Funding Agreement

between the

Commonwealth of Australia

as represented by the

Australian Research Council

and

[Eligible Organisation Name]

regarding funding for

Special Research Initiative in Synchrotron Science

to commence in

2012
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Parties and Recitals

THIS AGREEMENT is made on the ………..day of ………………. ………. between the COMMONWEALTH OF AUSTRALIA (‘the Commonwealth’), as represented by and acting through the Australian Research Council (‘the ARC’) [ABN 35 201 451 156]; and [Eligible Organisation Name] (‘the Administering Organisation’)

WHEREAS:

A. The Commonwealth through the ARC operates the Special Research Initiative in Synchrotron Science (‘the Initiative’);

B. The Commonwealth accepts that the Administering Organisation is an eligible body for the purposes of the Initiative, and the Commonwealth may provide financial assistance to support the Administering Organisation to conduct the Program, including the approved Funding elements, being those described in Schedule A;

C. The Commonwealth is required by law to ensure the accountability of Funding and accordingly, the Administering Organisation is required to be accountable for all Commonwealth Funding it receives under this Agreement; and

D. The Commonwealth wishes to provide Funding under the Initiative to the Administering Organisation for the purposes, and subject to the terms and conditions, set out in this Agreement.

IT IS HEREBY AGREED as follows:

1. Definitions

1.1. In this Agreement, unless the contrary intention appears:

ABN has the meaning as given in section 41 of the A New Tax System (Australian Business Number) Act 1999.

Access Regime means the merit-based system proposed by the synchrotron science community and moderated by a principle of juste retour. Details of the Access Regime are described at Schedule D.

Administering Organisation means an Eligible Organisation which submits a Proposal for Funding under the Special Research Initiative in Synchrotron Science and which will be responsible for the administration of the Funding if the proposed Program is approved for Funding.

Annual Report means the report described in clause 29.3.
**Approved Proposal** means a Proposal that has been approved for Funding by the Minister in accordance with the Act.

**ARC Act** means the *Australian Research Council Act 2001* or the Act.

**ARC** means the Australian Research Council, as established under the ARC Act.

**ARC website** is http://www.arc.gov.au.

**Asset** includes personal, real or incorporeal property, but shall not include intellectual property.

**Audited Financial Statement** means the statement to be submitted by the Administering Organisation by 30 June each year in accordance with paragraph 58(1)(b) of the Act.

**Chief Executive Officer** or **CEO** means the occupant of the position of the Chief Executive Officer of the ARC or delegate, as established under the ARC Act.

**Chief Investigator** or **CI** means a person named in Schedule A for the Special Research Initiative in Synchrotron Science, or as otherwise approved by the ARC and includes any replacement person or persons approved by the Minister in accordance with clause 15.

**Chief Operations Officer** means the person nominated on the Proposal who is responsible for the day to day activities and operations of the Program. This person might be given the title Program Manager.

**Commonwealth** means the Commonwealth of Australia.

**Confidential Information** means any information which the parties agree is confidential or that is by its nature confidential.

**Conflict of Interest** means any conflict of interest, any risk of a conflict of interest and any apparent conflict of interest arising through a party engaging in any activity, participating in any association, holding any membership or obtaining any interest that is likely to conflict with or restrict that party participating in the Program.

**Department** means the Commonwealth Department of Industry, Innovation, Science, Research and Tertiary Education.

**Eligible Organisation** means an organisation which is listed in Appendix A of the Special Research Initiative in Synchrotron Science Funding Rules.

**End of Year Report** means the report described in clause 29.2.

**Final Report** means the report described in clause 29.4.

**Funding Agreement** or **Agreement** means this document.

**Funding** or **Funds** means the amount or amounts payable under this Agreement for the Program as specified in Schedule A.

**Funding Period** means the approved period set out in Schedule A for the Program, or as otherwise approved in writing by the Minister.
**Funding Rules** means the *Special Research Initiative in Synchrotron Science* Funding Rules for funding commencing in 2012.

**GST** has the meaning as given in section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999.

**Initiative** has the meaning given in Parties and Recitals.

**Intellectual Property** includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, Confidential Information (including trade secrets, know-how and circuit layouts), and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

**Material** includes documents, equipment, software, goods, information and data stored by any means.

**Minister** means the Minister responsible for the administration of the Act, or the Minister’s delegate.

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

**Contributions** means the cash and in-kind contribution for the Program provided by the Administrating Organisation, Other Eligible Organisations and Partner Organisations in respect of the Program.

**Other Eligible Organisation** means an Eligible Organisation listed on the Proposal which is not the Administering Organisation.

**Partner Investigator** or **PI** means a researcher listed in Schedule A who satisfies the eligibility criteria for a PI under the Funding Rules, or as otherwise approved by the Minister and includes any replacement person approved by the Minister in accordance with clause 15.

**Partner Organisation** means any organisation, other than an Eligible Organisation, named in Schedule A as a contributor to the Program or as otherwise approved by the Minister and includes any replacement organisation or organisations approved by the Minister in accordance with clause 11.

**Personnel** means those persons involved in the conduct of the Program.

**Privacy Commissioner** means the person occupying the position of Privacy Commissioner from time to time pursuant to the *Privacy Act 1988*.

**Program Director** means the first named Chief Investigator specified in Schedule A for the particular Program, or such person as otherwise approved by the Minister and includes any replacement person or persons approved by the ARC in accordance with clause 15.

**Program Manager** means the person nominated on the Proposal who is responsible for the day to day activities and operations of the Program. This person might be given the title Chief Operations Officer.

**Program** means the Program as described in Schedule A, or as otherwise approved by the Minister for Funding under this Agreement.
Proposal means the request to the ARC for the provision of funding for a research program which is submitted in accordance with the Funding Rules.

Research Office means a business unit within an Eligible Organisation responsible for liaison with the ARC on Proposals and/or Programs.

Responsible Officer means the Vice-Chancellor or other corporate head of the Administering Organisation or an officer nominated by her/him.

Scheme Coordinator means the occupant, from time to time, of the position of Scheme Coordinator (Special Research Initiatives) in the ARC, or any other person to whom the administration of the Special Research Initiative in Synchrotron Science may be allocated.

Special Conditions means the conditions specified in Schedules A, B, and C, if any, that govern the use of the Funding.

Specified Personnel means the personnel named in Schedule A to perform the Program or as otherwise approved by the ARC.

2. Interpretation

2.1. 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, words capitalised or in bold or italic format and notes in square brackets (‘[ ]’) are inserted for convenience only, and have no effect in limiting or extending the language of provisions, except for the purpose of rectifying any erroneous cross-reference.

e) all references to clauses are to clauses in this Agreement and all references to a Schedule refer to a Schedule to this Agreement;

f) all references to dollars are to Australian dollars and this Agreement uses Australian currency;

g) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, replaced or supplemented, is a reference to that statute or other legislation as amended, replaced or supplemented; and

h) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

2.2. This Agreement is subject to the ARC Act. If there is any conflict between this Agreement and the ARC Act, then the ARC Act prevails to the extent of any inconsistency.
3. **Entire Agreement and Variation**

3.1. This Agreement, including Schedules, the Proposal and the Funding Rules, constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Agreement.

3.2. Notwithstanding clause 3.1, the Minister may at any time impose other requirements or conditions in connection with any Funding covered by this Agreement as provided for under the ARC Act. The Administering Organisation must as soon as possible, or as otherwise agreed in writing with the ARC, comply (or procure compliance) with any other Ministerial conditions or requirements notified by the ARC from time to time. In the event of any inconsistency between this Agreement and any such further requirements or conditions, the Administering Organisation will not be taken to have breached this Agreement where it has acted consistently with any further requirements or conditions notified under this clause.

3.3. If any part of this Agreement conflicts with any other part, that part higher in the following list shall take precedence:
   a) the terms and conditions contained in the clauses of the Agreement;
   b) the Schedules;
   c) the Funding Rules; and
   d) the Proposal.

3.4. The Administering Organisation and the Commonwealth may agree to vary this Agreement. Other than as expressly provided for in this Agreement, any variation to this Agreement must be in writing and signed by both parties.

3.5. The Administering Organisation is required to do all things incidental or reasonably necessary to give effect to this Agreement, including procuring any researchers or third parties to do such incidental or reasonably necessary things. This includes, but is not limited to, the Administering Organisation’s securing the agreement of all parties involved in the Program to abide by the terms and conditions of this Agreement.

4. **Terms of Agreement and Funding Period**

4.1. This Agreement takes effect on the date it has been executed by the Administering Organisation and the ARC and continues to operate until all parties have fulfilled their obligations under this Agreement, unless terminated earlier in accordance with this Agreement.

4.2. Subject to clauses 4.3 and 5 of this Agreement, the period of Funding is the Funding Period, unless the Funding is terminated earlier in accordance with this Agreement.

4.3. The Funding Period for the Program is indicative only of the intent of the Minister at the time of making the offer of Funding and is not binding on the Commonwealth. In the event that the ARC subsequently makes a determination under section 54 of the ARC Act to vary the Funding, this Agreement will continue to apply to the Program granted financial assistance under such a determination.
5. Payment of Funding

5.1. Subject to the provisions of the ARC Act, the terms of this Agreement and sufficient program funding being available for the Initiative, the Commonwealth shall pay the Funds to the Administering Organisation for the Initiative in accordance with Schedule A.

5.2. All Funding for the Program is subject to the following conditions:

   a) That the Program commence in accordance with clause 12, or by any later date approved by the ARC under clause 13;

   b) that the Chief Investigator identified as the Program Director (or any replacement Program Director approved by the ARC under clause 15) lead and co-ordinate the Program at all times during the Funding Period, including by having direct responsibility for the strategic decisions and the communication of results for the Program;

   c) that the Administering Organisation conduct the Program substantially in accordance with the ‘Proposal Description’ contained in the Proposal or, in the event of any variation to the Program, in accordance with the description, aims and research plan as otherwise approved by the Minister;

   d) that the Administering Organisation spend all Funds paid under this Agreement for the Program substantially in accordance with the ‘Program Cost’ detailed in the Proposal for that Program, and any Special Conditions, or the budget as otherwise approved by the ARC and any conditions otherwise imposed by the Minister or the ARC in accordance with the ARC Act, and in accordance with the requirements of this Agreement and the Funding Rules;

   e) that the Administering Organisation only receive Funding under this Agreement to which it is properly entitled;

   f) that the Administering Organisation enter into (and maintain) an agreement with each Other Eligible Organisation and Partner Organisation that meets the requirements of clause 10;

   g) that the Administering Organisation enter into (and maintain) an agreement with the Australian Synchrotron that meets the requirements under clause 19;

   h) that the total Contributions for the Program satisfies the minimum requirements set out in this Agreement and the Funding Rules, unless otherwise approved by the ARC;

   i) that the Contributions from Other Eligible Organisations are paid to the Administering Organisation according to the Approved Proposal, unless otherwise approved by the ARC;

   j) that the Administering Organisation submit on time all reports required under this Agreement, in the form and with content satisfactory to the ARC;

   k) that progress of the Program is, in the opinion of the Chief Executive Officer, satisfactory;

   l) that each CI (or any ‘New Personnel’ approved by the ARC under clause 15), at all times during her/his participation in the Program as a CI, meet the criteria specified in clause 7.3 of the Funding Rules, including by having direct responsibility for the strategic decisions and the communication of results for the Program;
m) that each PI (or any ‘New Personnel’ approved by the ARC under clause 15), at all times during her/his participation in the Program as a PI, meet the criteria specified in clause 7.4 of the Funding Rules, including by having direct responsibility for the strategic decisions and the communication of results for the Program;

n) that the ARC is advised in a timely manner of any and all Conflicts of Interest of parties involved in the Program which have the potential to influence or appear to influence the research and/or activities related to the Program;

o) that the Administering Organisation comply with any other requirements or conditions imposed by the ARC in connection with any Funding covered by this Agreement.

5.3. If the Administering Organisation does not meet any one or more of the conditions listed in clause 5.2 in respect of the Program, the Commonwealth may do any or all of the following:

a) not pay the Administering Organisation any further Funds for the Program;

b) recover all or some of the Funds paid under this Agreement for the Program, including all unspent Funds and any Funds not spent in accordance with this Agreement; or

c) vary the amount of Funding approved for the Program.

5.4. The Administering Organisation must pay to the Commonwealth the amount specified in any notice received under clause 5.3(b) within 30 days of the date of that notice.

5.5. The Commonwealth will pay to the Administering Organisation, by way of financial assistance in accordance with the Act, the approved amounts set out in Schedule A, which is net of any GST which may be imposed on the supply.

5.6. Where the invoice relates to a taxable supply made under this contract, the invoice must comply with the requirement for a tax invoice as defined in the GST Act.

5.7. The Commonwealth shall have the right to unilaterally vary the Funding for the Program.

5.8. Where the Commonwealth exercises its right under clause 5.3 or 5.7 above, it shall inform the Administering Organisation of the variation within 30 days of that variation having been made.

6. **Accuracy of Information**

6.1. The provision of any Funding for the Program is conditional on all information contained in the Proposal for that Program and all reports required by this Agreement from the Administering Organisation being complete, accurate and not misleading. The Commonwealth regards inaccurate and misleading information as including, but not being limited to, claiming fictitious track records, inflating funds obtained from other sources and false claims in the publication record, e.g. describing a paper as being “in press” or accepted even if it has only been submitted.

6.2. If the Commonwealth considers that a Proposal for the Program, or any report provided under this Agreement contains incomplete, inaccurate or misleading information, the Commonwealth may do any or all of the following:

a) not pay the Administering Organisation any further Funds for the Program;
b) recover all or some of the Funds paid under this Agreement for the Program, including all unspent Funds and any Funds not spent in accordance with this Agreement; and/or

c) vary the amount of Funding approved for the Program.

7. Use of the Funding: Activities, Facilities and Types of Work

7.1. The Administering Organisation will ensure that the Program is carried out in accordance with this Agreement in a diligent and competent manner. In addition, the Program will be conducted in accordance with the ‘Project Description’ contained in the Proposal, or any revised description, aims and research plan, which have been submitted by the Administering Organisation and approved by the Minister.

7.2. The Administering Organisation shall ensure that expenditure for the Program is in accordance with the ‘Project Description’ contained in the corresponding Proposal and within the broad structure of the proposed ‘Project Cost’ detailed in the Proposal or any revised budget, aims and research plan submitted by the Administering Organisation which has been approved by the Minister.

7.3. The Administering Organisation shall not use the Funding:

a) for purposes specifically excluded in the Funding Rules; or

b) for purposes specifically excluded in this Agreement.

7.4. The Administering Organisation shall ensure that at least $5 million of the approved Funds are expended during the Funding Period for the purposes of medical research as set out in s 51(1) of the National Health and Medical Research Council Act 1992;

7.5. The Administering Organisation must ensure that Specified Personnel listed in Schedule A (or any replacement persons approved by the ARC under clause 15) have adequate time to carry out the Program and must provide the basic facilities required for the Program described in Schedule A.

7.6. Funds may not be used for items excluded in section 5.3 of the Funding Rules.

7.7. Unless otherwise approved by the ARC, the Administering Organisation must provide the resources to undertake the Program as specified in the Proposal.

7.8. If any other Commonwealth Funding is approved for any research and/or activity which is similar to research or activities being conducted by this Program, the ARC must be notified immediately and the ARC may consider whether or not to terminate or recover Funding to the extent that it is duplicated by another Commonwealth source.

8. Use of the Funding: Provision of Salaries

8.1. The Funding provided under this Agreement must not be used to provide salary support for Specified Personnel except for the Program Director and the Chief Operating Officer/Program Manager, as described in section 5.2.2(a) of the Funding Rules.

8.2. Retrospective salary payments will not be paid for employment prior to the date the Funding Agreement is executed.

8.3. The Administering Organisation must ensure that a person who is studying full-time for a postgraduate degree or other postgraduate qualification shall not be employed on the Program for more than 20 hours per week.

8.4. In respect of Personnel other than Specified Personnel, unless the ARC otherwise agrees:
a) in recruiting Personnel for the Program, the Administering Organisation shall follow its normal recruitment procedures;

b) the provision of salaries, recreation leave, sick leave and other conditions of employment for Personnel undertaking the Program shall be those of the Administering Organisation; and

c) the on-costs provisions beyond the ARC contribution of 28% remain the responsibility of the Administering Organisation, e.g. extended periods of leave, severance pay etc shall not be provided from Funding.

8.5. The Administering Organisation must ensure that any Personnel who are employed full-time on the Program and whose salary is provided from the Funding shall not, without the prior agreement of the ARC, accept any remuneration whatsoever from any source other than the Administering Organisation in respect of work performed on the Program.

9. Over-expenditure by the Administering Organisation

9.1. Any expenditure incurred by the Administering Organisation for the Program additional to the approved Funding for that Program specified in Schedule A or as otherwise varied by the ARC, is the responsibility of the Administering Organisation. The Commonwealth will not reimburse the Administering Organisation for such costs under any circumstances.

10. Multi-Institutional Agreements

10.1. The Administering Organisation must obtain the written agreement of each Other Eligible Organisation and Partner Organisation necessary to allow the Program to progress. Evidence of agreement is to be maintained by the Administering Organisation and must be made available if requested by the ARC.

10.2. The written agreement required by clause 10.1 must accord with the arrangements outlined in the Proposal and include provisions that:

a) outline the responsibilities of each Other Eligible Organisation and Partner Organisation in contributing to the governance for the Program;

b) state the role and contribution to the Program of each Other Eligible Organisation and Partner Organisation;

c) state the financial commitment from each Other Eligible Organisation and Partner Organisation;

d) describe the processes for the entry and exit of all Other Eligible Organisations and Partner Organisations;

e) confirm compliance with the requirements related to Other Eligible Organisations and Partner Organisations as stated in the Funding Rules;

f) are consistent with the details in the Proposal, except as set out in clause 11.5;

g) confirm the participation of Specified Personnel;

h) outline the payment of salaries for Personnel;

i) grant fair access to resources for Personnel;

j) state the Intellectual Property arrangements that apply to the outcomes or results generated by the Program. Such arrangements must comply with the
National Principles of Intellectual Property Management for Publicly Funded Research, unless otherwise approved by the Commonwealth;

k) do not impede or prevent the Administering Organisation from complying with any of its obligations under this Agreement;

l) grant to the Commonwealth the same rights of audits, monitoring and access to premises and records at the Other Eligible Organisations and Partner Organisations, as are conferred by clauses 27 and 28 of this Agreement in respect of the Administering Organisation; and

m) confirm an undertaking by all Other Eligible Organisations and Partner Organisations to abide by the terms of this Agreement.

10.3. A written agreement entered into under this clause 10 must continue to satisfy the requirements of this clause 10 at all times during the Funding Period for the Program.

10.4. The Administering Organisation must ensure that each Other Eligible Organisation and Partner Organisation provides funding and other contributions as set out in the Proposal. The Administering Organisation will retain the written agreements, and make them available to the ARC if required.

11. **Default of Collaborating Organisation or Partner Organisation**

11.1. The Administering Organisation must notify the ARC, in writing, within 90 days, if an Other Eligible Organisation or Partner Organisation wishes to reduce or withdraw its support for the Program. The Administering Organisation may attempt to find a replacement Other Eligible Organisation or Partner Organisation for the Program, or modify remaining Other Eligible Organisation or Partner Organisation arrangements.

11.2. The Administering Organisation must notify the ARC, in writing, within 90 days, if an Other Eligible Organisation or Partner Organisation is in default of any of its obligations under an agreement entered into under clause 10. The Administering Organisation may attempt to find a replacement Other Eligible Organisation or Partner Organisation for the Program, or modify remaining Other Eligible Organisation or Partner Organisation arrangements.

11.3. The notification to the ARC, requesting approval of a variation to this Agreement, as set out in clauses 11.1 and 11.2, must include:

   a) the Other Eligible Organisation or Partner Organisation reducing its support, withdrawing or in default;

   b) the proposed new or replacement Other Eligible Organisation or Partner Organisation, if any;

   c) justification as to the suitability of the new or replacement Other Eligible Organisation or Partner Organisation to contribute to the Program;

   d) a written undertaking from the new or replacement Other Eligible Organisation or Partner Organisation to provide funding and/or other contributions to the Program;

   e) the removal, replacement or addition of Specified Personnel as a result of the withdrawal and/or replacement of an Other Eligible Organisation or Partner Organisation; and
f) justification as to the suitability, including curriculum vitae of new or replacement Specified Personnel to contribute to the Program, and their participation in the Program.

11.4. Any new or replacement Other Eligible Organisation or Partner Organisation must meet the eligibility criteria for organisations as set out in section 6 of the Funding Rules.

11.5. Any new or replacement Specified Personnel must meet the eligibility criteria for researchers as set out in section 7 of the Funding Rules.

11.6. If the ARC approves a variation to this Agreement, the Administering Organisation must revise an existing agreement or enter into an agreement with the new or replacement Other Eligible Organisation or Partner Organisation, as set out in clause 10.

11.7. If the ARC does not approve a variation to this Agreement, the ARC may terminate this Agreement in accordance with clause 36.

12. Commencement of Program

12.1. The Program must commence by no later than 30 September 2012, unless the commencement has been deferred to a later date approved by the ARC.

13. Deferment of Commencement of Program

13.1. If the Administering Organisation wishes to defer commencement of the Program, a written request justifying the requested deferral in terms of special circumstances, must be made to the Scheme Coordinator, through the Administering Organisation’s Research Office, by submitting a Variation of Funding Agreement request, prior to the applicable commencement date specified in clause 12.

13.2. The Administering Organisation must not defer commencement of the Program beyond 30 September 2012, unless the Administering Organisation has received written approval from the ARC.

13.3. Other than in exceptional circumstances, the ARC will not approve the commencement of the Program beyond 31 October 2012. The ARC may recover Funding for any Program which has not commenced by 31 October 2012.

14. Specified Personnel

14.1. The Administering Organisation shall ensure that the Specified Personnel conduct the Program in a diligent and competent manner and comply with this Agreement.

14.2. The Administering Organisation shall provide each CI and PI with a copy of this Funding Agreement within a reasonable time after the commencement of the Funding.

14.3. The Administering Organisation warrants that it has made proper inquiries of the Specified Personnel in relation to their eligibility to perform the Program.

14.4. The Administering Organisation must ensure that, unless otherwise approved by the ARC, all CIs and PIs named in Schedule A meet the criteria in section 7 of the Funding Rules for the full term of their participation in the Program.

14.5. The Administering Organisation must ensure that each Australian based PI who is to work on the Program has the approval of her/his employing organisation to participate in the Program.
14.6. The Administering Organisation is not required to obtain the agreement of the employing organisation of an overseas PI to participate in the Program (unless that PI is employed by an Australian organisation).

15. Change of Specified Personnel

15.1. If any Specified Personnel is at any time during the term of the Program no longer able to continue in their role the Program, the Program may be continued under one or more other person(s) provided that:

   a) there is at least one CI who was an original CI on the Proposal working on the Program unless approved by the ARC.

   b) all replacement or additional Specified Personnel meet the eligibility criteria as specified in the Funding Rules for the particular role they are to perform, for the periods for which they are to perform that role;

   c) all replacement Specified Personnel have a track record which is commensurate with the standard of the original research team which was awarded the Program;

   d) approval is sought from the Scheme Coordinator for the change in Specified Personnel:

      i. by completing and forwarding a Variation of Funding Agreement request form available on the ARC website and attaching the documents specified as required including the curriculum vitae of the replacement person(s); and

      ii. within 3 months of the date that the Specified Personnel cease working on the Program;

   e) If replacement Specified Personnel are proposed for the Program, the Administering Organisation must obtain certifications from the Specified Personnel and their employers which have the same effect to those required to be obtained for the other Specified Personnel on the Program; and

   f) the change is approved, in writing, by the ARC if the person being replaced was the Program Director, or by the ARC in all other cases.

16. Transfer of Specified Personnel

16.1. The Program cannot be transferred by the Administering Organisation to another Eligible Organisation.

16.2. With the exception of the Program Director, Specified Personnel can transfer to an Eligible Organisation.

16.3. The Administering Organisation must promptly notify the Scheme Coordinator of any Specified Personnel on the Program who moves to an Eligible Organisation other than the Administering Organisation at any time during the Funding Period for the Program.

17. Negation of Employment by the Commonwealth

17.1. Specified Personnel and the Administering Organisation shall not represent themselves as being employees, partners or agents of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.
17.2. Specified Personnel and the Administering Organisation shall not by virtue of this Agreement or for any purpose be deemed to be employees, partners, or agents of the Commonwealth, or as having any power or authority to bind or represent the Commonwealth.

18. **Conduct of Research**

18.1. The Program shall be conducted in accordance with the approved Proposal subject to any Special Conditions specified in this Agreement including Schedules, and with any other requirements or conditions imposed by the ARC in connection with any Funding covered by this Agreement.

18.2. The Administering Organisation must ensure that all research undertaken by or on behalf of, or involving, the Program has the necessary clearances and/or approvals of, all relevant government or regulatory organisations, agencies, authorities and ethics committees. Responsibility for ensuring such clearances have been obtained remains with the Administering Organisation.

18.3. All parties involved in or associated with the Program are required to disclose to the ARC, and the other parties involved in the Program (including Other Eligible Organisations and Partner Organisations), any actual or potential Conflict of Interest which has the potential to influence, or appear to influence, the research and activities, publications and media reports, or requests for funding related to the Program.

18.4. If the Administering Organisation or any Specified Personnel become aware of any such actual or potential Conflict of Interest relating to any party involved in the Program, the Administering Organisation must:

   - a) notify the ARC immediately of the nature and details of the Conflict of Interest; and
   - b) have established processes in place for managing the actual or potential conflict of interest for the duration of the Program. Such processes must comply with the Australian Code for the Responsible Conduct of Research (2007).

18.5. If the Administering Organisation or any Specified Personnel has failed to disclose a Conflict of Interest, the Commonwealth may do any of the things provided for in clause 5.3.

18.6. The Program must, unless otherwise approved by the ARC in writing, conform to the principles outlined in the following and their successor documents which are accessible via the ARC website (http://www.arc.gov.au/about_arc/policy.htm):

   - a) the Australian Code for the Responsible Conduct of Research (2007);
   - b) as applicable, the National Statement on Ethical Conduct in Human Research (2007); and
   - c) as applicable, the NHMRC’s other codes on animal research.

19. **Access Regime**

19.1. The Administering Organisation must implement and manage the Initiative to facilitate access to the Australian Synchrotron facility under the draft Access Regime described in Schedule D. This model is based on a peer review merit system consistent with
international best-practice while applying *juste retour* principles to adequately account for underlying funding proportions.

19.2. The Administering Organisation must enter into an agreement with the Australian Synchrotron to enable the Program to proceed prior to Funding commencing. Evidence of this agreement is to be maintained by the Administering Organisation and must be made available if requested by the ARC. This agreement must:

a) meet the Initiative’s objectives outlined in section 4.2.2 of the Funding Rules;

b) be consistent with the governance arrangements outlined in the Proposal;

c) align with the merit-based selection principles and *juste retour* principles outlined in Schedule D;

d) establish transparent mechanisms of reporting of allocation and usage; and

e) enable the efficient transfer of Funds consistent with the conditions of this Agreement and in line with the Australian Synchrotron’s four monthly experimental cycles.

20. **Material Produced under this Agreement and Dissemination of Research Outputs**

20.1. The Administering Organisation must establish and comply with its own procedures and arrangements for the ownership of all Material produced as a result of the Program funded under this Agreement.

20.2. For any Material produced under this Agreement, the Administering Organisation shall ensure that all Specified Personnel (CIs and PIs):

a) take reasonable care of, and safely store, any data or specimens or samples collected during, or resulting from, the conduct of their Project;

b) make arrangements acceptable to the ARC for lodgement with an appropriate museum or archive in Australia of data or specimens or samples collected during, or resulting from, their Project; and

c) include details of the lodgement or reasons for non-lodgement in the Progress Reports (if applicable) and the Final Report for the Program.

20.3. The ARC strongly encourages publication in publicly accessible outlets and the depositing of data and any publications arising from the Program in an appropriate subject and/or institutional repository.

20.4. The Final Report must justify why any publications from the Program have not been deposited in appropriate repositories within 12 months of publication. The Final Report must outline how data arising from the Program has been made publicly accessible where appropriate.

20.5. This clause survives the expiration or earlier termination of this Agreement.

21. **ARC Assessments**

21.1. The Administering Organisation must ensure that, for the term of this Agreement, if requested by the ARC, CIs including the Program Director, agree to assess up to twenty new proposals for ARC Funding per year for each year of Funding.
21.2. If the ARC determines that a CI has failed to meet the obligation to assess proposals assigned by the ARC for assessment, the ARC may notify the Administering Organisation in writing of that failure.

21.3. If a CI does not undertake assessment of the assigned proposals within a period specified by the ARC of the notice referred to in clause 21.2 above, the Administering Organisation will be considered to be in breach of this Agreement and Funding for the Program under this Agreement may be terminated.

22. **Intellectual Property**

22.1. The Administering Organisation must adhere to an Intellectual Property policy, approved by the Administering Organisation’s governing body, which has as one of its aims the maximisation of benefits arising from research. The Commonwealth makes no claim on the ownership of Intellectual Property brought into being as a result of the Program for which Funding is provided.

22.2. Unless otherwise approved by the ARC, the Administering Organisation’s Intellectual Property policy referred to in clause 22.1 must comply with the National Principles of Intellectual Property Management for Publicly Funded Research as amended from time to time.

22.3. The Administering Organisation, if it is not a Commonwealth Entity which is contracting on behalf of the Commonwealth, will indemnify the Commonwealth, its officers, employees and agents against any liability, loss, damage, costs and expenses arising from any claim, suit, demand, action or proceeding by any person in respect of any infringement (or alleged infringement) of Intellectual Property rights by the Administering Organisation, its employees, agents or subcontractors in the course of, or incidental to, performing the Program, or the use by the Commonwealth of reports provided by the Administering Organisation under this Agreement.

22.4. The indemnity referred to in clause 22.3 shall survive the expiration or termination of this Agreement.

23. **Protection of Personal Information**

23.1. The Administering Organisation agrees with respect to all activities related to or in connection with the performance of the Program or in connection with this Agreement:

   a) to comply with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988*;

   b) not to transfer personal information held in connection with this Agreement outside Australia, or to allow parties outside Australia to have access to it, without the prior approval of the ARC;

   c) to co-operate with any reasonable demands or inquiries made by the Privacy Commissioner or the CEO in relation to the management of personal information by the Administering Organisation or breaches or alleged breaches of privacy;

   d) to ensure that any person who has an access level which would enable that person to obtain access to any personal information (as defined in the *Privacy Act 1988*) is made aware of, and undertakes in writing, to observe the Information Privacy Principles referred to in paragraph (a) above;
e) to comply with any policy guidelines laid down by the ARC or issued by the Privacy Commissioner from time to time relating to the handling of personal information;

f) to comply with any reasonable direction of the CEO to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Administering Organisation that the Federal Privacy Commissioner considers to be a breach of the obligations in 23.1.a, above;

g) to comply with any reasonable direction of the CEO to provide the Privacy Commissioner access for the purpose of monitoring the Administering Organisation’s compliance with this clause;

h) to indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the obligations of the Administering Organisation under this clause or any misuse of personal information held, or any disclosure by the Administering Organisation in breach of an obligation of confidence whether arising under the Privacy Act 1988 or otherwise;

i) to ensure that any record (as defined in the Privacy Act 1988) containing personal information provided to the Administering Organisation by the Commonwealth or any other person pursuant to this Agreement is, at the expiration or earlier termination of this Agreement, either returned to the ARC or deleted or destroyed in the presence of a person authorised by the ARC to oversee such deletion or destruction; and

j) to the naming or other identification of the Administering Organisation in reports by the Privacy Commissioner.

23.2. The Administering Organisation shall immediately notify the ARC if the Administering Organisation becomes aware of a breach of its obligations under clause 23.1.

23.3. This clause survives the expiration or earlier termination of this Agreement.

24. Confidentiality

24.1. Subject to clause 24.2, the ARC agrees not to disclose any Confidential Information of the Administering Organisation, without the Administering Organisation’s consent.

24.2. The ARC will not be taken to have breached its obligations under clause 24.1 to the extent that the ARC discloses Confidential Information:

a) to its officers, employees, agents, external professional advisers or contractors solely to comply with obligations, or to exercise rights, under this Agreement;

b) to its internal management personnel solely to enable effective management or auditing of this Agreement or the National Competitive Grants Program or the Initiative;

c) for a purpose directly related to the enforcement or investigation of a possible breach of any Commonwealth, State, Territory or local law;

d) to the Minister, or in response to a demand by a House or a Committee of the Commonwealth Parliament;
e) within the ARC, the Department or another government agency or authority, 
where this serves the ARC’s, the Department’s or the Commonwealth’s 
legitimate interests;

f) as required or permitted by any other law, or an express provision of this 
Agreement, to be disclosed; and/or

g) that is in the public domain other than due to a breach of this clause 24.

24.3. The Commonwealth warrants that, for a period of three years from the date of submission 
of the Final Report for the Program, it will consult with the Administering Organisation 
before any information which is contained in any reports related to the Program, and which 
the Administering Organisation has indicated is confidential and should not be disclosed, is 
disclosed to any person other than an officer, employee, agent or member of the ARC or 
the Minister. If disclosure is required to other persons, the Commonwealth will discuss the 
intended terms of disclosure with the Administering Organisation.

24.4. This clause has precedence over section 15.3 Confidentiality of the Funding Rules.

25. **Acknowledgments, Publications, Publicity**

25.1. Subject to commercial sensitivities and Intellectual Property considerations, the outcomes 
of the Program are expected to be communicated to the research community and, where 
appropriate and possible, to the community at large.

25.2. When, at any time during or after completion of the Program, the Administering 
Organisation publishes promotional material, books, articles, television or radio programs, 
newsletters or other literary or artistic works which relate to the Program, the 
Administering Organisation must ensure (wherever possible) that the ARC’s and 
NHMRC’s contribution and support of the Program is acknowledged in a prominent place 
and an appropriate form acceptable to the ARC and NHMRC. Similar efforts should be 
made when publicly speaking about the Program. Advice of acceptable forms of 
acknowledgement and use of the ARC logo is provided on the ARC website. The 
Administering Organisation must ensure that the NHMRC logo is not used without 
NHMRC’s prior written consent to that specific use of the logo, which NHMRC may give, 
refuse or revoke in its absolute discretion and the NHMRC may give consent subject to 
any terms or conditions that it considers reasonable.

25.3. This clause survives the expiration or earlier termination of this Agreement.

26. **Administration of the Funding**

26.1. The Administering Organisation must maintain reasonable, up-to-date and accurate records 
relating to the Funding in general and the Program conducted with the Funding, in 
particular to verify its compliance with this Agreement.

26.2. Records maintained under clause 26.1 must be retained by the Administering Organisation 
for the Program for a period of no less than seven years after whichever is the later of:

a) the final payment of Funds by the ARC for the Program; or

b) the final approved carryover of Funds for the Program.

27. **Audit and Monitoring**

27.1. The Administering Organisation is responsible for monitoring the expenditure of the 
Funding and certifying to the ARC that the Funding has been expended in accordance with
this Agreement in the End of Year Report. If at any time, in the opinion of the Responsible Officer of the Administering Organisation, the Funding is not being expended in accordance with this Agreement, the Administering Organisation shall take all action necessary to minimise further expenditure in relation to the Program and inform the ARC immediately.

27.2. The ARC may conduct ad hoc on-site reviews in relation to financial and other reports to ensure that the terms of this Agreement are being, or were, met and that reports submitted to the ARC are an accurate statement of compliance by the Administering Organisation and are not misleading. Persons nominated by the ARC to conduct these reviews are to be given full access by the Administering Organisation, if required, to all accounts, records, documents and premises in relation to the Funding and the administration of the Funds in general.

27.3. The Administering Organisation must:
   a) provide information to the Scheme Coordinator, or a person nominated by the Scheme Coordinator, as reasonably required by the Scheme Coordinator;
   b) comply with all reasonable requests, directions, or monitoring requirements received from the Scheme Coordinator; and
   c) cooperate with and assist the ARC in any review or other evaluation that the ARC undertakes.

27.4. During the year listed under the heading ‘Year of Program Review’ in Schedule A, or as otherwise approved by the ARC, a review of the Program’s performance against the objectives listed in section 4.2.2 of the Funding Rules will be conducted as described in Schedule B.

28. Access to Premises and Records

28.1. The Administering Organisation shall, at all reasonable times, give to the CEO or any person authorised in writing by the CEO:
   a) unhindered access to:
      i. the Administering Organisation’s employees;
      ii. premises occupied by the Administering Organisation; and
      iii. Material; and
   b) reasonable assistance to:
      iv. inspect the performance of the Program;
      v. locate and inspect Material relevant to the Program or the Administering Organisation’s compliance with this Agreement or the Program; and
      vi. make copies of any such Material and remove those copies and use them for any purpose connected with this Agreement or the Program.

28.2. The access rights in clause 28.1 above are subject to:
   c) the provision of reasonable prior notice by the ARC; and
   d) the Administering Organisation’s reasonable security procedures.
28.3. If a matter is being investigated which, in the opinion of the CEO or the ARC, or any person authorised in writing by the CEO, may involve an actual or apprehended breach of the law, clause 28.2 will not apply.

28.4. Upon receipt of reasonable written notice from the ARC, or any persons authorised in writing by the CEO, the Administering Organisation must provide any information required by the Commonwealth for monitoring and evaluation purposes.

28.5. Nothing in clauses 28.1 to 28.4 inclusive affects the obligation of each party to continue to perform its obligations under this Agreement unless otherwise agreed between them.

28.6. The Auditor-General, or a delegate of the Auditor-General for the purpose of performing the Auditor-General’s statutory functions, at reasonable times and on giving reasonable notice to the Administering Organisation, may:
   a) require the Administering Organisation to provide records and information which are directly related to this Agreement;
   b) have access to the premises of the Administering Organisation for the purposes of inspecting and copying documentation and records, however stored, in the custody or under the control of the Administering Organisation which are directly related to this Agreement; and
   c) where relevant, inspect any Commonwealth Assets and Commonwealth Material held on the premises of the Administering Organisation.

28.7. This clause shall survive the expiration or earlier termination of this Agreement.

29. **Reporting Requirements**

29.1. The Administering Organisation must submit the following reports and statement, in accordance with this Agreement and the ARC Act, in the format required by the ARC, if specified.

29.2. **End of Year Report**
   a) The Administering Organisation shall submit an End of Year Report by 31 March in the year following each calendar year for which the Funding was awarded. The first End of Year Report is due on 31 March 2013. The ARC will provide the Administering Organisation with a pro forma for this report.
   b) The End of Year Report will contain information on all expenditure for that year under the Approved Proposal, including:
      i. any unspent Funds to be recovered by the Commonwealth;
      ii. any unspent Funds that the Administering Organisation is seeking to have carried over into the next year; and
      iii. the reasons why the unspent Funds are required to be carried over.
   c) Under paragraph 58(1)(e) of the ARC Act, Funds provided by the Commonwealth to the Administering Organisation which are not spent during each year of the Funding Period to which those funds were allocated may be carried over if approved by the ARC. If the Administering Organisation wishes any Funds to be carried over from year to the next year, the Administering Organisation must request this approval in the End of Year Report on the calendar year in which those Funds were initially paid.
d) Where a carryover is requested for 75% or more of the Funds allocated for a calendar year (excluding any Funds carried over from the previous calendar year), separate written justification must be provided.

e) Funds may be carried over more than twelve months only in exceptional circumstances and subject to approval by the ARC. Separate written justification must be provided in this instance.

29.3. Annual Report

a) The Administering Organisation must submit an Annual Report by 30 March in the year following each calendar year for which Funding was awarded. The first Annual Report is due 30 March 2013. The Annual report will include details regarding the following matters:

i. The extent to which the objectives of the Initiative and the Proposal have been met;

ii. summary of highlights and any issues, including mitigation strategies;

iii. details of applications for access, hourly rate and actual beamtime usage at the Australian Synchrotron funded by the Initiative;

iv. outcomes of any merit proposal review process and details of any adjustments to allocations under the juste retour principle;

v. measurement and account of performance against performance targets as set out in Schedule C;

vi. all expenditure for the calendar year;

vii. funding and/or other resources provided by the Administering Organisation, Other Eligible Organisations and Partner Organisations, and any other sources of support;

viii. details of governance meetings as stated in Schedule B; and

ix. any other matters which from time to time may be specified on the ARC website as matters which must be included in an Annual Report.

b) If the ARC is not satisfied with the progress of the Program, further payment of Funds will not be made until satisfactory progress has been made on the Program. If satisfactory progress is still not achieved within a reasonable period of time, the Funding may be terminated and all outstanding monies will be recovered by the ARC.

c) Unsatisfactory progress on the Program may be noted against any further proposals under any ARC Scheme submitted by, or on behalf of, the CIs and will be taken into account in the assessment of those proposals.

29.4. Final Report

a) Unless otherwise approved by the ARC, the Administering Organisation must ensure that a Final Report is provided within twelve months of final payment of Funds by the ARC for the Program or within twelve months of the final carryover of Funds approved by the ARC, whichever is the later. The form for this report will be made available by the ARC on the ARC web page. The
ARC may review the outcomes against the objective(s) of the Program as stated in the Proposal or any approved revised budget, aims and research plan.

b) If the Final Report is considered by the ARC to be inadequate or is not submitted on time, the Administering Organisation of the Program may be contacted for further information. If the ARC is not satisfied with the outcomes of the Program, this may be noted against any further proposals under any ARC scheme submitted by, or on behalf of, the Chief Investigators and may be taken into account in the assessment of those proposals.

c) Proposals submitted under any ARC scheme by, or on behalf of any CI on the Program for which the Final Report is outstanding may be deemed ineligible for approval of Funding.

29.5. Audited Financial Statement:

a) In accordance with Section 58 of the ARC Act, the Administering Organisation shall submit an Audited Financial Statement by 30 June for each year following each calendar year for which the Funding was awarded.

b) In completing the Audited Financial Statement, the Administering Organisation must ensure that the amount shown in that statement as ‘approved carry forward funds’ is the same as the amount (if any) for which approval was given by the ARC to carry over in the End of Year Report.

29.6. This clause survives the expiration or earlier termination of this Agreement.

30. Copyright in Proposals and Reports

30.1. Copyright in any Proposal and all reports provided under this Agreement will vest in the Administering Organisation at the time of creation but the Administering Organisation grants to the Commonwealth a permanent, irrevocable, royalty-free, non-exclusive licence to use and reproduce information contained in a Proposal or a report and publish it on a non-profit basis for any purpose related to:

a) the evaluation and assessment of proposals;

b) verifying the accuracy, consistency and adequacy of information contained in a Proposal, or otherwise provided to the ARC;

c) the preparation and management of any Funding Agreement;

d) the administration, auditing, management or evaluation of the National Competitive Grants Program or any Funding scheme administered by the ARC;

e) the sharing of information by the ARC within the ARC’s organisation, or with another Commonwealth Department or agency, or Commonwealth Minister or parliamentary committee, where this serves the Commonwealth’s legitimate interests; or

f) where the use, reproduction or publication of the material is authorised or required by law.

30.2. If a Proposal or a report contains information belonging to a third party, the Administering Organisation must ensure that it has in place all necessary consents sufficient to allow the ARC to deal with the information or any report in accordance with this Agreement.

30.3. This clause survives the expiration or earlier termination of this Agreement.
31. **Australian Research Integrity Committee**
31.1. The Administering Organisation must provide to the Australian Research Integrity Committee (ARIC) upon request, any documentation and information concerning allegations of its mishandling of internal reviews into alleged cases of research misconduct, and/or non-compliance with the Australian Code for the Responsible Conduct of Research (2007). ARIC may be contacted via a link on the ARC website (http://www.arc.gov.au/general/research_integrity.htm).

32. **Recovery of Unspent Funds or Overpayment of Funds**
32.1. Any unspent Funds may be recovered by the Commonwealth under paragraph 58(1)(c) of the ARC Act. Any amount of Funding paid to the Administering Organisation which exceeds the amount of financial assistance that is properly payable to it may be recovered under paragraph 58(1)(d) of the ARC Act.
32.2. The ARC may offset the unspent or overpaid Funds against the total of any further Funds payable to the Administering Organisation.
32.3. This clause survives the expiration or earlier termination of this Agreement.

33. **Indemnity**
33.1. The Administering Organisation, if it is not a Commonwealth entity which is contracting on behalf of the Commonwealth, will indemnify the Commonwealth, its officers, employees and agents against any liability, loss, damage, costs and expenses arising from any claim, suit, demand, action or proceeding by any person, where such loss or liability was caused by a wilful, unlawful or negligent act or omission of the Administering Organisation, its employees, agents or subcontractors in connection with this Agreement.
33.2. The Administering Organisation’s liability to indemnify the Commonwealth under clause 33.1 shall be reduced proportionally to the extent that any act or omission of the Commonwealth or its employees or agents contributed to the loss or liability.
33.3. The indemnity referred to above shall survive the expiration or termination of this Agreement.

34. **Insurance**
34.1. The Administering Organisation must effect and maintain adequate insurance or similar coverage to cover any liability arising as a result of its participation in the Program and, if requested, provide the ARC with a copy of the relevant policies or when appropriate Certificate of Currency. The Administering Organisation shall be responsible for effecting all insurances required under Worker’s Compensation legislation and for taking all other action required as an employer.

35. **Dispute Resolution**
35.1. The Parties agree not to commence any legal proceedings in respect of any dispute arising under this Agreement until the procedure provided by this clause 35 has been followed.
35.2. The Parties agree that the following procedure will be used in an expeditious way to resolve a dispute:

   a) the Party claiming there is a dispute will notify the other Party in writing, 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;

c) 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

d) if:
   i. there is no resolution of the dispute;
   ii. there is not 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 30 Business Days of the submission, or such extended time as the Parties may agree in writing before the expiration of the 30 Business Days; then, either Party may commence legal proceedings.

35.3. This clause 35 does not apply to action that the Commonwealth takes, or purports to take, under clause 5, 34 or 36 or where a Party commences legal proceedings for urgent interlocutory relief. (clause 5 relates to payment of funds, clause 34 relates to recovery of unspent funds or over-allocated funds, clause 36 relates to termination.)

35.4. Despite the existence of the dispute, the Administering Organisation must (unless requested in writing by the ARC not to do so) continue to perform its obligations under this Agreement.

36. **Termination of the Agreement**

36.1. The ARC may immediately terminate Funding for the Program by notice in writing to the Administering Organisation if:

   a) the Administering Organisation commits any material breach of this Agreement which the Commonwealth considers is not capable of remedy;
   b) in the opinion of the ARC, progress on the Program is not satisfactory;
   c) the ARC reasonably believes that it has received inaccurate, incomplete or misleading information in relation to the Program, including in the Proposal or in any report provided under this Agreement;
   d) the ARC reasonably believes there is fraud or misleading or deceptive conduct on the part of the Administering Organisation or any Specified Personnel;
   e) the Administering Organisation fails to comply with any additional ARC requirement or condition notified by the ARC under clause 3.2;
   f) the ARC receives notice that work on the Program will cease, or has ceased;
   g) the Administering Organisation is unable to continue its role for any reason;
   h) the ARC considers it appropriate for any reason.
37. **Compliance with Law**

37.1. The Administering Organisation shall, in carrying out this Agreement, comply with the provisions of any relevant statutes, regulations, by-laws, and requirements of any Commonwealth, State, Territory or local authority.

38. **Liaison**

38.1. Researchers should direct all queries regarding ARC Funding to their Administering Organisation’s Research Office in the first instance. All communications from the Administering Organisation to the ARC or the Minister, relating to the Funding should be made through the Responsible Officer of the Administering Organisation and should be directed to the Scheme Coordinator at the following address:

Scheme Coordinator (*Special Research Initiatives*)
Australian Research Council
GPO Box 2702
CANBERRA ACT 2601
Phone: 02 6287 6600
Fax: 02 6287 6638
Email: SRI@arc.gov.au

39. **Applicable Law**

39.1. This Agreement will be governed by and interpreted in accordance with the laws of the Australian Capital Territory and the Parties submit to the non-exclusive jurisdiction of the courts of that Territory.
## Schedule A

**ARC Special Research Initiative in Synchrotron Science**

*Administering Organisation: XXXXXXXX*

*Initiative Title: XXXXXXXX*

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<thead>
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<th>Specified Personnel</th>
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This list of Specified Personnel must include and explicitly identify:

1. Program Director (PD)
2. Chief Operations Officer (COO)
3. Chief Investigator (CI)
4. Partner Investigator (PI)

**Year of Initiative Review** – 2014

*Funding Agreement for the Special Research Initiative in Synchrotron Science for funding commencing in 2012*
SCHEDULE B
Special Conditions for the Initiative

B.1 Personnel
a) The first-named CI from the Administering Organisation on the Proposal will be the Program Director. The duties of the Program Director are those described in clause 7.1 and 7.2 of the Funding Rules.
b) The Administering Organisation must appoint a person to be responsible for the day-to-day management of the Initiative. This person will have the title of Program Manager or Chief Operating Officer. This role is not to be filled by the Program Director.
c) Researchers associated with the Initiative may apply for research funding, for projects not associated with the Initiative, from other sources including other ARC initiatives and schemes.

B.2 Governance
a) The Administering Organisation will establish and maintain an advisory committee (or equivalent) to oversee the management of the Initiative. This committee will include representation from Other Eligible Organisations and Partner Organisations, the Australian Synchrotron. The Chair of the advisory committee must be appointed by vote from the committee members, and must not be the Program Director or a CI employed by the Australian Synchrotron or the Administering Organisation.
b) The purpose of the advisory committee is to assist the Program Director with the management of the Program by contributing to the development of strategies and vision for the future relative to the proposed objectives for the Initiative, and to provide independent oversight of the merit-based Access Regime and juste retour methodology.
c) The advisory committee must meet at least twice a year.

B.3 Review
a) During the year listed under the heading ‘Year for Initiative Review’ in Schedule A, the Initiative will undergo a rigorous and comprehensive external performance review undertaken by the Commonwealth.
b) The review will evaluate the Initiative’s performance against the Initiative objectives outlined in the Funding Rules and the specific Initiative objectives set out in the Proposal, and the specific performance targets or milestones identified in the Proposal and in Schedule D of this Agreement. The operations, management and governance of the Initiative will also be evaluated.
c) Continuation of Funding for the remaining years of the Funding Period will be dependent on the outcome of the review. The Initiative may be terminated following the review if, in the opinion of the Commonwealth, that Initiative is not performing or operating at the level expected of an ARC Special Research Initiative.
d) Ad hoc review of the Initiative may be held at any time.
SCHEDULE C

Key Performance Indicators for: Special Research Initiative in Synchrotron Science

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<tr>
<th>Key Result Area</th>
<th>Performance Measure</th>
<th>Reporting Frequency</th>
<th>Target 2012</th>
<th>Target 2013</th>
<th>Target 2014</th>
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Funding Agreement for the Special Research Initiative in Synchrotron Science for funding commencing in 2012
SCHEDULE D

Access to the Australian Synchrotron – Principles and Processes Underpinning the Access Plan

a) Access is to be in line with the international best-practice merit-based access system as agreed by the ARC.

b) Judgements of scientific merit will be consistent with Australian and New Zealand practice and will include considerations of national benefit, national priorities and career opportunity.

c) Usage will be reported to the funding bodies and stakeholder community on a regular (at least annual) basis.

d) Usage will be continually audited to ensure that access rounds provide appropriate return on investment via a juste retour principle. Strict cycle by cycle access quotas are not proposed as they will significantly distort the merit principle. The international experience is that appropriate return on investment can be provided over a medium-term average using juste retour.

e) Consistent with the juste retour principle, all beamtime allocations will have an identifiable source of funding. Allocations of Australian Synchrotron (AS) access with no identifiable funding contribution to the AS may therefore attract usage charges at a full cost rate.

The merit selection of proposals for access to the AS will operate as follows:

a) Beamtime proposals are peer reviewed by a minimum of two external scientific reviewers. The review criteria are scientific merit, the need and appropriateness of the requested synchrotron capability for the experiment, and the track record of the team. In parallel proposals are reviewed for safety and feasibility by AS staff.

b) The proposals and referee scores and comments are reviewed by a Proposal Advisory Committee (PAC) (there is a separate PAC for each beamline) which adjusts the scoring (if needed) to a common scale, and recommends a specific beamtime allocation in 8 hour shifts. The PACs produce a list of approved proposals in priority order for each beamline as a recommendation to the AS Director.

c) After review and approval by the AS Director, the approved proposal lists are forwarded to each beamline for scheduling. The beamline staff allocates time to the proposals in order of priority until the available beamtime is filled. Any approved proposals which cannot be scheduled in the available time can be re-submitted in the next operating cycle.

d) The User Office notifies the applicants of the outcome of their proposal and coordinates the administration and regulatory steps (safety training, travel support etc) required before an experiment can begin.

e) The outcomes of the merit proposal review process will be monitored each cycle, to determine whether the AS stakeholders application rates and the merit process outcomes mirror their expectations of access based on their funding contributions across a medium term (multiple cycle) period. The outcomes will be auditable and reported to the relevant funding bodies and stakeholders. If required, adjustments in time allocations can be made in line with the juste Retour principle at the stage of the review by the AS Director (3rd step above).
IN WITNESS WHEREOF the parties have agreed to this Agreement on the date first above written.

SIGNED for and on behalf of
THE COMMONWEALTH OF AUSTRALIA

by .................................................
insert name of signatory above

signatory to sign above

the .....................................................
insert signatory’s title above
of the Australian Research Council

In the Presence of:

..................................................
insert name of witness above

witness to sign above

SIGNED for and on behalf of
[Eligible Organisation Name]

by ............................................................
insert name of signatory above

signatory to sign above

the ..........................................................
insert signatory’s title above
of the said Administering Organisation who,
by signing, certifies that he/she has the authority
so to sign

In the Presence of:

.......................................................
insert name of witness above

witness to sign above