



**Australian Government**

**Department of Innovation  
Industry, Science and Research**

# **Funding Agreement**

between the

**COMMONWEALTH OF AUSTRALIA**

as represented by the

**Department of Innovation, Industry, Science and  
Research**

and

**Astronomy Australia Limited  
ABN 19 124 973 584**

regarding funding for the

***Astronomy Australia Limited (AAL) Education  
Investment Fund (EIF) Project***

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# Contents

1	Term of Agreement.....	2
2	Project.....	2
3	Funding.....	3
4	Management of Funding.....	4
5	Repayment of Funding.....	4
6	Acknowledgment and Publicity.....	5
7	Subcontracting.....	5
8	Specified Personnel.....	6
9	Assets.....	6
10	Insurance.....	8
11	Liaison and Monitoring.....	8
12	Reporting.....	8
13	Commonwealth Material.....	9
14	Project Material.....	9
15	Disclosure of Information.....	10
16	Protection of Personal Information.....	11
17	Records.....	11
18	Access to Premises and Records.....	12
19	Indemnity.....	12
20	Conflict of Interest.....	13
21	Negation of Employment, Partnership and Agency.....	13
22	Entire Agreement, Variation and Severance.....	13
23	Waiver.....	14
24	Assignment and Novation.....	14
25	Incorporation.....	14
26	Dispute Resolution.....	14
27	Termination With Costs and Reduction.....	15
28	Termination For Default.....	16
29	Compliance With Laws and Our Policies.....	16
30	Applicable Law and Jurisdiction.....	19
31	Notices.....	19
32	Survival of Clauses.....	19
33	Interpretation.....	20
	SCHEDULE 1: Your Obligations.....	24
	A. Term of agreement (clause 1).....	24
	B. Program and Legislation (clause 2).....	24
	C. Project (clause 2).....	24
	D. Project Period (clause 2).....	26
	E. Invoice Requirements (clause 3).....	26
	F. Separate Bank Accounts (clause 4).....	26
	G. Acknowledgement and Publication (clause 6).....	27
	H. Subcontractors (clause 7).....	27
	I. Specified Personnel (clause 8).....	28
	J. Assets (clause 9).....	28
	K. Insurance (clause 10).....	29
	L. Reporting and AAL EIF Annual Business Plans (clause 12).....	29
	M. Commonwealth Material (clause 13).....	30
	N. Project Material (clause 14).....	30
	O. Our Confidential Information (clause 15).....	30
	P. Protection of Personal Information (clause 16).....	30
	Q. Compliance with Laws and Policies (clause 29).....	30
	R. Notices (clauses 8 and 31).....	34
	SCHEDULE 2: Our Obligations.....	35
	AA. Funding (clause 3).....	35
	BB. Program Delegate (clauses 11 and 31).....	35
	CC. Your Confidential Information (clause 15).....	35
	ATTACHMENT A AAL EIF PROJECT PLAN.....	37
	ATTACHMENT B CONTENT OF AAL EIF ANNUAL BUSINESS PLANS.....	65
	ATTACHMENT C CONTENT OF REPORTS.....	66
	ATTACHMENT D PERFORMANCE INDICATORS.....	68

## Parties

**COMMONWEALTH OF AUSTRALIA** ('Commonwealth', 'Us', 'We' or 'Our'), represented by and acting through the Department of Innovation, Industry, Science and Research (ABN 74 599 608 295) ('Department' or 'DIISR')

AND

**ASTRONOMY AUSTRALIA LIMITED** (ABN 19 124 973 584) a public company limited by guarantee, C/- Swinburne University, John Street, Hawthorn, VIC 3122 ('You', or 'Your' as further defined in clause 33.1).

Note: this agreement uses a number of words which are defined in the glossary in clause 33.1. Defined terms start with a capital letter, e.g., Asset.

## Purpose

- A. We and the Department of Education, Employment and Workplace Relations (DEEWR) jointly operate a Program, the Education Investment Fund ('the **Program**' or '**EIF**') which is one of the three Nation-building Funds established by the *Nation-building Funds Act 2008*. We are responsible for administering the research aspects of the EIF which include, but are not limited to, entering into funding agreements for approved, predominantly research projects.

The Program is mentioned in Outcome 2 of the Department's Portfolio Budget Statements for the 2009-10 financial year as one of several programs contributing to the generation, utilisation and awareness of science and research knowledge through investing in research infrastructure to support innovation and provide access to the best facilities for the greatest number of researchers.

- B. You are committed to helping achieve the objectives of the Program through Your conduct of the Project to establish research infrastructure.
- C. As a result of this commitment, We agree to support the Project by providing Funding to You, subject to the terms and conditions of this agreement.
- D. We are required by law to ensure accountability for public money, and You are required to be accountable for all Funds provided by Us.
- E. You agree to accept the Funding on the terms and conditions set out in this agreement.

## 1 Term of Agreement

- 1.1 This agreement commences on the Date of this Agreement and, unless terminated earlier, it expires on the Completion date.

## 2 Project

- 2.1 You must carry out the Project:
- (a) at the times and in the manner specified in item C of schedule 1;
  - (b) within the Project Period; and
  - (c) in accordance with this agreement (and any applicable Guidelines), diligently,

9 June 2010

Initials

*MMA*<sup>2</sup>  
*AS*

effectively and to a high professional standard.

- 2.2 The Funding must be expended by You only for the Project.
- 2.3 Where an Asset is wholly purchased or created with the Funds, You must not accept funding for the purchase or creation of that Asset under any other program of Ours, whether that program is administered by this Department or by any other Commonwealth agency.
- 2.4 Where an Asset is partly purchased or created with the Funds, You must not accept funding for the purchase or creation of that portion of the Asset under any other program of Ours, whether that program is administered by this Department or by another Commonwealth agency.
- 2.5 If, contrary to clause 2.3 or 2.4, You receive funding for any Asset under any other program of Ours, You must immediately notify Us, of such funding, including the amount that You have received.
- 2.6 We are not responsible for the provision of additional money to meet any expenditure in excess of the Funds.

### 3 Funding

- 3.1 Subject to sufficient funds being available for the Program, and compliance by You with this agreement (including the invoicing requirements, if any, specified in item E of schedule 1), We will provide You with the Funding at the times and in the manner specified in item AA of schedule 2.
- 3.2 Without limiting Our rights, We may withhold or suspend any payment in whole or in part if:
  - (a) You have not performed Your obligations under this agreement; or
  - (b) You have outstanding or unacquitted money under any arrangement (whether contractual or statutory) with Us; or
  - (c) contrary to clause 2.3 or 2.4, You receive any funding for any Asset under any other program of Ours, in particular, We may withhold or suspend that part of the payment equal to the amount of the other funding.
- 3.3 If We exercise Our rights under clause 3.2, You must continue to perform Your obligations under this agreement, unless We agree otherwise in writing.
- 3.4 Without limiting clause 3.2, if, contrary to clause 2.3 or 2.4, You receive funding for any Asset under any other program of Ours, We may reduce the Funding by the amount of the funding that You have received under that other program, or take any other action permitted under this agreement.
- 3.5 Unless otherwise indicated, You agree to pay all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this agreement.

- 3.6 Unless otherwise indicated, any consideration for a supply made under this agreement is exclusive of any GST imposed on the supply.
- 3.7 If one party (the supplier) makes a taxable supply to the other party (the recipient) under this agreement, on receipt of a tax invoice from the supplier, the recipient will pay without setoff an additional amount to the supplier equal to the GST imposed on the supply in question.
- 3.8 No party may claim or retain from the other party any amount in relation to a supply made under this agreement for which the first party can obtain an input tax credit or decreasing adjustment.

#### 4 Management of Funding

4.1 You must:

- (a) ensure that the Funds are held in an account in Your name, and which You solely control, with a bank or credit union carrying on banking business in Australia;
- (b) if specified in item F of schedule 1, this must be an account which is:
  - i. established solely to account for and administer Funding provided by Us to You under this agreement; and
  - ii. separate from Your other operational accounts;
- (c) on request from Us, provide Us and the authorised deposit-taking institution with an authority for Us to obtain all details relating to any use of the account;
- (d) identify the receipt and expenditure of the Funds separately within Your accounting Records so that at all times the Funds are identifiable and ascertainable.

4.2 You must keep financial Records relating to the Project to enable:

- (a) all income and expenditure related to the Project to be identified in Your accounts;
- (b) the preparation of financial statements in accordance with Australian Accounting Standards; and
- (c) the audit of those Records in accordance with Australian Auditing Standards.

4.3 You must not use the Funds:

- (a) as security to obtain, or comply with, any form of loan, credit, payment or other interest; or
- (b) for the preparation of, or in the course of, any litigation.

4.4 You must spend the Funds only in accordance with the budget set out in item C.3 of schedule 1, unless you have obtained Our prior written approval.

#### 5 Repayment of Funding

5.1 If:

- (a) at any time, an overpayment occurs, including where an invoice is found to have been incorrectly rendered after payment; or
- (b) at the Completion Date some or all of the Funding has not been:
  - i. spent in accordance with this agreement; or
  - ii. acquitted to Our satisfaction,

