Program Guidelines for the Visiting Optometrists Scheme

incorporating:

• the Core Visiting Optometrists Scheme element; and

• the Visiting Optometrists Scheme Expansion for Indigenous Australians element.

Effective from 1 July 2011
# TABLE OF CONTENTS

1. **BACKGROUND** .......................................................................................................................................................... 4

2. **AIM AND OBJECTIVES OF THE VOS** ...................................................................................................................... 4
   2.1 **AIM** ........................................................................................................................................................................ 4
   2.2 **OBJECTIVES** .......................................................................................................................................................... 4

3. **LEGISLATIVE BASIS** ..................................................................................................................................................... 5

4. **ELEMENTS OF VOS AND BUDGET ALLOCATION 2011-12 TO 2013-14** .............................................................. 5
   4.1 **CORE VOS – BUDGET ALLOCATION 2011-12 TO 2013-14** ................................................................................. 5
   4.2 **VOS EXPANSION FOR INDIGENOUS AUSTRALIANS – BUDGET ALLOCATION 2011-12 TO 2013-14** .......... 5

5. **SERVICES UNDER VOS** ............................................................................................................................................... 6
   5.1 **LOCATION OF SERVICES** ..................................................................................................................................... 6
   5.2 **HOW IS THE NEED FOR A VOS SERVICE IDENTIFIED?** ................................................................................... 6
   5.3 **SERVICES FOR ABORIGINAL AND TORRES STRAIT ISLANDER PEOPLE UNDER VOS** ................................ ...... 7
   5.4 **VOS SERVICE PROVISION AT LOCATION(S) NOT IDENTIFIED AS A NATIONAL PRIORITY LOCATION** ............. 7
   5.5 **VOS SERVICE PROVISION – SPECIAL ARRANGEMENTS** ............................................................................... 7
   5.6 **BRANCH PRACTICE** .............................................................................................................................................. 8
   5.7 **SPECIFIED REQUIREMENTS – CLIENTS WITH HEALTH CARE CARDS** ............................................................. 8

6. **WHAT COSTS CAN VOS SUPPORT?** .......................................................................................................................... 8
   6.1 **TRAVEL** ................................................................................................................................................................. 8
   6.2 **ACCOMMODATION** .............................................................................................................................................. 9
   6.3 **MEALS AND INCIDENTAL EXPENSES** ................................................................................................................ 9
   6.4 **LEASE OF EQUIPMENT AND ITS TRANSPORT TO OUTREACH LOCATIONS** .................................................... 9
   6.5 **FACILITY FEES** ...................................................................................................................................................... 10
      6.5.1 **Limiting eligibility to receive facility fee payments** .................................................................................. 10
   6.6 **ABSENCE FROM PRACTICE ALLOWANCE** .......................................................................................................... 10
      6.6.1 **Absence from Practice Allowance – maximum payable** .......................................................................... 11
      6.6.2 **Limiting eligibility to receive the Absence from Practice Allowance** ...................................................... 11
   6.7 **ADMINISTRATIVE SUPPORT** ............................................................................................................................. 11
      6.7.1 **Limiting eligibility to receive administrative support** .................................................................................. 12
   6.8 **EXTERNAL LOCUM SUPPORT** ............................................................................................................................ 12
      6.8.1 **Limiting eligibility to receive locum support** ............................................................................................... 12
   6.9 **ACCOMPANYING HEALTH PROFESSIONALS** .................................................................................................. 12
   6.10 **ACCOMPANYING OPTICAL DISPENSER – NON PAYMENT** .............................................................................. 13
   6.11 **MARKETING COSTS – NON PAYMENT** ............................................................................................................ 13
   6.12 **CULTURAL TRAINING AND FAMILIARISATION** ............................................................................................ 13

7. **APPLICATION PROCESS** .............................................................................................................................................. 13
   7.1 **WHO CAN APPLY?** ............................................................................................................................................... 13
   7.2 **PROVIDER NUMBERS FOR OUTREACH LOCATIONS** ......................................................................................... 14
   7.3 **HOW TO APPLY** .................................................................................................................................................. 14
   7.4 **ASSESSMENT PROCESS OF APPLICATIONS** ..................................................................................................... 15
      7.4.1 **Non-Compliant Applications** ....................................................................................................................... 15
      7.4.2 **Assessment criteria** ........................................................................................................................................ 15
      7.4.3 **Outcomes of Assessment process** ................................................................................................ .................. 16
      7.4.4 **Complaint handling** ........................................................................................................................................ 16
TABLE OF CONTENTS (CONTINUED)

8. ADMINISTRATION.................................................................................................................................................. 16
  8.1 FUNDING ARRANGEMENTS .......................................................................................................................... 16
    8.1.1 Schedule to the standard funding agreement ......................................................................................... 17
    8.1.2 Budget and Payments in the Schedule to the standard funding agreement ............................................. 17
    8.1.3 Reporting requirements in the Schedule to the standard funding agreement ........................................... 17
    8.1.4 Evaluation .................................................................................................................................................. 18
  8.2 TAXATION IMPLICATIONS .......................................................................................................................... 18
  8.3 SERVICE TERMINATION .............................................................................................................................. 18
  8.4 OPTOMETRIST TAKES UP RESIDENCE AT A PRIORITY LOCATION UNDER VOS ............................................. 18
  8.5 REVIEW OF VOS SERVICES ....................................................................................................................... 18

9. VOS NATIONAL ADVISORY COMMITTEE, VOS STATE AND NORTHERN TERRITORY REFERENCE
   GROUPS, AND THE ROLE OF THE DEPARTMENT OF HEALTH AND AGEING:........................................... 19
  9.1 ROLE OF THE VOS NATIONAL ADVISORY COMMITTEE ................................................................................. 19
  9.2 MEMBERSHIP OF THE VOS NATIONAL ADVISORY COMMITTEE .......................................................... 19
  9.3 ROLE OF THE VOS STATE AND THE NORTHERN TERRITORY REFERENCE GROUPS ..................................... 19
  9.4 MEMBERSHIP OF THE STATE AND THE NORTHERN TERRITORY REFERENCE GROUPS .................................. 20
  9.5 ROLE OF THE DEPARTMENT OF HEALTH AND AGEING .................................................................................. 20

10. DEPARTMENT OF HEALTH AND AGEING CONTACTS FOR VOS .......................................................... 21

GLOSSARY OF TERMS ............................................................................................................................................... 22

APPENDIX A – GRANT PROGRAM PROCESS UNDER THE VOS ..................................................................... 24

APPENDIX B – SAMPLE FUNDING AGREEMENT.......................................................................................... 25
THE VISITING OPTOMETRISTS SCHEME

1. Background

The Visiting Optometrists Scheme (VOS) was established in 1975 to support optometrists to deliver outreach optometric services to remote and very remote locations, which would not otherwise have ready access to primary eye care.

The VOS plays a significant role in detecting the range of eye diseases and ensuring appropriate referral for treatment and ongoing management for people living in remote and very remote locations. To achieve this, the VOS addresses some of the financial disincentives incurred by optometrists providing outreach services, with funding provided for costs that include:

- travel, accommodation and meals;
- facility fees and administrative support at the outreach location;
- external locum support at the home practice; and
- lease and transport of equipment.

In addition, an absence from practice allowance may be payable to compensate optometrists participating in the VOS for the ‘loss of business opportunity’ due to time spent travelling to and from an outreach location to deliver VOS supported services. (Please Note: Full details of Costs covered under the VOS are included in a later section of these Program Guidelines.)

2. Aim and Objectives of the VOS

2.1 Aim

The VOS aims to improve the access of people living and working in remote and very remote communities to optometric services.

2.2 Objectives

The objectives of the VOS are to:

- improve the eye health of Australians living and working in remote and very remote areas, and rural communities with an identified need for optometric services;
- increase visiting optometrist services in areas of identified need;
- support optometrists to provide outreach services; and
- encourage and facilitate integration and communication between visiting optometrists, local health providers and other visiting health professionals to improve the quality of ongoing patient care.
3. Legislative Basis

The VOS is enabled under Section 129A of the Health Insurance Act 1973 (the Act); Special Arrangements for optometrical services. The Act states that:

“the Minister may on behalf of the Commonwealth make such special arrangements with participating optometrists as he or she thinks fit for the purpose of ensuring that an adequate optometrical service will be available to persons living in isolated areas”.

Consequently, the delivery of VOS supported services cannot include entering into an auspicing arrangement with a fundholder organisation.

On 26 February 2009, the Minister for Health and Ageing, through subsection 131(1) of the Act, delegated her powers under section 129A of the Act to the Assistant Secretary, Rural Health Services and Policy Branch, Primary and Ambulatory Care Division, Department of Health and Ageing (the Department).

4. Elements of VOS and Budget allocation 2011-12 to 2013-14

There are two elements to the VOS, namely:

- the Core VOS; and
- the VOS Expansion for Indigenous Australians.

These Program Guidelines apply to both elements of the VOS.

4.1 Core VOS – Budget allocation 2011-12 to 2013-14

Under the Core VOS element, funds of $8.6 million (GST exclusive) will be available from 2011-12 to 2013-14 to support optometrist visits to remote and very remote locations where there is a genuine need for primary eye care services.

4.2 VOS Expansion for Indigenous Australians – Budget allocation 2011-12 to 2013-14

The Improving Eye and Ear Health Services for Indigenous Australians for Better Education and Employment Outcomes measure, will provide funds of $7.1 million (GST exclusive) from 2011-12 to 2013-14 for the VOS Expansion for Indigenous Australians element, to provide new and increased numbers of optometrist visits to Indigenous Australians in remote and very remote Indigenous communities.
5. Services under VOS

5.1 Location of services

From 1 July 2009, the Australian Bureau of Statistics’ Australian Standard Geographical Classification - Remoteness Areas (ASGC-RA) 2-5 (Inner Regional – Very Remote) has been used to define eligibility for targeted Commonwealth rural health programs.

Under the VOS, services are targeted to areas of need located within ASGC RA 2-5 (Inner Regional to Very Remote) with a focus on communities in ASGC RA 4 and 5 (Remote and Very Remote). Communities in ASGC-RA 2 and 3 with an identified need for optometric services may also be considered for VOS services when appropriately supported by a letter from either the local Aboriginal Medical Service (AMS), health service or a local health professional providing or confirming further evidence of need.

The ASGC-RA classification for a location can be found by searching the map on the Doctor Connect website at the below address:


5.2 How is the need for a VOS service identified?

The Department has tasked the VOS National Advisory Committee, in consultation with the VOS State and Northern Territory Reference groups, to determine a listing of national priority locations in need of outreach optometric services under both the Core VOS and the VOS Expansion elements. (Please note: Further details on the role and membership of the VOS National Advisory Committee and State and Northern Territory Reference Groups are provided at a later section of these Program Guidelines.)

A listing of national priority locations in need of outreach optometric services under both the Core VOS and VOS Expansion elements have been determined by:

- identifying the gaps in service delivery at the local and national level;
- ascertaining the capacity of an identified area of need to sustain a new optometric service, or supplement an existing service; and
- identifying potential linkages between VOS supported services and existing primary care services.

In consultation with the VOS National Advisory Committee, and each State and Northern Territory reference group, an updated listing of national priority locations, under both the Core VOS element and the VOS Expansion for Indigenous Australians element, has been determined by the Department, with effect from 1 July 2011. This listing is included on the Departmental website at www.health.gov.au/vos Please also refer to advice at section 5.3 of these Program Guidelines.
5.3 Services for Aboriginal and Torres Strait Islander people under VOS

From a historical perspective under the VOS, services for Aboriginal and Torres Strait Islander people have been funded under Core VOS since 1975. In 2009, with the introduction of the Improving Eye and Ear Health Services for Indigenous Australians for Better Education and Employment Outcomes measure, funding was provided to enable an expansion of the VOS, to provide new and increased numbers of optometrist visits to Indigenous Australians in remote and very remote Indigenous communities.

While the updated listing of national priority locations provides for VOS element specific locations, applicants should note that VOS services for Aboriginal and Torres Strait Islander people may be funded from either the Core VOS element or the VOS Expansion for Indigenous Australians element.

Under the VOS Expansion element, it is not intended to take services for Indigenous Australians away from the Core VOS element, but provide for new and increased services. Services provided to areas with both Indigenous and non-Indigenous people should continue to apply for Core VOS.

5.4 VOS Service provision at location/s not identified as a national priority location

Consideration will be given to providing VOS supported services to remote and very remote communities not identified as national priority locations but with a genuine need for outreach optometric services. This may include communities that have a high number of Indigenous and/or aged people with limited access to optometric services.

Optometrists who seek to provide services under this provision will need to supply a letter of support from either the local AMS, health service or a local health professional. These applications will be considered on a case by case basis, and may involve negotiations between the participating optometrist and the Department.

5.5 VOS Service provision – Special Arrangements

The Department may negotiate ‘special arrangements’ with optometrists to guarantee service delivery in remote and very remote locations. These special arrangements may include but are not limited to, the waiving of limitations to certain allowances and costs provided for under the VOS.
5.6 Branch Practice

An optometrist is not eligible to receive financial assistance for the delivery of outreach optometric services under the VOS where such services are delivered at their branch practice (which may be located in an ‘outreach’ location). Exceptions may be considered, on a case by case basis, for locations with an identified need.

The definition of a branch practice for the delivery of optometric services under section 129A of the Act, for the purposes of VOS, is as follows:

“In general, a location where any optometrist operates on more than 45 days a year and/or sees more than 25% of the total number of patients seen by him or her per year at all locations, or if the premises are rented full time and staff are engaged on either a full or part time basis when the optometrist is not in attendance at that location, that location shall be considered a branch practice for the purposes of section 129A of the Health Insurance Act 1973.”

5.7 Specified requirements – clients with Health Care Cards

Optometrists providing services under the VOS should ensure that patients holding Health Care Cards are made aware of State and Northern Territory government subsidised spectacle schemes that are available.

6. What costs can VOS support?

6.1 Travel

The VOS will cover the cost of travel, by the most cost effective means, to and from the outreach service location. This may include:

- commercial airfares, and in some instances the cost of private charter flights;
- bus or train fares;
- expenses associated with the use of a private vehicle (see Table 1 below for rates);
- hire car and fuel for hire cars (see advice below and at Table 2); and
- parking fees or taxi fares.

Table 1: Rates for private vehicle use (Rates as at 1 July 2010)

<table>
<thead>
<tr>
<th>Engine capacity (standard)</th>
<th>Rate cents per km (ex GST)</th>
<th>GST</th>
<th>Rate cents per km (inc GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,600cc and under</td>
<td>$0.62</td>
<td>$0.06</td>
<td>$0.68</td>
</tr>
<tr>
<td>1,601 to 2,600cc</td>
<td>$0.75</td>
<td>$0.08</td>
<td>$0.83</td>
</tr>
<tr>
<td>Above 2,600cc</td>
<td>$0.76</td>
<td>$0.08</td>
<td>$0.84</td>
</tr>
</tbody>
</table>

(Rates for Rotary/ Gas engine vehicles are available on request.)
Hire car
If road travel is the most cost effective option, the visiting optometrist may elect to travel to/from the outreach location by a self-drive hire car. A quotation on the cost of a hire car will need to be provided with the Application. Fuel allowances payable for a hire car are as follows:

Table 2: Fuel rates for hire cars (Rates as at 1 July 2010)

<table>
<thead>
<tr>
<th>Engine capacity (standard)</th>
<th>Rate cents per km (ex GST)</th>
<th>GST</th>
<th>Rate cents per km (inc GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,600cc and under</td>
<td>$0.13</td>
<td>$0.01</td>
<td>$0.14</td>
</tr>
<tr>
<td>1,601 to 2,600cc</td>
<td>$0.12</td>
<td>$0.01</td>
<td>$0.13</td>
</tr>
<tr>
<td>Above 2,600cc</td>
<td>$0.12</td>
<td>$0.01</td>
<td>$0.13</td>
</tr>
<tr>
<td>4WD (for remote locations only where travel is undertaken on non-sealed roads)</td>
<td>$0.13</td>
<td>$0.01</td>
<td>$0.14</td>
</tr>
</tbody>
</table>

(Rates for Rotary/ Gas engine vehicles are available on request.)

6.2 Accommodation
Accommodation will be paid in accordance with Australian Public Service rates. The suggested range for accommodation rates is between $77.00 and $150.00 (GST exclusive) per night. However, as accommodation in some locations may be more expensive due to seasonal variations, or suitable accommodation is scarce, consideration will be given to paying higher rates on a case by case basis.

6.3 Meals and incidental expenses
Meals and incidental expenses for visiting optometrists may be paid at the following rates. The rates below are a guide to reasonable expenditure on these items.

Meal and incidental allowances* (Rates as at 1 July 2010)

<table>
<thead>
<tr>
<th>Meal / Incidental</th>
<th>Allowance payable (GST exclusive)</th>
<th>GST</th>
<th>Allowance payable (GST inclusive)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakfast</td>
<td>$19.95</td>
<td>$2.00</td>
<td>$21.95</td>
</tr>
<tr>
<td>Lunch</td>
<td>$22.80</td>
<td>$2.28</td>
<td>$25.08</td>
</tr>
<tr>
<td>Dinner</td>
<td>$39.30</td>
<td>$3.93</td>
<td>$43.23</td>
</tr>
<tr>
<td>*Incidentals</td>
<td>$16.50</td>
<td>$1.65</td>
<td>$18.15</td>
</tr>
</tbody>
</table>

* Incidental allowance payments are only payable for the second and any subsequent days of a visit at the outreach location. Breakfast on the first day and dinner on the last day of outreach services are not payable.

6.4 Lease of equipment and its transport to outreach locations
Under the VOS, consideration will be given to assisting with equipment lease arrangements for use on outreach visits. Any financial assistance for the lease of equipment must be with the approval of the Department. All lease quotes must include a budget for replacement parts and maintenance to ensure equipment meets required standards.

The VOS will not cover the purchase of equipment for use by optometrists on outreach visits.

The VOS may assist with the cost of transportation of equipment (on commercial transport) for use by optometrist(s) on outreach visits with approval of the Department.
6.5 Facility fees

The VOS will cover fees incurred in hiring appropriate venues or facilities to support outreach service delivery. The suggested maximum facility fee payable for any venue is $200 per day (GST exclusive). However, suitable facilities in some locations may be more expensive due to seasonal variations, or availability. Consideration will be given to paying higher rates (up to a maximum of $400 per day (GST exclusive)) on a case by case basis.

6.5.1 Limiting eligibility to receive facility fee payments

Under the VOS, a cap on facility fee payments will apply where the provision of outreach optometric services is a major component of an optometrist’s business operation, as defined for the purposes of the VOS, as follows:

- where an optometrist conducts more than six (6) circuits a year to outreach locations classified as ASGC-RA 2 and 3 (Inner Regional-Outer Regional), the maximum payable for facility fees is $6,000 (GST exclusive) a year (based on the rate of $200 per day for five days (one circuit) = $1,000 x 6 circuits = $6,000), irrespective of the number of days per circuit; and

- where an optometrist conducts more than twelve (12) circuits a year to a combination of outreach locations classified as ASGC-RA 2-5 (Inner Regional - Very Remote), the maximum payable for facility fees is $12,000 (GST exclusive) a year (based on the rate of $200 per day for five days (one circuit) = $1,000 x 12 circuits = $12,000), irrespective of the number of days per circuit; and

- where an optometrist conducts more than twelve (12) circuits a year to locations classified as ASGC-RA 4 and 5 (Remote and Very Remote), the maximum payable for facility fees is $12,000 (GST exclusive) (based on the rate of $200 per day for five days (one circuit) = $1,000 x 12 circuits = $12,000), irrespective of the number of days per circuit.

To receive facility fees, optometrists will need to provide evidence of costs, such as a lease agreement for consultative room(s), or an official quote (and receipts) for use of facilities. Please Note: Each request for facility fees over $200 per day (GST exclusive) will be considered on a case by case basis.

6.6 Absence from Practice Allowance

An Absence from Practice Allowance may be payable to participating optometrists to compensate for ‘loss of business opportunity’ due to the time spent travelling to and from an outreach location to deliver VOS supported services. The hourly rate effective from 1 July 2011 is $136.70 (GST exclusive). (Note: this hourly rate is based on the calculation of MBS Item 10900 - Initial consultation at $68.35 x 2.)

The Absence from Practice Allowance will be calculated on the distance between the origin and service locations, and return. For example, it takes approximately two hours to travel by road between Broken Hill and Wilcannia, therefore, the allowance payable for a return trip is a total of four hours, i.e. $546.80 (GST exclusive).
6.6.1 Absence from Practice Allowance – maximum payable

The maximum travel time claimable under the VOS for a full (return) circuit is ten (10) hours, providing an Absence from Practice Allowance of $1,367.00 (GST exclusive).

6.6.2 Limiting eligibility to receive the Absence from Practice Allowance

A cap on the payment of the Absence from Practice Allowance will apply where the provision of outreach optometric services is a major component of an optometrist’s business operation, as defined for the purposes of the VOS, as follows:

- where an optometrist conducts more than six (6) circuits a year to outreach locations classified as ASGC-RA 2 and 3 (Inner Regional-Outer Regional), the maximum Absence from Practice Allowance payable is $8,202 (GST exclusive) a year, irrespective of the number of days per circuit (Note: based on $136.70 x 10 hours x 6 circuits = $8,202)
- where an optometrist conducts more than twelve (12) circuits a year to a combination of outreach locations classified as ASGC-RA 2-5 (Inner Regional – Very Remote), the maximum Absence from Practice Allowance payable is $16,404 (GST exclusive) a year, irrespective of the number of days per circuit (Note: based on $136.70 x 10 hours x 12 circuits = $16,404); and
- where an optometrist conducts more than twelve (12) circuits a year to locations classified as ASGC-RA 4 and 5 (Remote and Very Remote), the maximum Absence from Practice Allowance payable is $16,404 (GST exclusive) a year, irrespective of the number of days per circuit (Note: based on $136.70 x 10 hours x 12 circuits = $16,404).

6.7 Administrative support

Optometrists funded under VOS and delivering outreach services to locations classified as ASGC-RA 4 and 5 (Remote and Very Remote) may be eligible to receive funding support for staff providing administrative support associated with the delivery of the services at the outreach location.

The VOS may cover the cost of administrative support for up to the same working hours (consultations/treatment time) as those hours undertaken by the optometrist. It is recommended that the rate payable for administrative support is equivalent to the hourly rate for a medical receptionist with three years experience. Based on the Clerks-Private Sector Award 2010, the hourly rate has been calculated at $23.06.

Any person providing assistance to the optometrist is engaged under the arrangement with the service provider and has no claim as an employee of the Commonwealth Government. The Commonwealth Government will not cover any costs associated with employment and/or termination.
6.7.1 Limiting eligibility to receive administrative support

Under the VOS, only optometrists delivering outreach services to locations classified as ASGC-RA 4 and 5 (Remote and Very Remote) are eligible to receive administrative support at an outreach location.

A cap on the payment for administrative support will apply where the provision of outreach optometric services is a major component of an optometrist’s business operation, as defined for the purposes of the VOS, as follows:

- where an optometrist conducts more than 12 circuits a year to locations classified as ASGC-RA 4 and 5 (Remote and Very Remote), the maximum payment for administrative support is $11,069 (rounded) (GST exclusive) a year, irrespective of the number of days per circuit. (Based on $23.06 per hour x 8 hours per day x five days a week (one circuit) x 12 circuits = $11,069 (rounded)).

6.8 External locum support

Optometrists providing outreach services to locations classified as ASGC-RA 4 and 5 (Remote and Very Remote) will be eligible to receive external locum support at his/her principal practice.

Under the VOS, the hourly rate for locum support is $86 (rounded) (GST excl) for a maximum of eight (8) hours per day. This amount has been calculated based on averaging the locum rates for optometrists, on advice from each State division of the Optometrists Association Australia.

6.8.1 Limiting eligibility to receive locum support

Where the provision of outreach optometric services is a major component of an optometrist’s business operation, as defined for the purposes of the VOS, a cap on the payment for external locum support will apply as follows:

- where an optometrist conducts more than 12 circuits a year to locations classified as classified as ASGC-RA 4 and 5 (Remote and Very Remote), the maximum payment for external locum support at the optometrist’s principal practice is $41,280 (GST exclusive) a year irrespective of the number of days per circuit the participating optometrist is away from his/her principal practice. (Based on $86 per hour x 8 hours per day x five days a week (one circuit) x 12 circuits = $41,280).

6.9 Accompanying health professionals

Travel costs for accompanying staff with specific technical skills/qualifications, who are required to assist with procedures, will be considered if personnel with these skills are not available locally. Each request will be considered on a case by case basis. (Please also note advice at 6.10: Accompanying optical dispenser – non payment.)

Note: A salary for other accompanying staff will not be paid. It is preferred that, where possible, staff are recruited locally. The VOS does not cover any costs for engaging allied health professionals.
6.10 Accompanying optical dispenser – non payment

An optical dispenser accompanying an optometrist to an outreach location is not eligible to receive financial assistance under the VOS.

6.11 Marketing Costs – non payment

Costs incurred by an optometrist to market an outreach optometric service are not covered under the VOS.

6.12 Cultural training and familiarisation

In recognition of the diverse cultural environments in which optometrists may be required to work, the VOS may provide funding for cultural training and familiarisation for optometrists providing outreach services. The method of delivery is flexible and may take the form of the following:

- formal cultural awareness course provided by facilitators/presenters; and/or
- self-learning cultural awareness education program

7. APPLICATION PROCESS

A flowchart outlining the grant program process under the VOS is included at Appendix A.

7.1 Who can apply?

To be eligible to participate in the VOS, optometrists must be participating optometrists for the purposes of Medicare provisions. A participating optometrist is one who has signed an agreement to participate in arrangements with the Commonwealth Government. This agreement is known as the Common Form of Undertaking – Participating Optometrists, and is available on the Medicare Australia website at the below address:


Details on the Visiting Optometrists Scheme can be found in Part 1, Item O.8 of the Medicare Benefits Schedule – Optometrical Services Schedule (operating from 1 January 2011) under the heading: Additional payments for optometrists visiting remote and very remote locations (Visiting Optometrists Scheme) – refer page 19. The Schedule can be found at the below website address:


Optometrists participating in the VOS have no claim as an employee of the Commonwealth Government.
7.2 Provider numbers for outreach locations

Medicare Australia has confirmed that under section 129A of the Act, any optometrist providing outreach optometric services under the VOS must:

- have appropriate registration by the Optometry Board of Australia; and
- with respect to provider numbers:
  - if the provider attends a practice for less than two weeks as a one off service, they are not required to have a new provider number for that location, and
  - if the provider has a regular service at the practice then Medicare would recommend a new provider number for that location.

7.3 How to apply

On 2 April 2011 the Department will advertise an Invitation to Apply for funding from 1 July 2011 to 30 June 2014 under the VOS. Applications for national priority areas may also be considered at other times on a needs basis.

Advertising will be via regional and national newspapers; and will provide advice on where to access the relevant documentation on the Department of Health and Ageing website at www.health.gov.au. The Optometrists Association of Australia website will also have a link to the Departmental website.

The documentation to be provided under the Invitation to Apply for VOS will include:

- an Application form to complete titled ‘Application Form – Provision of Outreach Optometric Services under the Visiting Optometrists Scheme’, which in turn will form the basis of a service plan, should the Application be approved;
- the updated Program Guidelines for VOS, effective from 1 July 2011 (this document); and
- an updated listing of national priority locations requiring VOS services in each State and the Northern Territory, outlining priority locations with a need for service provision under:
  - the Core VOS element only,
  - the VOS Expansion for Indigenous Australians element only, and
  - both the Core VOS and VOS Expansion for Indigenous Australians elements*.

* For locations which offer provision for visiting services under both the Core VOS and the VOS Expansion, applicants will need to advise if they are seeking funding for both VOS elements or only one element. The application form will have provision for this.

Please note: With reference to advice at Section 5.3 of these Program Guidelines, VOS services for Aboriginal and Torres Strait Islander people may be funded from either the Core VOS element or the VOS Expansion for Indigenous Australians element. This advice will also be reflected in the Application Form.
7.4 Assessment process of Applications

All compliant Applications received from optometrists seeking to provide outreach optometric services under the VOS will undergo a formal assessment process by the VOS National Advisory Committee in consultation with VOS Reference groups in each State and the Northern Territory. *(Please note: Further details on the role and membership of the VOS National Advisory Committee and State and Northern Territory Reference Groups are provided at a later section of these Program Guidelines.)*

7.4.1 Non-Compliant Applications

All Applications received will be initially assessed for compliance with the VOS. Applications will be deemed as non-compliant where:

- the applicant (optometrist) is not a participating optometrist for the purposes of Medicare;
- the application includes location/s that:
  - are not on the national priority location listing, or
  - has not been identified as a location with a genuine need for outreach optometric services;
- insufficient information is provided to enable an assessment of the application, including financial status;
- the application has not been lodged through the Tender Box process, ie. mailed to the Department through the normal mail process, or via the VOS email; and
- Applications are not completed on the current application form.

7.4.2 Assessment criteria

The VOS National Advisory Committee and each State and Northern Territory Reference group will use the following criteria as a guide to assessing Applications for VOS support:

- the location to receive the service is:
  - classified as ASGC-RA 2-5 (Inner Regional -Very Remote) and identified as a national priority location; or
  - identified as having a genuine need for outreach optometric services as outlined at section 5.4 of these Program Guidelines and is endorsed by the local Reference group;
- the level of community need for the service;
- details of the current level of service in the region/location;
- the capacity of the local workforce to support such a service;
- linkages with other State/Northern Territory or Australian Government health programs, including subsidised spectacle schemes;
- the appropriateness of the proposed service; and
- value for money.
7.4.3 Outcomes of Assessment process

The VOS National Advisory Committee will consider a report by the VOS State Reference Groups, and will develop a list of recommended Applications to the Departmental Delegate for the VOS, for consideration and approval.

The Departmental Delegate is the Assistant Secretary of the Rural Health Services and Policy Branch, Office of Rural Health, Primary and Ambulatory Care Division.

The Departmental Delegate will advise applicants of the outcomes of the assessment process in writing. For unsuccessful applicants, feedback will be provided regarding their application. For successful applicants, advice will be provided on the funding arrangements to be put in place under VOS. (Please Note: Further details on funding arrangements are outlined at the section on ‘Administration’ in these Program Guidelines.)

In line with the requirements under section 4 – Public Reporting of the Commonwealth Grant Guidelines, the Department will publish on its website, information on individual grants no later than seven working days after the funding agreement takes effect. Under the VOS, this will be the date of the execution of the funding agreement.

7.4.4 Complaint handling

The Department’s Procurement and Funding Complaints Handling Policy applies to complaints that arise in relation to a procurement or funding process. It covers events that occur between the time the request documentation is released publicly and the date of contract execution, regardless of when the actual complaint is made. The Department requires that all complaints relating to a procurement or funding process must be lodged in writing. Further details of the policy are available on the ‘About Us’ page on the Department’s internet site at www.health.gov.au

8. ADMINISTRATION

8.1 Funding arrangements

A standard funding agreement between the Commonwealth (as represented by the Department of Health and Ageing) and the optometrist funded under VOS (the Participant) will be executed to enable funding arrangements to take place under the VOS. It is expected that a funding agreement executed in 2011 will be in place until 30 June 2014 under either the Core VOS or VOS Expansion. A sample funding agreement with the Department is included at Appendix B.
8.1.1 Schedule to the standard funding agreement

The Schedule to the standard funding agreement will provide the specifics for funding under the VOS such as:

- the Aim of the Project;
- the Budget;
- the Project Period;
- deliverables required under the Project such as progress reports, income and expenditure statements and the final report;
- funding and invoice requirements;
- project material;
- liaison officers; and
- insurance requirements.

Also included in the Schedule, will be a ‘service plan’ that outlines the approved number of circuits and locations that will be visited under the VOS. These items under the Schedule will be developed for successful applicants.

8.1.2 Budget and Payments in the Schedule to the standard funding agreement

In the Schedule to the standard funding agreement, details on the funds to be paid to the optometrist funded under VOS will be outlined at items entitled ‘Budget’ and ‘Funds and Invoice Requirements’.

It is expected that the first payment under the funding agreement will be made upon execution of the funding agreement between the Commonwealth and the optometrist and the receipt and acceptance of a tax invoice. Future payments will be made in instalments and processed upon receipt and acceptance of a progress report which demonstrates that sufficient progress has been made in the conduct of the Project. Failure to provide a tax invoice and/or a progress report by the required date will result in delays to payments for services provided.

8.1.3 Reporting requirements in the Schedule to the standard funding agreement

In the Schedule to the standard funding agreement, details on the reporting requirements will be outlined at the item entitled ‘Reports’. The Participant must complete the reporting templates provided in the Schedule for: progress reports, an income and expenditure statement and a final report on completion of the Project. The timing of progress reports will be negotiated as part of the funding agreement.

Specifics to be included in the reports will be outlined in the Schedule. For progress reports the Participant will need to report on activity against the approved service plan, specify towns visited and the number of clients examined, and whether the client identifies as being of Aboriginal or Torres Strait Islander origin. The report also requires the optometrist to provide additional comments, such as the effectiveness of the visit, or barriers encountered in delivering the outreach service.
8.1.4 Evaluation

An evaluation by the Department will determine how the funding contributed to the objectives of the VOS. Funding recipients will be required to provide information to assist in this evaluation for a period of time, as stipulated in the funding agreement, after funding has been provided.

8.2 Taxation implications

Funds received from the VOS are taxable supplies. Under goods and services tax (GST) legislation funding may be included in calculating the organisation’s annual income. Applicants should seek guidance from the Australian Taxation Office (ATO), or their tax advisor on the impact of VOS funding on their organisation’s taxation liabilities.

The ATO website (www.ato.gov.au) provides information for businesses and individuals on GST and other taxation matters.

8.3 Service termination

In the event that a service under the VOS is terminated, the Department will ensure that the optometrist funded under VOS advises:

- all patients of alternative arrangements for receiving optometric services and the location of their patient records; and
- that any agreements/lease arrangements for the provision of consultations, treatments or equipment are terminated within the nominated period.

8.4 Optometrist takes up residence at a priority location under VOS

Where an optometrist takes up residence and opens an Optometry practice in a location where VOS funds support visiting optometry services, it is expected that the optometrist providing visiting services under VOS would contact the Department to advise of the changed circumstances.

In consultation with the VOS State or Northern Territory Reference group and VOS National Advisory Committee, the Department will then need to determine whether VOS services should be continued at this location.

Once the situation has been clarified, the optometrist providing services under the VOS will be advised whether they should continue to provide services at this location, or whether there may be a suitable alternative location to provide services under VOS. Any changes to locations in the service plan would be reflected in a Deed of Variation to the standard funding agreement.

8.5 Review of VOS services

To ensure that VOS services continue to meet the needs of rural, remote and very remote locations and the aims and objectives of the scheme, all optometric services supported under the VOS will be reviewed annually by the Department. This will be in consultation with the National Advisory Committee and each State and Northern Territory Reference group.

In consultation with the optometrist, a service not fulfilling the objectives of the VOS may be reconsidered, and funds may be allocated to an alternative service in an area of identified need.
9. VOS National Advisory Committee, VOS State and Northern Territory Reference Groups, and the role of the Department of Health and Ageing:

9.1 Role of the VOS National Advisory Committee

The VOS National Advisory Committee will:

- identify gaps in service delivery and determine priority locations in need of optometric services at a national level in consultation with State Reference Groups, and make recommendations to the Delegate;
- identify potential linkages between VOS supported services and existing primary care and specialist services to ensure better integration of service delivery at all levels of government, in order to avoid duplication and overlaps between programs;
- review the assessment of Applications for funding under VOS provided by each State and the Northern Territory reference group and make recommendations to the Delegate; and
- advise the Delegate on other program issues as required.

9.2 Membership of the VOS National Advisory Committee

Membership of the National Advisory Committee is drawn from a range of external and internal stakeholders, including representatives from:

- Optometrists Association Australia;
- Vision 2020 Australia; and
- the Department of Health and Ageing, from:
  - Rural Health Services and Policy Branch, Primary and Ambulatory Care Division (Chair)
  - State and the Northern Territory Offices
  - Office for Aboriginal and Torres Strait Islander Health
  - Office for an Ageing Australia

9.3 Role of the VOS State and the Northern Territory Reference Groups

Each Reference group will:

- identify areas of need and determine priority locations to ensure VOS services may be directed to remote and very remote locations, and other rural areas of identified need;
- ascertain the capacity of an identified area of need to sustain a new optometric service, or improve an existing service;
- identify potential linkages between VOS supported services and existing primary care and specialist services to ensure better integration of service delivery at all levels of government, in order to avoid duplication and overlaps between programs;
- provide a recommended list of national priority locations to the National Advisory Committee for consideration in the national ‘Invitation to Apply’ process; and
- assess Applications received from optometrists seeking to provide VOS supported services and make recommendations to the National Advisory Committee.
9.4 Membership of the State and the Northern Territory Reference Groups

Membership of the Reference groups are drawn from a range of stakeholders including representatives from the:

- relevant State/Northern Territory Optometrists Association Australia Division;
- relevant State/Northern Territory health authorities;
- Department of Health and Ageing; and
- other stakeholders as deemed necessary, including where appropriate a National Aboriginal Community Controlled Health Organisation affiliate.

9.5 Role of the Department of Health and Ageing

The role of the Department is to manage the implementation, ongoing program management and policy aspects and direction of the VOS. The VOS is managed by the following representatives within the Department:

- the Delegate – the Assistant Secretary, Rural Health Services and Policy Branch, who approves recommendations for funding under the VOS, and also considers the policy aspects and direction of the program;
- project staff in the Central Office of the Department, who oversee the administration of the program, consider the policy aspects and direction of the program, and provide secretariat support to the VOS National Advisory Committee; and
- project staff in the States and Northern Territory offices of the Department, who assist in the administration of the program and policy aspects, and coordinate the activities of the VOS State and Northern Territory Reference Groups.
10. Department of Health and Ageing contacts for VOS

The options for contacting staff from the Department of Health and Ageing about the VOS are via the following options:

Email: vos@health.gov.au

Postal Address:
Director
Rural Outreach Services Section
Rural Health Services and Policy Branch (MDP 1053)
Department of Health and Ageing
GPO Box 9848
CANBERRA ACT 2601

Phone contacts:
Central Office (02) 6289 9293
New South Wales (02) 9263 3905
Queensland (07) 3360 2597
Western Australia (08) 9346 5297
Northern Territory (08) 8919 3435
South Australia (08) 8237 8014
Victoria (03) 9665 8220
Tasmania (03) 6221 1426
## GLOSSARY OF TERMS

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Absence from Practice</td>
<td>A payment made to participating optometrists for the time they spend travelling to and from a location where they are delivering a VOS supported service.</td>
</tr>
<tr>
<td>Allowance</td>
<td></td>
</tr>
<tr>
<td>Australian Standard Geographical Classification – Remoteness Areas (ASGC-RA)</td>
<td>ASGC-RA is a geographic classification system that was developed in 2001 by the Australian Bureau of Statistics (ABS), as a statistical geography structure which allows quantitative comparisons between ‘city’ and ‘country’ Australia. The RA Categories are:</td>
</tr>
<tr>
<td>RA1</td>
<td>Major Cities of Australia</td>
</tr>
<tr>
<td>RA2</td>
<td>Inner Regional Australia</td>
</tr>
<tr>
<td>RA3</td>
<td>Outer Regional Australia</td>
</tr>
<tr>
<td>RA4</td>
<td>Remote Australia</td>
</tr>
<tr>
<td>RA5</td>
<td>Very Remote Australia</td>
</tr>
<tr>
<td>Administration Costs</td>
<td>Payments to cover the costs of administration directly related to the provision of patient services including organising appointments, processing of correspondence and other associated administrative tasks.</td>
</tr>
<tr>
<td>Branch Practice</td>
<td>In general, a location where any optometrist operates on more than 45 days a year and/or sees more than 25% of the total number of patients seen by him or her per year at all locations, or if the premises are rented full time and staff are engaged on either a full or part time basis when the optometrist is not in attendance at that location, that location shall be considered a branch practice for the purposes of section 129A of the <em>Health Insurance Act</em>.</td>
</tr>
<tr>
<td>Circuit</td>
<td>For the purposes of VOS, a circuit is where an optometrist travels away from his/her principal practice to a number of locations in the same geographical area to provide outreach optometric services. A circuit may involve overnight stays at the outreach location/s.</td>
</tr>
<tr>
<td>External locum</td>
<td>An optometrist who is not employed either in a permanent full-time or part-time capacity by the participating optometrist(s) providing approved VOS outreach services.</td>
</tr>
<tr>
<td>Health Professional</td>
<td>A general term for a person with tertiary qualifications in a health related field, eg. Dietician, Nurse, Pharmacist, Locum.</td>
</tr>
</tbody>
</table>
National Priority Locations: Locations in need of outreach optometric services under both the Core VOS and VOS Expansion elements determined by:

- identifying the gaps in service delivery at the local and national level;
- ascertaining the capacity of an identified area of need to sustain a new optometric service, or improve an existing service; and
- identifying potential linkages between VOS supported services and existing primary care services.

Need: Need would include consideration of issues such as the prevalence of poor eye health in the community, burden of disease, level of disadvantage, services currently available locally, linkages and integration with other services and effect on local planning and initiatives.

Optometrist: A practitioner who:

1) is registered by the Optometry Board of Australia; and
2) holds a provider number in line with the requirements of Medicare Australia.

Outreach location: For the purposes of VOS, an outreach location is a single town or community classified under ASGC-RA 2-5 (Inner Regional- Very Remote) with an identified need for optometric services.

Outreach services: Where an optometrist provides optometric services in a location that is not the location of his/her principal practice, and is an approved priority location or one with a genuine need and considered on a case by case basis (refer Section 5.3).

Participating optometrist: A participating optometrist is one who has signed an agreement to participate in arrangements with the Commonwealth Government (This agreement is known as the Common Form of Undertaking - Participating Optometrists – refer to Medicare Australia website www.medicareaustralia.gov.au)

Special arrangements: To ensure that communities with an identified need are being serviced, the Department may negotiate ‘special arrangements’ with optometrists to guarantee service delivery in these regions. These special arrangements may include, but are not limited to, the waiving of limitations to certain allowances and costs provided for under VOS. Special arrangements will be considered on a case by case basis.
Appendix A – Grant Program Process under the VOS

APPLICATION
Applicant completes an application.

SUBMIT AN APPLICATION
Applicant submits an application.

APPRaisal
The application is accepted. The application is assessed against eligibility and appraisal criteria.

ADVICE TO DELEGATE
Advice provided to the Delegate on the merits of each application against the assessment criteria.

DECISION/NOTIFICATION
The Delegate makes a decision on the application and the applicant is advised of the decision.

CONTRACT/FUNDING
An agreement is negotiated and signed by the applicant and the Department.

DO/COMPLETE/ACQUIT
Applicant undertakes funding activity, completes milestones, provides reports and acquits funds against expenditure. Department makes payments and monitors progress.

EVALUATION
Department evaluates the outcomes of the program. Applicant provides information to assist this evaluation.
STANDARD FUNDING AGREEMENT

between the

COMMONWEALTH OF AUSTRALIA

as represented by the Department of Health and Ageing
ABN 83 605 426 759

and

[Insert Participant’s name and ABN]
# TABLE OF CONTENTS

1. Interpretation  
2. Agreement Period  
3. Funding for the Project  
4. Other Contributions  
5. Taxes, Duties and Government Charges  
6. Conduct of the Project  
7. Subcontracting  
8. Specified Personnel and Participant Personnel  
9. Responsibility of Participant  
10. Management of Funds and Bank Account  
11. Records and Reports  
12. Liaison  
13. Access to Premises and Materials  
14. Project Material and Intellectual Property  
15. Acknowledgement and Publications  
16. Assets  
17. Negation of Employment, Partnership and Agency  
18. Suspension and Termination  
19. Repayment of Funds  
20. Indemnity  
21. Insurance  
22. Confidentiality  
23. Access to Documents  
24. Protection of Personal Information  
25. Conflict of Interest  
26. Compliance with Laws and Policies  
27. Dispute Resolution  
28. Participant Warranties  
29. Notices
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Project, Aim of the Project and Subcontractors</td>
</tr>
<tr>
<td>B</td>
<td>Budget</td>
</tr>
<tr>
<td>C</td>
<td>Project Period</td>
</tr>
<tr>
<td>D</td>
<td>Reports</td>
</tr>
<tr>
<td>E</td>
<td>Funds and Invoice Requirements</td>
</tr>
<tr>
<td>F</td>
<td>Project Material and Existing Material</td>
</tr>
<tr>
<td>G</td>
<td>Liaison Officers</td>
</tr>
<tr>
<td>H</td>
<td>Acknowledgement</td>
</tr>
<tr>
<td>I</td>
<td>Assets</td>
</tr>
<tr>
<td>J</td>
<td>Insurance</td>
</tr>
<tr>
<td>K</td>
<td>Compliance with Laws and Policies</td>
</tr>
<tr>
<td>L</td>
<td>Guidelines and Standards</td>
</tr>
<tr>
<td>M</td>
<td>Specified Personnel</td>
</tr>
</tbody>
</table>
THIS Agreement is made
between the
COMMONWEALTH OF AUSTRALIA (‘the Commonwealth’), as represented by the
Department of Health and Ageing (‘the Department’) ABN 83 605 426 759
and
[insert name and registered address of Participant] ABN [insert number] [insert
description of legal entity – see commentary for assistance] (‘the Participant’).

RECITALS:
A. The Commonwealth has developed the [insert name of Program] Program.
B. The objectives and outcomes of the Program are to [insert details of objectives
and outcomes of Program].
C. The Participant has fully informed itself of all aspects of the work required to
be performed for the purposes of the Project and has submitted a proposal
entitled [insert title of Participant’s proposal] dated [insert date of
proposal].
D. The Participant is committed to helping to achieve the objectives and
outcomes of the Program through the conduct of the Project.
E. The Commonwealth has agreed to fund the Participant to perform the
Project in support of the Program on the following terms and conditions.

THE PARTIES AGREE as follows:
1. Interpretation
1.1 In this Agreement, unless the contrary intention appears:
‘Agreement’ means this document and includes the Schedule and any Attachments or
Annexures;
‘Agreement Period’ means the period described in clause 2.1;
‘Aim of the Project’ means the Project’s objectives and outcomes described in Item
A;
‘Approved Auditor’ means a person who is:
(a) registered as a company auditor under the Corporations Act 2001 or an appropriately
qualified member of the Institute of Chartered Accountants in Australia, or of CPA Australia
or the National Institute of Accountants; and
(b) not a principal, member, shareholder, office holder or employee of the Participant;
‘Asset’ means:
(a) items identified in Item I; or
(b) an item of tangible property purchased or leased either wholly or in part with the use of the Funds, with a value at the time of acquisition of $5,000 or more, inclusive of GST,

but does not include Project Material;

‘Auditor-General’ means the office established under the Auditor-General Act 1997 and includes any other person that may, from time to time, perform the functions of that office;

‘Australian Accounting Standards’ means the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the Australian Securities and Investments Commission Act 2001;

‘Australian Auditing Standards’ means the standards set by the Auditor-General under section 24 of the Auditor-General Act 1997 and generally accepted audit practices to the extent they are not inconsistent with such standards;

‘Budget’ means the budget as specified in Item B for expenditure of the Funds and such Other Contributions as have been identified as at the Date of this Agreement, for the purposes of conducting the Project or performing obligations under this Agreement;

‘Business Day’ means, in relation to the doing of any action in a place, any day other than a Saturday, Sunday, or public holiday in that place;

‘Commenced’ at a particular date means Funds that the Participant is contractually obliged to pay to a third party in respect of any part of the activities making up the Project or the Final Report and that can be identified in a written contractual arrangement with that third party;

‘Commonwealth’ means the Commonwealth of Australia as represented by any department or agency of the Commonwealth which is from time to time responsible for the administration of this Agreement;

‘Commonwealth Material’ means any Material:

(a) provided by the Commonwealth to the Participant for the purposes of this Agreement; or

(b) copied or derived at any time from the Material referred to in paragraph (a);

‘Completion Date’ means the date that is 60 Business Days after the Commonwealth has received the Final Report and all deliverables required under this Agreement;

‘Confidential Information’ means information that:

(a) is by its nature confidential;

(b) is designated by the Commonwealth as being confidential; or

(c) the Participant knows or ought to know is confidential;

but does not include information that:

(d) is or becomes public knowledge, other than by breach of this Agreement or by any other unlawful means;

(e) is in the possession of the Participant without restriction in relation to disclosure before the date of receipt from the Commonwealth; or

(f) has been independently developed or acquired by the Participant;
‘Conflict’ means any conflict of interest, any risk of a conflict of interest and any apparent conflict of interest arising through the Participant (or the Participant Personnel) engaging in any activity or obtaining any interest that is likely to conflict with or restrict the Participant in performing the Project fairly and independently;

‘Date of this Agreement’ means the date on which this Agreement is signed by the last Party to do so;

‘Depreciated’ means the amount representing the same reduced value of an Asset as calculated for income tax purposes under, and in accordance with, the Income Tax Assessment Act 1997;

‘End of Financial Year Report’ means the Report to be provided to the Commonwealth in accordance with clause 11.5;

‘Existing Material’ means all Material in existence prior to the commencement of this Agreement that is:

(a) incorporated in;
(b) supplied with, or as part of; or
(c) required to be supplied with, or as part of,

the Project Material and includes Material identified as Existing Material in Item F but excludes Commonwealth Material;

‘Final Report’ means the Report to be provided to the Commonwealth in accordance with clause 11.4;

‘Funds’ means the amount or part thereof payable by the Commonwealth as specified in Item E;

‘Government Agency’ means:

(a) a body corporate or an unincorporated body established or constituted for a public purpose by Commonwealth legislation, or an instrument made under that legislation;
(b) a body established by the Governor-General or by a Minister of State of the Commonwealth, including departments; or
(c) an incorporated company over which the Commonwealth exercises control;

‘Guidelines’ means the guidelines for the Program, if any, as described in Item L;

‘Intellectual Property’ means all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trade marks (including service marks), registered and unregistered designs, circuit layouts, know-how and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

‘Interest’ means interest calculated at the 90 day bank-accepted bill rate (available from the Reserve Bank of Australia) less 10 basis points;

‘Law’ means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time anywhere in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law as applicable from time to time;
‘Liaison Officers’ means the persons or position holders specified in Item G or any substitute notified in writing to the other Party;

‘Material’ means documents, records, software (including source code and object code), goods, images, information and data stored by any means including all copies and extracts of the same;

‘Moral Rights’ includes the following rights of an author of copyright Material:

(a) the right of attribution of authorship;
(b) the right of integrity of authorship; and
(c) the right not to have authorship falsely attributed;

‘Ombudsman’ means the office established under the Ombudsman Act 1976 and includes any other person that may, from time to time, perform the functions of that office;

‘Other Contributions’ means financial or in-kind resources (with in-kind resources valued at market rates) from third parties or the Participant for the Project, other than the Funds;

‘Participant Personnel’ means:

(a) officers, employees, agents or subcontractors of the Participant; and
(b) officers, employees, agents or subcontractors of the Participant’s subcontractors;

engaged in the performance of the Project, and includes:

(c) Specified Personnel; and
(d) those individuals (if any) engaged in the performance of the Project on a voluntary basis by the Participant or its subcontractors;

‘Party’ means a party to this Agreement;

‘Personal Information’ means information or an opinion (including information or an opinion forming part of a database) whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

‘Privacy Commissioner’ means the office established under the Privacy Act 1988 and includes any other person that may, from time to time, perform the functions of that office;

‘Program’ means that part of the operations of the Commonwealth identified in the Recitals under which Funds are provided to the Participant;

‘Progress Report’ means a Report of the Participant’s progress in undertaking the Project to be provided to the Commonwealth in accordance with clause 11.3;

‘Project’ means the activities described in Item A and the provision of all Project Material, excluding the Final Report;

‘Project Material’ means all Material, excluding Commonwealth Material that is:

(a) brought into existence for the purpose of this Agreement; or
(b) incorporated in, supplied or required to be supplied along with the Material referred to in paragraph (a); and

including the Project Material described at Item F;
'Project Period' means the period specified in Item C during which the Project must be completed;

‘Report’ means Material provided to the Commonwealth in accordance with clause 11 including any Progress Reports, End of Financial Year Reports and the Final Report;

‘Specified Personnel’ means Participant Personnel specified in Item M;

‘Standards’ means the standards for performance of the Project as specified in Item L; and

‘Unspent’ at a particular date means Funds that have not been spent or Committed by the Participant.

1.2 In this Agreement, unless the contrary intention appears:
   (a) words in the singular include the plural and words in the plural include the singular;
   (b) words importing a gender include any other gender;
   (c) words importing persons include a partnership and a body whether corporate or otherwise;
   (d) clause headings are inserted for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
   (e) all references to dollars are to Australian dollars;
   (f) where any word or phrase is given a defined meaning, any other form of that word or phrase has a corresponding meaning;
   (g) an uncertainty or ambiguity in the meaning of a provision of this Agreement will not be interpreted against a Party just because that Party prepared the provision;
   (h) a reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth as amended from time to time;
   (i) a reference to the word ‘including’ in any form is not to be construed or interpreted as a word of limitation; and
   (j) a reference to a ‘Recital’ is to the Recitals of this Agreement, a reference to a ‘clause’ is to a clause in this Agreement, a reference to ‘Item’ is to an Item in the Schedule to this Agreement, a reference to ‘Schedule’ is to the Schedule to this Agreement and a reference to ‘Annexures’ or ‘Attachments’ is a reference to documents attached to this Agreement.

1.3 If there is any conflict or inconsistency between:
   (a) the terms and conditions contained in the clauses of this Agreement and any part of the Schedule, then the terms and conditions of the clauses will prevail to the extent of the conflict or inconsistency;
   (b) the terms and conditions contained in the clauses of this Agreement and any part of the Annexures or Attachments (if any), then the terms and conditions of the clauses will prevail to the extent of the conflict or inconsistency; and
1.4 The laws of the Australian Capital Territory apply to this Agreement. The Parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory in respect of any dispute under this Agreement.

1.5 This Agreement records the entire agreement between the Parties in relation to its subject matter.

1.6 Subject to clauses 3 and 18, no variation of this Agreement is binding unless agreed in writing between the Parties.

1.7 Any reading down or severance of a particular provision does not affect the other provisions of this Agreement.

1.8 A waiver of any provision of this Agreement must be in writing.

1.9 No waiver of a term or condition of this Agreement will operate as a waiver of another breach of the same or of any other term or condition contained in this Agreement.

1.10 If a Party does not exercise, or delays in exercising, any of its rights under this Agreement or at Law, that failure or delay does not operate as a waiver of those rights.

1.11 A single or partial exercise by a Party of any of its rights under this Agreement or at Law does not prevent the further exercise of any right.

1.12 The Participant must not assign its rights under this Agreement without prior approval in writing from the Commonwealth.

2. AGREEMENT PERIOD

2.1 This Agreement commences on the Date of this Agreement and, unless terminated earlier, expires on the Completion Date.

3. FUNDING FOR THE PROJECT

3.1 Subject to Parliamentary appropriation and to the provisions of this Agreement, the Commonwealth agrees to pay the Funds to the Participant in accordance with the payment schedule specified in Item E.

3.2 The funding to be contributed by the Commonwealth for the performance of this Agreement by the Participant will not exceed the amount of Funds specified in Item E.

3.3 The Commonwealth may at its discretion:

(a) defer,
(b) reduce; or
(c) not make a payment of Funds

where it forms the reasonable opinion that the full payment is not properly required by the Participant because of Project surpluses or underspends.

3.4 Without limiting its rights, the Commonwealth may at its discretion:
(a) defer;
(b) reduce; or
(c) not make a payment of Funds until the Participant has performed all of its obligations that are required to be performed up to the date of that payment under this Agreement.

3.5 The Participant agrees to submit invoices for payment of the Funds in the manner specified in Item E. The amount of the invoice will not exceed the amount of Funds properly required by the Participant for its use in relation to the performance of this Agreement up to the date of the next invoice.

4. **OTHER CONTRIBUTIONS**

4.1 The Participant must notify the Commonwealth in writing within 10 Business Days of receipt, or allocation to the Project by the Participant, of the amount, source and proposed use of any Other Contribution not already identified in the Budget.

5. **TAXES, DUTIES AND GOVERNMENT CHARGES**

5.1 Subject to this clause, all taxes, duties and government charges ('Taxes') imposed or levied in Australia or overseas in connection with this Agreement must be paid by the Participant, or as the Participant might arrange.

5.2 Without limiting clause 5.1, the Participant must pay Goods and Services Tax ('GST') on the goods, services and other supplies made under this Agreement ('the supplies') to the extent that they are taxable supplies within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* ('the GST Act').

5.3 In relation to any GST payable under clause 5.2, the Participant must issue the Commonwealth with a tax invoice in accordance with the GST Act.

5.4 The Participant warrants it is registered in accordance with the GST Act and agrees to remain registered during the Agreement Period.

6. **Conduct of the Project**

6.1 In consideration of the provision of the Funds, the Participant must:

(a) use the Funds only for the performance of this Agreement;
(b) perform the Project according to the Budget, within the Project Period and according to the terms and conditions specified in this Agreement (including any applicable Guidelines and Standards);
(c) perform all aspects of the Project (including achieving the Aim of the Project) as specified in Item A;
(d) deliver the Final Report in accordance with clause 11.4; and
(e) endeavour in good faith to ensure that all work undertaken under this Agreement is in support of the objectives and outcomes of the Program described in Recital B.
7. **SUBCONTRACTING**

7.1 The Participant agrees that:

(a) it will not subcontract the performance of any part of the Project without the prior approval in writing of the Commonwealth; and

(b) the subcontractors, if any, specified in Item A will perform work in relation to the Project in accordance with this Agreement and are approved by the Commonwealth to do so.

7.2 The Commonwealth may impose any terms and conditions it considers appropriate when giving its approval under clause 7.1(a).

7.3 Where a subcontractor specified in Item A or approved by the Commonwealth under clause 7.1(a) is unable to perform the work, the Participant agrees to notify the Commonwealth immediately.

7.4 Where clause 7.3 applies, the Commonwealth may request the Participant to secure a replacement subcontractor acceptable to the Commonwealth at no additional cost and at the earliest opportunity.

7.5 If the Participant does not comply with any request made under clause 7.4 the Commonwealth may terminate this Agreement in accordance with clause 18.1(a).

7.6 In respect of subcontractors listed in Item A or approved by the Commonwealth under this clause, the Participant must ensure that:

(a) the subcontract facilitates compliance by the Participant with its obligations under this Agreement;

(b) the subcontract will not conflict with or detract from the rights and entitlements of the Commonwealth under this Agreement;

(c) the other party to the subcontract has the necessary relevant expertise and the appropriate types and amounts of insurance to perform work in relation to the Project;

(d) the subcontract contains all the relevant terms of this Agreement including those relating to subcontracting, intellectual property, audit and access, privacy, confidentiality, warranties and indemnities, disclosure and termination and in particular that the Participant has a right to terminate the subcontract on terms no less favourable than those accorded the Commonwealth by clause 18, in the event of this Agreement being terminated;

(e) the other party to the subcontract acknowledges that it may be considered a ‘Commonwealth service provider’ for the purposes of the *Ombudsman Act 1976* and subject to investigation by the Ombudsman under that Act and that the Commonwealth will not be liable for the cost of any such investigation by the Ombudsman in connection with the subject matter of the subcontract or the subject matter of this Agreement;

(f) the other party to the subcontract is prohibited from further subcontracting the Project without the prior written approval of the Commonwealth; and
if requested, the Participant will promptly provide a copy of the relevant subcontract to the Commonwealth.

8. **SPECIFIED PERSONNEL AND PARTICIPANT PERSONNEL**

8.1 The Participant agrees that the Specified Personnel will perform the activities specified in Item M.

8.2 Where Specified Personnel are unable to perform the activities, the Participant must notify the Commonwealth immediately.

8.3 The Commonwealth may, at its absolute discretion, request the Participant to remove Participant Personnel (including Specified Personnel) from activities in relation to this Agreement.

8.4 Where clauses 8.2 or 8.3 apply, the Commonwealth may direct the Participant to provide replacement personnel acceptable to the Commonwealth at no additional cost and at the earliest opportunity.

8.5 If the Participant does not comply with any request made under clause 8.4, the Commonwealth may terminate this Agreement in accordance with clause 18.1(a).

9. **RESPONSIBILITY OF PARTICIPANT**

9.1 The Participant agrees to be fully responsible for the performance of the Project and for ensuring compliance with the requirements of this Agreement, and will not be relieved of that responsibility because of any:

(a) involvement by the Commonwealth in the performance of the Project;
(b) payment made to the Participant on account of the Project;
(c) subcontracting of the Project; or
(d) acceptance by the Commonwealth of replacement personnel.

10. **Management of Funds and BANK ACCOUNT**

10.1 The Participant must have a bank account controlled solely by the Participant to hold the Funds and immediately deposit all Funds received into that account.

10.2 The Participant must notify the Commonwealth of the identifying details of the bank account.

10.3 The bank account is not to contain any monies other than the Funds and interest earned on the Funds.

10.4 The Participant must use and deal with any interest earned on the Funds as if the money earned were part of the Funds.

10.5 The Participant must not Commit any part of the Funds for expenditure that is likely to occur after the end of the Agreement Period.

11. **RECORDS AND REPORTS**

11.1 The Participant must keep comprehensive written records of the conduct of the Project including:

(a) performance against Guidelines and Standards,
(b) progress against the Aim of the Project and the objectives and outcomes of the Program described in Recital B;

(c) the creation of Project Material; and

(d) the acquisition and disposal of Assets.

11.2 The Participant must keep financial records relating to the Project so as to enable:

(a) all income and expenditure related to the Project to be identified in the Participant’s accounts;

(b) the preparation of financial statements in accordance with Australian Accounting Standards; and

(c) the audit of these records in accordance with Australian Auditing Standards.

Progress Reports

11.3 In accordance with the timetable specified in Item D, the Participant must provide to the Commonwealth written Progress Reports which must include:

(a) a description of actual performance against the Guidelines and Standards and the Aim of the Project;

(b) information on whether the Aim of the Project is being achieved and if not, why not;

(c) a version of the Project Material produced to the date of the Progress Report, if requested by the Commonwealth;

(d) a statement of the balance of the Funds in the bank account referred to in clause 10.1;

(e) a statement of how much the Participant needs to meet current liabilities under legal commitments entered into by the Participant for the performance of this Agreement; and

(f) any other requirements specified in Item D.

Final Report

11.4 On the date specified in Item D or within 20 Business Days of the date of any early termination of this Agreement, the Participant must provide to the Commonwealth a written Final Report which must include:

(a) a comprehensive report on actual performance against the Guidelines and Standards and the Aim of the Project and whether the Aim of the Project was achieved and, if not, why not;

(b) an audited detailed statement of receipts and expenditure in respect of the Funds prepared by an Approved Auditor in compliance with the Australian Auditing Standards which must include a definitive statement as to whether the financial accounts are complete and accurate, and a statement of the balance of the Funds in the bank account referred to in clause 10.1;
(c) a statement of how much (if any) the Participant needs from the final payment to meet current liabilities under legal commitments entered into by the Participant for the performance of this Agreement;

(d) a certificate provided by the Chief Executive Officer or Chief Financial Officer of the Participant, or a person authorised by the Participant to execute documents and legally bind it by their execution, confirming that:

(i) the Funds and Other Contributions received were spent for the purpose of the Project and in accordance with this Agreement and that the Participant has complied with this Agreement;

(ii) salaries and allowances paid to persons involved in the Project are in accordance with any applicable award or agreement in force under any relevant Law on industrial or workplace relations; and

(iii) at the time the Final Report is provided to the Commonwealth, the Participant is able to pay all its debts as and when they fall due.

In preparing the certificate required under this paragraph (d), the Participant should have regard to clause 26.2 of this Agreement; and

(e) any other requirements specified in Item D.

End of Financial Year Report

11.5 If specified in Item D, the Participant must, in addition to the Reports required under clauses 11.3 and 11.4, provide to the Commonwealth a written End of Financial Year Report by the date specified in Item D which must include:

(a) an audited detailed statement of receipts and expenditure in respect of the Funds prepared by an Approved Auditor in compliance with the Australian Auditing Standards which must include a definitive statement as to whether the financial accounts are complete and accurate, and a statement of the balance of the Funds in the bank account referred to in clause 10.1;

(b) a description of actual performance against the Guidelines and Standards and the Aim of the Project;

(c) information on whether the Aim of the Project is being achieved and if not, why not;

(d) a version of the Project Material produced to the date of the End of Financial Year Report, if requested by the Commonwealth;

(e) a statement of how much the Participant needs to meet current liabilities under legal commitments entered into by the Participant for the performance of this Agreement; and

(f) any other requirements specified in Item D.

Other Reports

11.6 The Participant must provide any other Reports or documents specified in Item D by the date specified.
12. **LIAISON**

12.1 The Participant must liaise with and report to the Commonwealth as reasonably required by the Commonwealth for the purposes of this Agreement.

12.2 Upon receipt of written notice, the Participant must within the time-frame specified in the notice, or within a reasonable time-frame if no time-frame is specified in the notice, provide any information in relation to the Project requested by the Commonwealth for the purposes of this Agreement, including monitoring and evaluation.

13. **Access to Premises AND materials**

13.1 The Participant must give the Auditor-General, the Privacy Commissioner, the Ombudsman and persons authorised in writing by the Commonwealth (referred to in this clause collectively as ‘those permitted’) access to premises at which records and Materials associated with this Agreement are stored or work under the Project is undertaken.

13.2 The Participant must give to those permitted access in order to be able to inspect and copy Materials, in the Participant’s possession or control, for the purposes associated with this Agreement or any review of performance under this Agreement. The Participant must also give those permitted access to any Assets, wherever they may be located, and reasonable access to the Participant Personnel for the same purpose.

13.3 The rights referred to in clause 13.1 are, wherever practicable, subject to:

(a) the provision of reasonable prior notice by the Commonwealth (except where the Commonwealth believes that there is an actual or apprehended breach of the Law);

(b) access being sought during reasonable times (except where the Commonwealth believes that there is an actual or apprehended breach of the Law); and

(c) the Participant’s reasonable security procedures.

13.4 The Participant agrees to provide all assistance reasonably requested by the Commonwealth in respect of any inquiry into or concerning the Project or this Agreement.

13.5 The Participant must ensure that any subcontract entered into for the purposes of this Agreement contains an equivalent clause allowing those permitted to have access as specified in this clause.

13.6 Nothing in this Agreement limits or restricts in any way any duly authorised function, power, right or entitlement of the Auditor-General, the Privacy Commissioner or the Ombudsman, or their respective delegates. The rights of the Commonwealth under this Agreement are in addition to any other duly authorised power, right or entitlement of the Auditor-General, the Privacy Commissioner or the Ombudsman, or their respective delegates.

13.7 This clause survives the expiration or early termination of this Agreement for a period of seven years.
14. **PROJECT MATERIAL and intellectual property**

14.1 Any Intellectual Property rights and title to, or in relation to, the Project Material will vest, upon creation, in the Participant.

14.2 The Participant grants to the Commonwealth a perpetual, irrevocable, royalty-free and licence fee-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, modify, adapt, publish, perform, broadcast, communicate, commercialise and exploit the Intellectual Property in the Project Material.

14.3 This clause does not affect the ownership of any Intellectual Property in any Existing Material. However, the Participant grants, or undertakes to arrange for a third party to grant to the Commonwealth, a perpetual, irrevocable, royalty-free and licence fee-free, world-wide, non-exclusive licence (including a right of sub-licence) to use, reproduce, modify, adapt, publish, perform, broadcast, communicate, commercialise and exploit the Intellectual Property in the Existing Material but only in conjunction with the other Project Material.

14.4 The Participant warrants that anything done by the Participant in the course of the Project, including in developing the Reports, will not infringe the Intellectual Property rights of any person.

14.5 For this clause, the ‘Specified Acts’ relating to Moral Rights means any of the following classes or types of acts or omissions by or on behalf of the Commonwealth:

(a) using, reproducing, modifying, adapting, publishing, performing, broadcasting, communicating, commercialising or exploiting all or any part of the Project Material, with or without attribution of authorship;

(b) supplementing the Project Material with any other Material; and

(c) using the Project Material in a different context to that originally envisaged,

but does not include false attribution of authorship.

14.6 The Participant must use its best endeavours to ensure that:

(a) where there is no consent already in place, a written consent will be given by the author of any Project Material to the Specified Acts (whether occurring before or after the consent is given) which extends directly or indirectly to the performance of the Specified Acts by the Commonwealth or any person claiming under or through the Commonwealth; and

(b) where there is no consent already in place, a written consent will be given by the author of any Existing Material to the Specified Acts (whether occurring before or after the consent is given) which extends directly or indirectly for the Commonwealth’s benefit in relation to the Commonwealth’s licensed use of the Existing Material.

14.7 Intellectual Property rights and title to, or in relation to, Commonwealth Material remains vested at all times in the Commonwealth.
14.8 The Commonwealth grants to the Participant a royalty-free and licence fee-free, world-wide, non-exclusive licence (including a limited right of sub-licence to sub-license to a subcontractor specified in Item A or approved by the Commonwealth under clause 7) to use, reproduce, modify, adapt, publish, perform, broadcast and communicate the Intellectual Property in the Commonwealth Material for the purposes of the Project. The Participant agrees to ensure that all Intellectual Property in Commonwealth Material is used strictly in accordance with any conditions or restrictions specified by the Commonwealth.

14.9 As part of the Final Report if specified in Item D, or on the early termination of this Agreement, the Participant must deliver a complete copy of the Project Material and all of the Commonwealth Material to the Commonwealth, or deal with it as otherwise directed by the Commonwealth.

14.10 This clause survives expiration or early termination of this Agreement.

15. **Acknowledgment and Publications**

15.1 The Participant must acknowledge the financial and other support it has received from the Commonwealth:

(a) in all publications, promotional and advertising materials, public announcements and activities by it or on its behalf in relation to the Project or any products, processes or inventions developed as a result of the Project; and

(b) in the form specified in Item H or, if not specified in Item H, then in a form approved by the Commonwealth prior to its use.

15.2 Where the Participant has been provided with Funds to produce any publication, the Participant must, on completion of the Project Period, provide the Commonwealth with the number of copies of the publication specified in Item F.

15.3 This clause survives the expiration or early termination of this Agreement for a period of seven years.

16. **ASSETS**

16.1 During the Agreement Period the Participant must use Assets only for performance of this Agreement.

16.2 The Participant must:

(a) not encumber or dispose of any Asset, or deal with or use any Asset other than in accordance with this clause, without the prior written approval of the Commonwealth;

(b) hold all Assets securely and safeguard them against theft, loss, damage or unauthorised use;

(c) maintain all Assets in good working order;

(d) maintain all appropriate insurances in respect of any Assets;

(e) be fully responsible for, and bear all risks arising in relation to, the use or disposal of any Asset;
16.3 The Participant must obtain prior agreement in writing from the Commonwealth before selling or otherwise disposing of an Asset during the Agreement Period. If, at the time of the sale or disposal, the Asset has not been fully Depreciated the Participant must, at the option of the Commonwealth:

(a) pay to the Commonwealth within 20 Business Days of the date of the sale or disposal, an amount equal to the proportion of the value of the Asset following Depreciation that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funds;

(b) pay to the Commonwealth within 20 Business Days of the date of the sale or disposal, the proceeds of the sale or disposal, less an amount equal to the sum of the Participant’s proportionate contribution to the purchase price of the Asset and the Participant’s reasonable costs of sale or disposal of the Asset; or

(c) use the amount specified in (a) or (b) above for a purpose approved in writing by the Commonwealth.

16.4 If, on the expiration or early termination of this Agreement, an Asset has not been fully Depreciated the Participant must, at the option of the Commonwealth:

(a) pay to the Commonwealth within 20 Business Days after expiry or early termination of this Agreement, an amount equal to the proportion of the value of the Asset following Depreciation that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funds;

(b) sell the Asset for the best price reasonably obtainable and pay to the Commonwealth within 20 Business Days of the date of sale the proceeds of sale, less an amount equal to the sum of the Participant’s proportionate contribution to the purchase price of the Asset and the Participant’s reasonable costs of disposal of the Asset; or

(c) use the Asset on such terms and conditions as may be approved in writing by the Commonwealth.

16.5 If the Participant fails to make payment as required by either clause 16.3 or 16.4:

(a) the Participant must pay the Commonwealth Interest on the relevant amount from the date it was due, for the period it remains unpaid; and

(b) the relevant amount, and Interest owed under this clause will be recoverable by the Commonwealth as a debt due to the Commonwealth by the Participant.

16.6 This clause survives the expiration or early termination of this Agreement.
17. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY

17.1 The Participant is not by virtue of this Agreement, or for any purpose, an employee, partner or agent of the Commonwealth, or invested with any power or authority to bind or represent the Commonwealth.

17.2 The Participant must not represent itself, and must use its best endeavours to ensure that the Participant Personnel do not represent themselves, as being an officer, employee, partner or agent of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.

18. SUSPENSION AND TERMINATION

18.1 If:

(a) the Commonwealth is satisfied on reasonable grounds that the terms and conditions of this Agreement have not been complied with by the Participant;

(b) the Commonwealth is satisfied on reasonable grounds that the Participant is unable or unwilling to satisfy the terms of this Agreement;

(c) the Commonwealth, by notice in writing, requests the Participant to take action to meet a timeframe or perform an activity in accordance with this Agreement and, after 10 Business Days from the date of the notice (or such longer period as is specified in the notice), the Participant has failed to take such action;

(d) the Commonwealth is satisfied on reasonable grounds that any statement made by the Participant is incorrect or incomplete in a way which would have affected the original decision to approve the Funds for the Project;

(e) the Commonwealth is not satisfied on reasonable grounds that the purposes and activities of the Participant remain compatible with:

(i) the Aim of the Project; or

(ii) the objectives and outcomes of the Program as specified in Recital B;

(f) the Commonwealth is satisfied on reasonable grounds that a Report given by the Participant is not complete or accurate;

(g) the Participant:

(i) becomes bankrupt or insolvent or is wound-up;

(ii) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors or has a receiver, manager or administrator appointed on behalf of debenture holders or creditors; or

(iii) goes into liquidation or passes a resolution to go into liquidation or becomes subject to any petition or proceedings in a court for its compulsory winding-up or becomes subject to the supervision of a court either voluntarily or otherwise; or

(iv) suffers any execution against its assets having adverse effect on its ability to perform the Agreement; or
(v) anything analogous to, or of a similar effect to anything described above under the Law occurs in respect of the Participant; or

(h) the Participant, by notice in writing given to the Commonwealth, withdraws from this Agreement; or

(i) the Commonwealth considers it appropriate for any other reason,

the Commonwealth may, by written notice to the Participant, terminate this Agreement or require the Participant to immediately suspend dealings with the Funds.

18.2 For the avoidance of doubt, the Commonwealth has an unfettered discretion to terminate this Agreement in accordance with clause 18.1(i).

18.3 If this Agreement is terminated in accordance with clause 18.1(i), the Commonwealth will only be liable for any reasonable costs (excluding, without limitation, loss of prospective income or profits) unavoidably incurred by the Participant, which are directly attributable to the termination. The Commonwealth will not be liable to pay any amount in excess of the amount of Funds remaining unpaid under this Agreement at the date of termination.

18.4 On termination of this Agreement, or for the duration of any suspension of dealings with the Funds, the Participant must hold the Funds in utmost good faith for use only in accordance with the directions of the Commonwealth and will cease all other dealings with the Funds.

18.5 The Commonwealth may end the suspension of dealings with the Funds by written notice to the Participant, subject to such preconditions (including variations to this Agreement) which the Commonwealth may require.

18.6 Subject to clause 18.3, the Commonwealth will not be obliged to pay any part of the Funds to the Participant after the termination of this Agreement or during any period of suspension of dealings with the Funds.

18.7 Except as provided in this clause, the Commonwealth will not come under any liability to the Participant for termination of this Agreement in accordance with clause 18.1.

18.8 If a purported termination for cause by the Commonwealth under any of clauses 18.1(a) to (h) is determined by a competent authority not to be properly a termination for cause, then that termination by the Commonwealth will be deemed to be a termination for convenience under clause 18.1(i) which termination has effect from the date of the notice of termination referred to in clause 18.1.

19. REPAYMENT OF FUNDS

19.1 If:

(a) on the expiry or any early termination of this Agreement, any Funds:
   (i) remain Unspent; or
   (ii) cannot, by reconciliation between the accounts and records maintained by the Participant (as reported to the Commonwealth by the Participant in any of the financial statements referred to in
clause 11) and the Budget, be shown to the reasonable satisfaction of the Commonwealth to have been spent or Committed in accordance with this Agreement; or

(b) at any time the Commonwealth forms the reasonable opinion that any Funds have been used, spent or Committed by the Participant other than in accordance with this Agreement,

the Commonwealth may by written notice to the Participant require the Participant to repay that part of the Funds, and the Participant must repay to the Commonwealth the amount specified in the notice, within 20 Business Days of the date of the notice.

19.2 If the Participant fails to repay the Funds in accordance with a notice issued under clause 19.1:

(a) the Participant must pay the Commonwealth Interest on the amount specified in the notice from the date it was due, for the period it remains unpaid; and

(b) the amount specified in the notice, and Interest owed under this clause will be recoverable by the Commonwealth as a debt due to the Commonwealth by the Participant.

19.3 The Participant acknowledges that Interest payable under clause 19.2(a) represents a reasonable pre-estimate of the loss incurred by the Commonwealth as a result of the loss of investment opportunity for, or the reasonable cost of borrowing other money in place of, the amount which should have been repaid.

19.4 This clause survives the expiration or early termination of this Agreement.

20. **INDEMNITY**

20.1 To the extent permitted by Law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Participant under or in connection with this Agreement.

20.2 The Participant agrees to indemnify the Commonwealth, its officers, employees and agents from and against any:

(a) loss or liability incurred by the Commonwealth;

(b) loss of or damage to property of the Commonwealth; or

(c) loss or expense incurred by the Commonwealth in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Commonwealth,

arising from:

(d) any act or omission by the Participant or the Participant Personnel in connection with this Agreement, where there was fault (including, any negligent or otherwise tortious act or omission) on the part of the person whose conduct gave rise to that liability, loss, damage or expense; or
(e) any breach by the Participant of its obligations or warranties under this Agreement.

20.3 The Participant’s liability to indemnify the Commonwealth under clause 20.2 will be reduced proportionately to the extent that any negligent or other tortious act or omission of the Commonwealth contributed to the relevant liability, loss, damage, or expense.

20.4 The right of the Commonwealth to be indemnified under this clause:

(a) is in addition to, and not exclusive of, any other right, power or remedy provided by Law; and

(b) does not entitle the Commonwealth to be compensated in excess of the amount of the relevant liability, loss, damage, or expense.

20.5 The Participant agrees that the Commonwealth will be taken to be acting as agent or trustee for and on behalf of its officers, employees and agents from time to time.

20.6 This clause survives the expiration or early termination of this Agreement.

21. INSURANCE

21.1 The Participant warrants that it has taken out or will take out, and will maintain for the period specified in clause 21.2 or 21.3 as applicable, all appropriate types and amounts of insurance to cover the Participant’s obligations under this Agreement, including those which survive its expiration or early termination, which insurance must include the types and corresponding amounts of insurance specified in Item J.

21.2 If the Participant takes out a ‘claims made policy’, which requires all claims and any fact situation or circumstance that might result in a claim to be notified within the period of insurance, the Participant must maintain the policy during the term of this Agreement and a policy in like terms for 7 years after the expiry or early termination of this Agreement.

21.3 If the Participant takes out an ‘occurrence’ policy, which requires the circumstances to which a claim relates to occur during the period of insurance whilst the notification of event can occur at any time subsequently, the Participant must maintain the policy during the term of this Agreement.

21.4 The Participant must, on request, promptly provide to the Commonwealth any relevant insurance policies or certificates of currency for inspection.

21.5 This clause survives the expiration or early termination of this Agreement.

22. Confidentiality

22.1 The Participant agrees not to disclose to any person other than the Commonwealth any Confidential Information relating to this Agreement or the Project without prior approval in writing from the Commonwealth.

22.2 The Commonwealth may impose any conditions it considers appropriate when giving its approval under clause 22.1 and the Participant agrees to comply with those conditions.
22.3 The Commonwealth may at any time by notice in writing to the Participant, require the Participant to give, and to arrange for the Participant Personnel to give, written undertakings, in a form required by the Commonwealth, relating to the non-disclosure of Confidential Information.

22.4 If the Participant receives a request under clause 22.3, it agrees to promptly arrange for all such undertakings to be given.

22.5 The obligations on the Participant under this clause will not be taken to have been breached where the information referred to is required by Law to be disclosed.

22.6 The Commonwealth gives no undertaking to treat Participant information, or this Agreement, as confidential. The Participant acknowledges that the Commonwealth may disclose information relevant to this Agreement, or this Agreement itself, to any person:

(a) to the extent required by Law or by a lawful requirement of any government or governmental body, authority or agency;

(b) if required in connection with legal proceedings;

(c) for public accountability reasons, including disclosure on request to other Government Agencies, and a request for information by Parliament or a Parliamentary Committee or a Commonwealth Minister; or

(d) for any other requirement of the Commonwealth.

22.7 The obligations contained in this clause are in addition to those specified in clause 23 and will survive the expiration or early termination of this Agreement.

23. ACCESS TO DOCUMENTS

23.1 In this clause, ‘document’ and ‘Commonwealth contract’ have the same meaning as in the Freedom of Information Act 1982.

23.2 This clause only applies if this is a contract which complies with the description of ‘Commonwealth contract’.

23.3 Where the Commonwealth has received a request for access to a document created by or in the possession of, the Participant or any subcontractor that relates to the performance of this Agreement (and not to the entry into the Agreement), the Commonwealth may at any time by written notice require the Participant to provide the document to the Commonwealth and the Participant must, at no additional cost to the Commonwealth, promptly comply with the notice.

23.4 The Participant must include in any subcontract relating to the performance of this Agreement provisions that will enable the Participant to comply with its obligations under this clause.

24. PROTECTION OF PERSONAL INFORMATION

24.1 This clause applies only where the Participant deals with Personal Information when, and for the purpose of, performing this Agreement.

24.2 In this clause, the terms:

(a) agency;
have the same meaning as they have in section 6 of the *Privacy Act 1988* (‘the Privacy Act’) and ‘subcontract’ and other grammatical forms of that word have the meaning given in section 95B(4) of the Privacy Act.

24.3 The Participant acknowledges that it may be treated as a contracted service provider and agrees in respect of performing this Agreement:

(a) to use or disclose Personal Information obtained during the course of performing this Agreement, only for the purposes of this Agreement;

(b) not to do any act or engage in any practice which if done or engaged in by an agency, would be a breach of an IPP;

(c) to carry out and discharge the obligations contained in the IPPs as if it were an agency;

(d) to notify individuals whose Personal Information the Participant holds, that complaints about acts or practices of the Participant may be investigated by the Privacy Commissioner who has power to award compensation against the Participant in appropriate circumstances;

(e) not to use or disclose Personal Information or engage in an act or practice that would breach section 16F (direct marketing) of the Privacy Act, an NPP (particularly NPPs 7 to 10) or an APC where that section, NPP or APC is applicable to the Participant, unless:

(i) in the case of section 16F, the use or disclosure is necessary, directly or indirectly, in the performance of the Project under this Agreement; or

(ii) in the case of an NPP or an APC, the activity or practice is authorised by this Agreement and engaged in for the purpose of performing this Agreement, and the activity or practice is inconsistent with the NPP or APC;

(f) to comply with any request under section 95C of the Privacy Act (relating to disclosure of any provisions of this Agreement (if any) that are inconsistent with an NPP or an APC binding on a Parties to this Agreement);

(g) to immediately notify the Commonwealth if the Participant becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in this clause, whether by the Participant or any subcontractor;
(h) to comply with any directions, guidelines, determinations or recommendations of the Privacy Commissioner to the extent that they are consistent with the requirements of this clause; and

(i) to ensure that any officers, employees or agents of the Participant who are required to deal with Personal Information for the purposes of this Agreement are made aware of the obligations of the Participant specified in this clause.

24.4 The Participant agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Agreement imposes on the subcontractor the same obligations as the Participant has under this clause, including the requirement in relation to subcontracts.

24.5 The Commonwealth may at any time by notice in writing to the Participant require the Participant to give, and to arrange for the Participant Personnel to give, undertakings in writing, in a form required by the Commonwealth, relating to the non-disclosure of Personal Information.

24.6 If the Participant receives a request under clause 24.5, it agrees to promptly arrange for all such undertakings to be given.

24.7 The Participant agrees to indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth which arises directly or indirectly from a breach of any of the obligations of the Participant under this clause, or a subcontractor under the subcontract provisions referred to in clause 24.4.

24.8 The Participant’s obligations under this clause are in addition to, and do not restrict, any obligations it may have under the Privacy Act or any privacy codes or privacy principles contained in, authorised by or registered under any Law including any such privacy codes or principles that would apply to the Participant but for the application of this clause.

24.9 Notwithstanding any other provision in this clause, where the Participant provides a health service to an individual it will:

(a) comply with the NPPs in relation to the use and disclosure of health information about the individual; and

(b) transfer health information to another health service provider when directed to do so by the Commonwealth.

24.10 This clause survives expiration or early termination of this Agreement.

25. **Conflict of Interest**

25.1 The Participant warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement no Conflict exists or is likely to arise in the performance of obligations under this Agreement by the Participant, or by the Participant Personnel.

25.2 If during the Agreement Period, a Conflict arises, or appears likely to arise, in respect of the Participant or any of the Participant Personnel, the Participant must:
(a) immediately notify the Commonwealth in writing of the Conflict making a full disclosure of all relevant information relating to the Conflict and setting out the steps the Participant proposes to take to resolve or otherwise deal with the Conflict; and

(b) take such steps as have been proposed by the Participant, or at the discretion of the Commonwealth, take such steps as the Commonwealth may reasonably require to resolve or otherwise deal with the Conflict.

25.3 If the Participant fails to notify the Commonwealth under this clause, or is unable or unwilling to resolve or deal with the Conflict as required, the Commonwealth may terminate this Agreement in accordance with clause 18.1(a), (b) or (d).

25.4 The Participant agrees that it will not, and will use its best endeavours to ensure that any Participant Personnel do not, engage in any activity or obtain any interest during the course of this Agreement that is likely to conflict with or restrict the Participant in performing the Project fairly and independently.

26. **Compliance with Law and policies**

26.1 The Participant must, in carrying out this Agreement, comply with:


(b) any policies notified to the Participant in writing, or listed in Item K.

26.2 The Participant acknowledges that under section 137.1 of the Schedule to the *Criminal Code Act 1995*, giving false or misleading information to the Commonwealth is a serious offence.

26.3 Without limiting the effect of clause 17, the Participant must comply with, and require Participant Personnel to comply with, the behaviours specified in the Code of Conduct in section 13 of the *Public Service Act 1999*.

26.4 Subject to clauses 22 and 24, no right or obligation in this Agreement is to be read or understood as limiting the Participant’s rights to enter into public debate or criticism of the Commonwealth, its agencies, officers, employees or agents.

27. **Dispute Resolution**

27.1 Subject to clause 27.3, the Parties agree not to commence any legal proceedings in respect of any dispute arising under this Agreement which has not been resolved by informal discussion, until the procedure provided by this clause has been followed.

27.2 The Parties agree that any dispute arising during the course of this Agreement will be dealt with as follows:

(a) the Party claiming that there is a dispute will send the other a written notice setting out the nature of the dispute;

(b) the Parties will try to resolve the dispute through direct negotiation, including by referring the matter to persons who have authority to intervene and direct some form of resolution;
the Parties have 10 Business Days from the date of the notice to reach a resolution or to agree that the dispute is to be submitted to mediation or some alternative dispute resolution procedure; and

(d) if:
   (i) there is no resolution of the dispute;
   (ii) there is no agreement on submission of the dispute to mediation or some alternative dispute resolution procedure; or
   (iii) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 15 Business Days of the submission, or such extended time as the Parties may agree in writing before the expiration of the 15 Business Days,

then, either Party may commence legal proceedings.

27.3 This clause does not apply to the following circumstances, where:
   (a) either Party commences legal proceedings for urgent interlocutory relief;
   (b) action is taken by the Commonwealth under, or purportedly under, clauses 3, 13, 18 or 19; or
   (c) an authority of the Commonwealth, a State or Territory is investigating a breach or suspected breach of the Law by the Participant.

27.4 Despite the existence of a dispute, both Parties must (unless requested in writing by the other Party not to do so) continue to perform their respective obligations under this Agreement.

28. PARTICIPANT WARRANTIES AND UNDERTAKINGS

28.1 The Participant represents, warrants and undertakes to the Commonwealth that:
   (a) it will promptly notify and fully disclose to the Commonwealth in writing any event or occurrence actual or threatened arising during the Agreement Period which could have an adverse effect on the Participant’s ability to perform any of its obligations under this Agreement;
   (b) it has full power and authority to enter into, perform and observe its obligations under this Agreement;
   (c) the execution, delivery and performance of this Agreement has been duly and validly authorised by the Participant;
   (d) it will promptly notify and fully disclose to the Commonwealth in writing if
      (i) it becomes insolvent or is wound up;
      (ii) it makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors or has a receiver, manager or administrator appointed on behalf of creditors;
(iii) it goes into liquidation or passes a resolution to go into liquidation, or becomes subject to any petition or proceedings in a court for its compulsory winding up or becomes subject to the supervision of a court or regulatory authority, either voluntarily or otherwise;

(iv) it suffers any execution against its assets;

(v) anything analogous to, or of a similar effect to anything described above under the Law occurs in respect of the Participant;

(e) the unconditional execution and delivery of, and compliance with its obligations by it under this Agreement do not:

(i) contravene any Law to which it or any of its property is subject or any order or directive from a Government Agency binding on it or any of its property;

(ii) contravene its constituent documents;

(iii) contravene any agreement or instrument to which it is a party;

(iv) contravene any obligation of it to any other person; or

(v) require it to make any payment or delivery in respect of any financial indebtedness before the scheduled date for that payment or delivery;

(f) no litigation, arbitration, mediation, conciliation or proceedings including any investigations, are taking place, pending, or are threatened against the Participant which could have an adverse effect upon either the Participant’s capacity to perform its obligations under this Agreement or the Participant’s reputation;

(g) unless otherwise disclosed in this Agreement, it is not entering into this Agreement as trustee of any trust or settlement;

(h) it has not made any false declaration in respect of any current or past dealings with the Commonwealth or any Government Agency, including in any tender or application process or in any agreement;

(i) it has had no significant deficiency in the performance of any substantive requirement or obligation under any prior agreement with the Commonwealth or any Government Agency;

(j) it has, and will continue to have and to use, the skills, qualifications and experience, to perform the Project in an efficient and controlled manner with a high degree of quality and responsiveness and to a standard that complies with this Agreement;

(k) it has and will continue to have the necessary resources, including financial resources, to perform the Project and will use those resources to perform the Project.

28.2 The Participant acknowledges that the Commonwealth in entering into this Agreement is relying on the warranties and representations contained in this Agreement.

28.3 Each representation and warranty survives the execution of this Agreement.
29. **NOTICES**

29.1 A Party giving notice under this Agreement must do so in writing that is:
   
   (a) directed to the Party’s address specified in Item G marked for the attention of the Liaison Officer; and
   
   (b) hand delivered or sent by pre-paid post or facsimile to that address.

29.2 A notice given in accordance with clause 29.1 is received:

   (a) if hand delivered, on delivery;
   
   (b) if sent by pre-paid post, on the third Business Day after the date of posting;
   
   (c) if sent by facsimile, at the time the sender receives notification that the notice has been transmitted satisfactorily.
SCHEDULE

[Note to users - please see commentary for assistance in completing the relevant Items. Do not add Items or additional Schedules without first seeking specific advice from Legal Services Branch. Please delete this note once you have completed the Schedule.]

A. PROJECT, AIM OF THE PROJECT and SUBCONTRACTORS

B. BUDGET

C. PROJECT PERIOD

Project Period [See example wording in Commentary]

D. REPORTS

Progress Reports [See example wording in Commentary]

Timetable for provision of Progress Reports:

Additional information to be provided with Progress Reports (if any):

Final Report [See example wording in Commentary]

Timetable for provision of Final Report:

Additional information to be provided with Final Report (if any):

End of Financial Year Report(s) [See example wording in Commentary]

Timetable for provision of End of Financial Year Report(s), if required:

Additional information to be provided with End of Financial Year Report(s) (if any):

E. FUNDS AND INVOICE REQUIREMENTS

[See example wording in Commentary]

F. PROJECT MATERIAL and EXISTING MATERIAL

[See example wording in Commentary]
Project Material

Number of copies of publications to be provided to the Commonwealth

Existing Material

G. LIAISON OFFICERS

Commonwealth’s Liaison Officer

The Commonwealth’s Liaison Officer is the person holding, occupying or performing the duties of [insert name of position]. This position is currently occupied by [insert name of person] available at the following address:

[insert street address, postal address; and fax number]

and available on the following telephone number and email address:

[insert telephone and email].

Participant’s Liaison Officer

The Participant’s Liaison Officer is [insert name of person] available at the following address:

[insert street address, postal address; and fax number]

and available on the following telephone number and email address:

[insert telephone and email].

H. ACKNOWLEDGEMENT

I. ASSETS

J. INSURANCE

[See example in Commentary]
K. COMPLIANCE WITH LAWS AND POLICIES

[See example in Commentary]

L. GUIDELINES AND STANDARDS

Guidelines for the Program

Standards for performance of the Project

M. SPECIFIED PERSONNEL

[See example in Commentary]
This Funding Agreement is **SIGNED** as an agreement.

**SIGNED** for and on behalf of the **COMMONWEALTH OF AUSTRALIA** acting through the Department of Health and Ageing ABN 83 605 426 759 on:

___________________________  Date

by:

___________________________  __________________________
Printed name of signatory    Signature

___________________________  Position of signatory

in the presence of:

___________________________  __________________________
Printed name of witness      Signature of witness

**SIGNED** by [You will need to insert the appropriate signature block according to the type of legal entity – see Commentary. This signature block is only appropriate when the Participant is a company incorporated under the Corporations Act.]

___________________________  Name of Participant (ABN ..................) on

___________________________  Date

by:

___________________________  __________________________
Printed name of Director      Signature of Director

and:

___________________________  __________________________
Printed name of Director/Secretary  Signature of Director/Secretary