidential Information, publishing, and Intellectual Property ownership.

1. PROJECT cOMMITTEE
   1. The Parties may establish a Project Committee to oversee the conduct of a Project. The Parties may establish a separate Project Committee for the oversight of each Project.
   2. If agreed, the Activity Agreement covering the operation and conduct of a Project will establish the Project Committee and cover the role and scope of the project committee, nomination of the Project Leader, and the membership, from each Party
   3. Any Project Committee will provide reports and updates on the progress of the Project to the Strategic Relationship Committee on request by that Committee.
   4. Where the parties determine that a project committee is not required for a project, the strategic relationship committee may assume responsibility for oversight of the project
2. costs, Contributions & MATERIALS
   1. Unless otherwise agreed by the Parties, each Party will be responsible for its own costs and expenses incurred in connection with the entry and operation of this Agreement or an Activity Agreement and the activities or Project conducted pursuant to them.
   2. The Parties acknowledge that some Activity Agreements will not require Funding, but will instead involve exchange of Material, data, access to facilities, In-Kind Contributions, or undertakings to collaborate on research. For an Activity Agreement that will require the payment of Funding by one Party to the other, the Parties will agree on the arrangements for the calculation and the payment of that Funding.
   3. The Parties acknowledge that the Contributions of each Party, if any, will be limited to the amount specified in the relevant Activity Agreement (exclusive of GST). The payment of Funding will be linked to the receipt of a Tax Invoice from the Party to receive the Funding; and subject to the achievement of Milestones, key deliverables and satisfactory achievement of Project goals by the Party receiving the Funding.
   4. Each Party will:
3. ensure that it provides its specified In-Kind Contributions and any Funding; for any Project;
4. apply any Contributions provided by the other Party to the Project for the purpose or Project they were supplied for; and
5. subject to the express terms of this Agreement, provide the Personnel, and Students with access to appropriate equipment, facilities and Background IP which are specified and agreed in an Activity Agreement as reasonably required to carry out each Project.
   1. Where a Party anticipates the need for further resources to a Project which are outside the scope of the agreed Contributions, it will provide written notice to the other Party. The Parties will jointly discuss the proposed further resources required and where agreed in writing by the Parties to be made, the further resources will form part of that Party’s Contributions to the purposes of the relevant Activity Agreement.
   2. At the end or completion of a Project, the receiving Party of any Funding not spent or legally committed to the Project, will refund the Funding to the Party who provided the Funding.
   3. Where Material is to be provided by a Party to a Project, that Party will deliver the Material to the other Party as agreed in the relevant Activity Agreement. The Parties will consult with one another as required on the arrangements for the delivery of the Materials to the Recipient (including as to carriage and import/export requirements).
   4. The Recipient must only use the Material for the Approved Purpose and must comply with all legislation, regulations, guidelines, standards and reasonable directions of the Party supplying the Materials as applicable to the carriage and export of the Materials.
   5. The Recipient does not obtain any title to the Material. While the Recipient has possession of the Material, it holds the Material on trust for the other Party under a bailment. The Recipient acknowledges that the provision of Materials is not a sale of goods.
   6. Care, custody and responsibility for the Materials passes to the Recipient at the time at which the Materials are first delivered to a third party carrier for delivery and transit to the Recipient.
   7. If the Materials are radioactive, the Parties acknowledge that as a result of use of the Materials by the Recipient in accordance with an Activity Agreement, the Materials may change as a result of radioactive decay (including into another isotope, or form, of the same element or into a completely different element).
   8. The Party receiving the Material agrees to comply with all requirements specified in the Activity Agreement as well as applicable statutes, regulations, guidelines, codes of conduct and policies and determinations by competent regulatory bodies relating to possession, use or disposal of the Material or of any by-products or waste arising from the Recipient’s use of the Material.
   9. The Recipient Party may only use the Material to undertake the relevant Project and unless otherwise agreed in writing in an Activity Agreement, the Recipient Party must not use the Material to generate any profit or for any Commercial purpose.
   10. Subject to the terms of this Agreement or an Activity Agreement, on termination of this Agreement, or completion of a Project, whichever is earlier, the Recipient Party must return or arrange for the disposal or destruction of all remaining or unused Material, including by products and waste arising from the Materials, as specified in that Activity Agreement.
6. conflicts of interest
   1. Each Party agrees to notify the other Party promptly of any actual, perceived or potential conflicts of interest which could conflict with, or restrict that Party (*the Conflicted Party*) performing its obligations under this Agreement or an Activity Agreement fairly and independently.
   2. In providing the notification under clause 8.1, the Conflicted Party will provide sufficient detail to the other Party about the matter to enable the Parties to determine appropriate action to resolve or manage the conflict, taking into account each Party’s own policies and procedures for treatment and management of conflicts of interest.
   3. The Conflicted Party will take the action determined under clause 8.2 to resolve or manage the conflict in the timeframe agreed between the Parties.
7. Confidential information

Confidential Information not to be disclosed

* 1. Subject to clause 9.7, each Recipient must keep the Confidential Information of the Discloser confidential and may only:

1. use the Confidential Information for the purposes of performing their obligations under this Agreement; and
2. disclose the Confidential Information with the Discloser’s prior written consent.
   1. A Discloser may give its consent under clause 9.1(b) subject to written conditions, and the Recipient must comply with those conditions.
   2. A Discloser may at any time give reasonable directions to the Recipient concerning the use or storage of any Confidential Information it has provided to the Recipient and the Recipient must comply with those directions.

Period of confidentiality obligation

* 1. Subject to clause 9.5, a Recipient’s obligations of confidentiality under this clause 9 in respect of each item of Confidential Information will continue:

1. for the period specified in writing by the Discloser at the time the item was disclosed to the Recipient; or
2. if no period is specified under clause 9.4(a) – for 5 years from the expiry of the Term of this Agreement.
   1. Despite clause 9.4, if ANSTO advises the University that an item has been given a national security classification under the Australian Protective Security Manual, the University’s obligations of confidentiality under this clause 9 in respect of that item will continue until such time as ANSTO advises the University that the item is no longer classified.
   2. A Recipient undertakes not to keep any copies, notes or records of the Discloser’s Confidential Information beyond the relevant time limit set out in clause 9.4 or clause 9.5, except to the extent required by any applicable law or legal obligation.

Exceptions to obligations

* 1. Despite clause 9.1, a Recipient can disclose the Discloser’s Confidential Information to the extent that the Confidential Information is:

1. disclosed to the Recipient’s Advisers or employees who need to know it in order to comply with obligations, or to exercise rights under this Agreement;
2. disclosed to the Recipient’s internal management Personnel, solely to enable effective management or auditing of Projects or activities relating to this Agreement;
3. authorised or required by law or legal requirement, including under this Agreement, to be disclosed; and where the Recipient is ANSTO
4. with another Commonwealth agency or Department, where this serves the Commonwealth’s legitimate or legal interests;
5. disclosed by ANSTO to its responsible Minister; and
6. disclosed by ANSTO, in response to a request or direction by a House or a Committee of the Parliament of the Commonwealth of Australia; or to its regulators or auditors.

Obligations on disclosure

* 1. If a Recipient intends to disclose Confidential Information to another person under clause 9.7(a) or 9.7(b), that Party must:

1. notify the intended recipient that the information is Confidential Information; and
2. not provide the information unless the intended recipient is either already subject to commensurate obligations of confidence, or otherwise agrees in writing to keep the information confidential, on terms no less onerous than the terms of this clause 9.
   1. If a Party discloses Confidential Information to another person under clause 9.7(c), 9.7(d), 9.7(e) or 9.7(f), that Party must, at the time of disclosure, notify the intended recipient that the information is Confidential Information.

Requirement for Undertakings

* 1. A Discloser may at any time require the Recipient to arrange for:

1. its Advisers to give legally binding, written undertakings relating to the use and non-disclosure of the Discloser’s Confidential Information at least as onerous as the Discloser’ obligations under this clause 9; and
2. its Personnel to give written acknowledgement relating to the use and non-disclosure of the Discloser’s Confidential Information in accordance with this clause 9.
   1. If a Recipient receives a request under clause 9.10, it must use all reasonable endeavours to promptly arrange for all such undertakings to be given and provided to the Discloser.

Treatment of Confidential Information at Expiry, or Termination

* 1. At the expiry of the Term of this Agreement, or upon its earlier termination the Recipient will:

1. deal with the Discloser’s Confidential Information in accordance with the Discloser’s written instructions; or
2. if no written instructions have been given and the Discloser’s Confidential Information is in a physical form – return that Confidential Information to the Discloser in a manner that does not jeopardise its confidentiality.

No Reduction in Privacy Obligations

* 1. Nothing in this clause 9 is intended to relieve a Party from its obligations under any applicable legislation dealing with privacy.

Burden of Proof

* 1. The evidential burden of proving that any information is not subject to the obligations of confidentiality in this Agreement will rest on Recipient.

1. NATIONAL SECURITY OBLIGATIONS
   1. If ANSTO makes information available to the University, and that information bears a security classification, the University must, and must ensure that its Personnel and Advisers who have access to the information will comply with all relevant security requirements and procedures as specified in the Australian Protective Security Manual, by the Commonwealth of Australia or ANSTO from time to time.
   2. If the Parties identify a potential Project or relationship they wish to pursue which involves the Commonwealth of Australia or otherwise relates to Commonwealth Purposes or Australia’s national security, the Parties will negotiate in good faith to enter into a legally binding written Activity Agreement in relation to that potential Project or relationship in the form of a Speciality Agreement suitable for the Project.
2. Intellectual property
   1. Activity Agreements will include, to the extent relevant to the Project, provisions relating to the ownership, licensing, Commercialisation and management of Intellectual Property or Material that is applied or created in accordance with the Activity Agreement.
   2. Each Party may make its Background IP available for a Project at its sole discretion.
   3. Where the other Party wishes to use Background IP made available under clause 11.2, such use is subject to a non-exclusive, non-transferable, royalty-free licence and is provided only for the purposes of conducting the applicable Project, for the term of that Project.
   4. If at any time a Party considers any Project IP may be patentable or the subject of any other form of registration, it must promptly communicate that fact to the other Party. The Parties will meet to jointly decide how to best obtain protection for the Project IP.
   5. Subject to third party arrangements, the Parties recognise that a Student will generally retain copyright in any Thesis or research paper authored by them.
   6. Any provisions of an Activity Agreement, that relate to the protection, use and enforcement of Project IP (including any improvements to a Party’s Background IP) will take precedence over this clause 11.
3. ACKNOWLEDGEMENT AND PUBLICATIONS
   1. Subject to the requirements of this clause 12, the Parties shall acknowledge their Strategic Relationship in any public announcements, media statements, publications or other statements which refer to or are connected to the Strategic Relationship or this Agreement.
   2. Each Party shall acknowledge the contribution of the other Party and their Strategic Relationship to Projects:
4. as required by an Activity Agreement; and
5. otherwise as agreed between the Parties.
   1. The Parties agree that the publication of theses, papers and books, and the giving of presentations at conferences and other forums, is not to be inhibited to any greater extent than necessary to protect commercially sensitive information, Confidential Information, Background IP and the ownership or validity of Project IP.
   2. Should a Party wish to publish any information in respect of a Project the proposed publication must first be submitted to the other Party for review and approval. A Party must give written notice to the other Party at least 30 days (or such other period agreed between the parties in writing) before it proposes to submit or otherwise make available any proposed publication to any third party or make a presentation by any means referring or relating to a Project.
   3. All notices given under clause 12.4 must include:
6. a copy of a draft of the publication, presentation or announcement, together with any visual aids to be used in that presentation, publication or announcement;
7. the proposed date and location of the presentation, publication or announcement; and
8. a description of the proposed presentation or conference and any other relevant details.
   1. Within 30 days of receipt of a notice under clause 12.4, the other Party will:
9. review the draft publication, presentation or announcement;
10. determine whether any steps should be taken to protect any Project IP owned or co‑owned by that other Party before the material is published, presented or announced, including seeking advice from patent attorneys, filing any patent application or amendment of the draft presentation, publication or announcement; and
11. notify the other Party of its decision.
    1. If the proposed publication contains:
12. the reviewing Party’s Confidential Information, the publishing Party agrees to remove the Confidential Information, or if this is not possible, delay or defer discussions regarding the publication for up to twelve (12) months from the date of the other Party’s notice under clause 12.4; and/or
13. the reviewing Party’s Project IP which that Party wishes to take steps to protect, the publishing Party agrees to delay publication of the material or submission of the material for publication for a period not exceeding 60 days to allow appropriate registration of any Registrable IPRs.
    1. Subject to clause 12.9, if the publication has been authored by a Student, Intern, Research Fellow or Personnel of one of the Parties, the relevant Party agrees to require the Student, Intern, Research Fellow or other Personnel to delay the publication in accordance with clause 12.7 of this Agreement.
    2. The parties agree that a Student or Research Fellow participating in a Project may include the results or other material relating to the conduct and conclusions of a Project in his or her Thesis, and the Thesis will be examined and made publicly available in accordance with the University’s statutes and regulations. The Student or Research Fellow must comply with the publication review process set out in clauses 12.4 - 12.6, provided that if the Thesis contains any ANSTO Confidential Information, the University will ensure that:
14. any external examiners are bound by similar obligations of confidentiality as expressed in this Agreement before they are granted access to any ANSTO Confidential Information; and
15. the Student submits such Thesis on the basis that any such ANSTO Confidential Information is included in an appendix to the Thesis which is restricted from public access for a reasonable period of time agreed by ANSTO but not exceeding 5 years, or otherwise takes other steps in relation to the Thesis to protect the Confidential Information as necessary or appropriate.
    1. A Party, subject to the express terms of this Agreement, may:
16. not unreasonably withhold its consent to a proposed publication; and
17. require removal from the proposed publication of any Confidential Information.
    1. If a Party does not respond within 30 days of receipt of the proposed publication then that Party’s consent will be deemed to have been granted.
    2. In any publication the Parties shall acknowledge the collaboration with and support of the other Party at a prominent place in the publication.
18. Personnel
    1. Each Party is responsible for the actions of its respective Personnel engaged under this Agreement and any Activity Agreement.
    2. Subject to the terms of any applicable Activity Agreement, Personnel of a Party who are seconded to the other Party at the time of the conduct of a Project will continue to be considered an employee of the first Party.
    3. A Party's Personnel do not have a right of access to the other Party's premises except as set out in an Activity Agreement and at the absolute discretion of the other Party. In granting access to its premises, a Party may impose such conditions as it thinks fit, and the other Party agrees to comply with these conditions as a condition of gaining access to the premises.
    4. When the Personnel or Advisers (the Individuals) of a Party (the Employing Party) are using the premises or facilities of the other Party (the Host Party), the Employing Party will ensure that the Individuals comply with all directions and procedures issued by the Host Party applicable to those premises or facilities that relate to security and work health and safety.
    5. The University acknowledges that (in accordance with ANSTO employee’s conditions of employment) ANSTO employees are not permitted to undertake work other than for ANSTO while remaining ANSTO employees, without first obtaining the approval of ANSTO. Accordingly, the University agrees it will not formally offer an ANSTO employee an Adjunct or paid role at the University without:
19. referring and discussing such appointments at the Strategic Relationship Committee; and
20. then obtaining the written agreement of ANSTO.
    1. Subject to any express provisions in an Activity Agreement, in respect of each Project, each Party agrees to:
21. appoint a Project Leader with the necessary skills, qualifications and experience to lead the Project on behalf of that Party;
22. appoint Personnel with the necessary skills, qualifications and experience to perform the Project;
23. use its reasonable endeavours to ensure that its Project Leader and Personnel are available for the conduct of the Project during the Project Term; and
24. also use its reasonable endeavours to agree a substitute Project Leader and/or Personnel, if those individuals are no longer available to the relevant Party,
    1. In respect of each Project, each Party will ensure that its Project Leader leads the Project on behalf of that Party, including by:
25. managing and monitoring the progress of the Project;
26. effectively supervising Personnel, Students, Research Fellows or visitors, including if appropriate, the other Party’s Personnel; and
27. liaising with the other Party's Project Leader in managing the Project.
    1. A Party may replace its Project Leader or Personnel at any time by prior notice in writing to the other party.
28. WORK HEALTH AND SAFETY OBLIGATIONS
    1. The management of work health and safety is a shared responsibility and each Party must comply with the Applicable WHS Legislation when performing any function under this Agreement or an Activity Agreement, in particular:
29. so far as is reasonably practicable, to consult, co-operate and co-ordinate activities with the other Party (and any other person who has a work health and safety duty under the Applicable WHS Legislation in relation to the same matter) in order to manage the health and safety of the people involved in or affected by the performance of any function under this Agreement or an Activity Agreement; and
30. to give careful, prudent and comprehensive consideration to the work health and safety implications of the performance of its obligations under this Agreement or an Activity Agreement and the proposed method of performance of those obligations; and
31. nominated representatives of each Party will work together to document and periodically review its work health and safety arrangements.
    1. Without limiting clause 14.1, each Party will (upon reasonable notice) permit nominated representatives of the other Party to attend their respective premises to:
32. assess those premises for compliance with Applicable WHS Legislation; and
33. consult with the Party’s nominated representatives to determine safe work practices at those premises.
    1. Clause 14.2 only applies to the extent that the Party requiring access to the other Party’s premises has an obligation under Applicable WHS Legislation in relation to those premises.
    2. Each Party must ensure that its nominated representatives comply with the other Party’s security requirements when attending the other party’s premises.
    3. In relation to any work conducted under this Agreement or an Activity Agreement, each Party will:
34. maintain a system for identifying and managing work health and safety risks which complies with Applicable WHS Legislation; and
35. promptly provide the other Party with any information or copies of documentation held by the Party (such as work health and safety assessments, reports, safe work method statements, safety procedures and manuals) to enable the other Party to comply with its obligations under the Applicable WHS Legislation, if the other Party requests it.
    1. Without limiting clause 14.5, each Party will promptly provide to the other Party copies of:
36. all formal notices and written communications issued under Applicable WHS Legislation to the Party by a WHS Regulator, an agent of a WHS Regulator, or a safety representative under the Applicable WHS Legislation in connection with this Agreement or an Activity Agreement; and
37. all formal notices, written communications and written undertakings given by the Party to a WHS Regulator or agent of a WHS Regulator under the Applicable WHS Legislation, in connection with this Agreement or an Activity Agreement.
    1. If a Notifiable Incident occurs at a Party’s premises that involves the other Party’s employees, officers, agents, Students or Advisers in connection with this Agreement or an Activity Agreement, the Party at whose premises the Notifiable Incident occurred shall:
38. immediately report the incident to the other Party;
39. provide the other Party with a copy of any notice provided to the relevant WHS Regulator;
40. provide assistance to the other Party to undertake mandatory incident reporting; and
41. in the case of the University – provide ANSTO with such other information required by ANSTO to notify the Commonwealth WHS Regulator of the Notifiable Incident in accordance with the Applicable WHS Legislation.
    1. Each Party will ensure its subcontractors comply with this clause 14.
    2. In this clause 14 the following definitions apply:

***Applicable WHS Legislation*** means the WHS Legislation that each Party is required to comply with;

***Notifiable Incident*** has the meaning given in sections 35 to 37 of the *Work Health and Safety Act 2011* (Cth), or similar provisions in any other applicable WHS legislation;

***WHS Legislation*** means:

1. the *Work Health and Safety Act 2011* (Cth) and the Work Health and Safety Regulations 2011 (Cth); and
2. any corresponding WHS law as defined in section 4 of the *Work Health and Safety Act 2011* (Cth);

***WHS Regulator*** means a person, government agency or organisation with regulatory responsibilities under the applicable WHS Legislation.

1. Environmental Protection Obligations
   1. The Parties must carry out their obligations under this Agreement and any Activity Agreement in such a way that the other Party:
2. is not placed in breach of; and
3. is able to exercise its rights under this Agreement or an Activity Agreement without being in breach of,

any applicable environmental legislation including the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), the *Environmental Planning and Assessment Act 1979 (NSW)*, the *Protection of the Environment Operations Act 1997 (NSW)* and the *Contaminated Land Management Act 1997 (NSW)*.

1. Protection of Personal Information
   1. The Parties agree that if they obtain Personal Information or Sensitive Information of the other Party, Student, Personnel or third parties in relation to anything done under this Agreement or Activity Agreement, they will comply with any obligations under any applicable legislation.
   2. The Parties shall immediately notify the other Party if:
2. they become aware of a breach or possible breach of any of the obligations contained, or referred to, in this clause 16;
3. in relation to Personal Information or Sensitive Information obtained in the course of performing an obligation under this Agreement or an Activity Agreement;
4. they become aware that a disclosure of such Personal Information or Sensitive Information may be required by law; or
5. they are approached by the Privacy Commissioner or by any individual to whom such Personal Information or Sensitive Information relates.
   1. The Parties must ensure that their Personnel, Advisers and subcontractors comply with this clause 16.
6. No Benefit or Advantage
   1. Nothing in this Agreement or an Activity Agreement creates:
7. an obligation on one Party to provide any benefit or advantage to the other Party, which benefit or advantage includes any matter or thing in connection with any acquisition by the other Party of goods or services; and
8. any right or claim in favour by one Party against the other Party, in connection with any acquisition by the other Party of goods or services, other than the rights expressly provided for in this Agreement or an Activity Agreement.
   1. The University acknowledges that, notwithstanding anything in this Agreement or an Activity Agreement, any acquisitions of goods and services by ANSTO are subject to the Commonwealth Procurement Rules (as amended from time to time) as made under the *Financial Management and Accountability Act 1997*.
   2. ANSTO acknowledges that, notwithstanding anything in this Agreement or an Activity Agreement, any acquisitions of goods and services by the University are subject to the University’s procurement policy and procedures (as amended from time to time).
9. project records
   1. Each Party must maintain the Project Records accurately and in sufficient detail in a good scientific manner.
   2. Each Party must keep and maintain the Project Records for the Project Term and for up to 7 years after.
   3. Subject to the terms of this Agreement, or any applicable Activity Agreement, upon reasonable notice and during normal business hours, a Party or their Project Leader or Personnel, may inspect and copy any Project Records as agreed by the other Party.
   4. A Party must, at the other Party’s cost, provide such assistance to the other Party as reasonably requested in connection with clause 18.3, including providing supervised access to documents, hardware, software and facilities.
10. insurance, NO WARRANTIES and LIMItATION OF liability
    1. Each Party will effect and maintain adequate insurance policies, or similar protection, to cover its participation in and obligations under this Agreement (and if required under an Activity Agreement), including policies or protections to cover:
11. public liability and/or products Liability;
12. professional indemnity, including IP infringement; and
13. workers compensation.
    1. Subject to the express terms of an Activity Agreement, the Parties make no express (or, to the extent permitted by law, implied) representations or warranties of any kind in relation to the suitability of the Materials or any Background Intellectual Property, or their use in a Project.
    2. Subject to the Discloser providing any information to the Recipient at the time of the disclosure if they are aware of any infringement, or claim of infringement, by a third party in relation to those Materials or the Background IP, the Recipient acknowledges that it uses the Materials and any Background Intellectual Property at its own risk and accepts all risks and liabilities associated with the Recipient’s receipt, possession, storage, handling, use or disposal of the Materials and any Background Intellectual Property.
    3. Subject to the express terms of any Activity Agreement, and to paragraphs 19.5 and 19.6, each Party (an indemnitor) indemnifies and shall keep indemnified the other Party (indemnitee) from and against liability, loss, harm, damage, cost or expense (including reasonable legal fees) that the indemnitee may incur as a result of loss of or damage to property, personal injury or death caused by an act or omission of the indemnitor or its Personnel, agents and sub-contractors in performing a Project.
    4. The indemnity given by the indemnitor will be:
14. reduced proportionately to the extent that a material breach of this Agreement or any negligent act or omission by the indemnitee may have contributed to any such liability, loss, damage, cost or expense; and
15. subject to the indemnitee taking all such reasonable steps and actions as are reasonably necessary, or as the indemnitor may reasonably require in order to mitigate any potential liability, loss, damage, cost or expense.
    1. Neither Party will be liable to the other for any loss of profits, special, indirect or consequential loss or damages (including economic loss, business interruption expenses and exemplary damages) arising in connection with this agreement.
16. DISPUTES
    1. Subject to any contrary agreement, a dispute arising under this Agreement or an Activity Agreement will be dealt with as follows:
17. the Party claiming that there is a dispute will give the other Party a notice setting out the nature of the dispute;
18. where the dispute relates to a Project, each Party will nominate a representative at Project Leader level who will try to settle the dispute by direct negotiation between them;
19. failing settlement under clause 20.1(b), or for disputes relating to this Agreement, the dispute will be referred to the Strategic Relationship Managers who will try to settle the dispute by direct negotiation between them;
20. failing settlement under clause 20.1(c), the dispute will be referred to another ANSTO Executive and the University Vice-Chancellor who will try to settle the dispute by direct negotiation between them; and
21. failing settlement under clause 20.1(d), the Parties may agree to refer the dispute to an independent third person with power:
22. to intervene and direct some form of resolution, in which case the Parties shall be bound by that resolution; or
23. to mediate and recommend some form of non-binding resolution;

and the Parties will cooperate fully with any process instigated under this clause 20.1(e) in order to achieve a speedy resolution; and

1. if the process described in clauses 20.1(a) to 20.1(e) fails to resolve the dispute within six (6) months of the initial notification of the dispute in clause 20.1(a), either Party may at that time commence legal proceedings.
   1. Each Party will bear its own costs of complying with this clause 20, and the Parties must bear equally the cost of any third person engaged under clause 20.1(e).
   2. This clause 20 does not apply to:
2. action by either Party under or purportedly under clause 21; or
3. either Party commencing legal proceedings for urgent interlocutory relief.
4. TERMINATION
   1. This Agreement will terminate:
5. at any time by the agreement in writing of the Parties;
6. by either Party providing ninety (90) days’ notice to the other Party, without cause; or
7. on expiry of the Term.
   1. Where a Party fails to satisfy any of its material obligations under this Agreement, the other Party may, if it considers that the failure is:
8. not capable of remedy, by notice terminate this Agreement immediately; or
9. capable of remedy, by notice require that the failure be remedied within the reasonable time specified in the notice and, if not remedied within that time, may terminate this Agreement immediately by giving a second notice.
   1. Subject to the Corporations Law, if applicable, ANSTO may by notice, terminate this Agreement if the University being a corporation, comes under one of the forms of external administration referred to in chapter 5 of *the Corporations Act 2001* (Cth), the Corporations Law, or an order has been made for the purpose of placing the corporation under external administration.
   2. The expiry or termination of this Agreement does not:
10. affect any Activity Agreement which in progress at the time of the expiry or termination of this Agreement (including any clauses implied into that Activity Agreement from this Agreement); or
11. prejudice any prior right of action or remedy which either Party has or may have.
12. ASSIGNMENT
    1. A Party must not Assign its obligations or rights under this Agreement or an Activity Agreement without first obtaining the other Party’s written consent. The other Party may impose conditions when giving its consent and the Party seeking consent must comply with those conditions.
    2. In clause 22.1, ‘Assign’ includes novate or transfer, in whole or in part.
13. RESTRICTIONS ON SUBCONTRACTING
    1. Other than as explicitly agreed in an Activity Agreement, a Party must not subcontract any of its obligations under this Agreement or an Activity Agreement without first obtaining the other Party’s written consent. The other Party may impose conditions when giving its consent and the Party seeking consent must comply with those conditions.
    2. A Party that has been permitted to subcontract its obligations remains fully responsible for the performance of its obligations and for ensuring its Subcontractor’s compliance with the requirements of this Agreement and any Activity Agreement.
    3. Any subcontract must be in writing and must impose equivalent obligations on the Subcontractor no less onerous than the provisions of this Agreement and the relevant Activity Agreement to which the subcontract relates.
14. ENTIRE AGREEMENT
    1. This Agreement and any Activity Agreement:
15. constitutes the entire agreement between the Parties as to its subject matter; and
16. in relation to that subject matter, supersedes any prior understanding or agreement between the Parties and any prior condition, warranty, indemnity or representation imposed, given or made by a Party.
17. GOVERNING LAW AND JURISDICTION
    1. This Agreement is governed by the law of the State or Territory identified in Item 5 of Schedule 1 and, subject to clause 25.2 below, each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that State or Territory in connection with any matters arising under this Agreement and any Activity Agreement.
    2. The Parties may agree to apply a different governing law for an Activity Agreement; which will be specified in that Activity Agreement or the Schedules thereto. The governing law specified in that Activity Agreement will be the governing law for that Project and Activity Agreement.
18. WAIVER
    1. A failure or delay by a Party to exercise any Right it holds under this Agreement or an Activity Agreement does not operate as a waiver of that Right.
    2. A single exercise by a Party of any Right it holds under this Agreement or an Activity Agreement does not prevent the Party from exercising the Right again and a partial exercise by a Party of any Right it holds under this Agreement or an Activity Agreement does not prevent the Party from fully exercising that Right.
    3. In this clause 26, ‘Right’ means a right or remedy provided by this Agreement or an Activity Agreement, or at law.
19. SEVERANCE
    1. If any part of this Agreement or an Activity Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement and any Activity Agreement continues in effect, as if the invalid or unenforceable part were excluded.
20. SURVIVAL
    1. Unless the contrary intention appears, the expiration or earlier termination of this Agreement or an Activity Agreement shall not affect the continued operation of any provision relating to:
21. Confidential Information;
22. the protection of Personal Information;
23. security; or
24. licensing of Intellectual Property and Material,

or any other provision which expressly or by implication from its nature is intended to survive the expiration or earlier termination of this Agreement.

1. NOTICES
   1. A notice under this Agreement is to be delivered by hand, sent by pre-paid post, or email care of the relevant name and address set out in Item 6 of Schedule 1.
   2. A notice will be deemed to be received:
2. if delivered by hand, upon delivery;
3. if sent by pre-paid ordinary post within Australia, upon the expiration of three (3) Working Days after the date on which it was sent; or
4. if sent by email, upon the first to occur of:
5. receipt by the sender of the email of an acknowledgement from the intended recipient's information system showing that the notice has been delivered to the email address of that recipient;
6. the time that the notice enters an information system which is under the control of the intended recipient; and
7. the time that the notice is first opened or read by the Personnel of the intended recipient.
8. COUNTERPARTS
   1. This Agreement may be executed in counterparts. All executed counterparts constitute one document.
   2. In the event that this Agreement is executed in counterparts, the date of the Agreement is the date upon which the last Party signed the Agreement.
9. NO PARTNERSHIP
   1. This Agreement (including any Activity Agreement) does not constitute a Party being the agent of another or imply that the Parties intend constituting a partnership, joint venture or other form of association in which any Party may be liable for the acts or omissions of another. No Party has authority to pledge the credit of another.

## EXECUTED AS AN AGREEMENT

|  |  |  |
| --- | --- | --- |
| **EXECUTED** bythe **Australian Nuclear Science and Technology Organisation**: |  |  |
|  |  |  |
| Signature of witness |  | Signature of authorised signatory |
|  |  |  |
| Print name of witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date |  | Print name of authorised signatory  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position title of authorised signatory |
| **EXECUTED** by the **UNIVERSITY:** |  |  |
|  |  |  |
| Signature of witness |  | Signature of authorised signatory |
|  |  |  |
| Print name of witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date |  | Print name of authorised signatory  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position title of authorised signatory |

**Schedule 1**

**Strategic Relationship Agreement Details**

**Means of Achieving Objectives**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Clauses** | **Means of Achieving Objectives** | **Details** |
| **Item 1** | Cl 3 and  Cl 4 | Strategies | The means by which the Objectives of the Strategic Relationship will be achieved include:   * meetings; * briefings and demonstrations of capabilities and technologies; * exchange of information; * and subject to separate agreement:   + entering into research agreements and collaborative research agreements;   + developing staff exchange and secondment programs;   + providing undergraduate scholarships and postgraduate programs;   + providing access to facilities and equipment;   + creating senior appointments at the University;   + conference support;   + undertaking Projects; and * other mechanisms as mutually agreed by the Parties. |

**Term**

|  |  |  |  |
| --- | --- | --- | --- |
| **Item 2** | **Clause** | **Term** | **Duration** |
| **2.1** | Cl 2 | Term | 5 years |
| **2.2** | Cl 2 | Further Term | 5 years |

**Strategic Relationship Managers**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Item 3 | **Clause** | **Party** | **Name** | **Mail and Email Address** | **Phone No** |
| Item 3.1 | Cl 4 and Cl 20 | ANSTO |  |  |  |
| Item 3.2 | Cl 4 and Cl 20 | University |  |  |  |

**Performance Measures**

|  |  |  |
| --- | --- | --- |
| **Item** | **Clause** | **Performance Measures** |
| **Item 4** | Cl 4 | Specific performance measures may include numbers, impact evaluation and deliverable quality of:   * projects pursuant to the Activity Agreements; * development and use of new technology; * staff exchanges; * workshops, symposia and research seminars held; * shared infrastructure; * visits by overseas experts, industry and government bodies; * public relations and media exposure; * papers published; * students enrolled; and * completed Strategic Relationship Agreement initiatives. |

**Applicable Jurisdiction**

|  |  |  |
| --- | --- | --- |
| **Item** | **Clause** | **Applicable Jurisdiction** |
| **Item 5** | Cl 25 |  |

**Address for Notices**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Item 6** | **Clause** | **Party** | **Name** | **Mail and Email Address** | **Phone No** |
| **Item 6.1** | Cl 29 | ANSTO |  |  |  |
| **Item 6.2** | Cl 29 | University |  |  |  |

**Schedule 2 – Research Collaboration Agreement**

Attached.

**Schedule 3 –Student Agreement**

Attached.

**Schedule 4 – Infrastructure Access Agreement**

Attached.

**Schedule 5 – Material Transfer Agreement**

Attached.

**Schedule 6 – Confidentiality Agreement**

Attached.