



**BELOW THE BELT
FUNDING AGREEMENT**

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Below the Belt Funding Agreement

Parties

ANZUP	ANZUP Cancer Trial Group Limited ACN 133 634 of Level 18, Tower 3, 300 Barangaroo Avenue, Barangaroo NSW 2000, Australia
Contact:	Attn: Adj. Prof. Samantha R. Oakes Email: samantha.oakes@anzup.org.au Tel: +612 9054 3600 Mob: +61 418 409 953

The Recipient	Name of [address]
Contact:	Attn: [Name] Email: Tel: Fax:

Collaborating Institutions (if any)	Name of [address] Attn: [Name] Email: Tel: Fax: Name of [address] Attn: [Name] Email: Tel: Fax:
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Background

- A. ANZUP is a non-for-profit cancer cooperative trials groups that conducts high quality clinical trial research to improve treatment of urogenital (Bladder, Kidney, Testicular, Penile and Prostate) cancers. ANZUP brings together a world leading multidisciplinary network of clinicians and researchers including its consumer advisory panel to explore and define priority areas in GU cancer clinical trials research.
- B. In line with ANZUP's strategic plan and with the support of Below the Belt events, the Below the Belt Research Fund has been established to support our members in the development of investigator-initiated studies that seek to improve the outcomes of those impacted by urogenital cancers.

- C. After rigorous peer review, the ANZUP Board has approved the award of Below the Belt funding for the [title of project] Project at a total of **\$50,000** as described in Schedule 2.
- D. This funding agreement sets out agreement to provide the Recipient with the Below the Belt funding to administer the Project to be undertaken under the day-to-day direction of the Principal Investigator
- E. The Recipient agrees to ensure the Project is undertaken in accordance with the Grant Application as described in Schedule 2 and the terms of this Agreement.

Operative Terms

1 Term

- 1.1 This agreement commenced on the Commencement Date and continues for the Term unless terminated in accordance with the terms of this Agreement.
- 1.2 If the Recipient wants to extend the Term of this Agreement, it must provide ANZUP with reasons in writing as to why an extension is sought, and include the extended Term proposed, at least 60 Business Days prior to the end of the Research Period.
- 1.3 ANZUP may exercise sole discretion whether or not to accept any request for extension under clause 1.2.

2 Grant of Funding

Grant

- 2.1 ANZUP agrees to provide the Funding to the Recipient for the purpose of carrying out the Project.

Accountability

- 2.2 The Recipient must ensure that the Funding is only used for the purpose of performing the Project.

Grant conditions

- 2.3 The Recipient acknowledges and agrees that it is a condition of this Agreement that the Recipient must keep current at all times during the Term of this Agreement and provide ANZUP on request from time to time with current versions of:

- (a) **(Agreements with Collaborating Institutions, if any)** any valid agreements between the Recipient and a Collaborating Institution involved in the Project which satisfies clause 4.1(d);
- (b) **(Institutional Approvals)** copies of any and all relevant Institutional Approvals for the Recipient and Collaborating Institutions (if any), including those required under clause 15;
- (c) **(Insurance)** evidence that the Recipient has, and all Collaborating Institutions (if any), obtained insurance referred to in clause 8 of this Agreement.

(collectively, “**the Grant Conditions**”)

2.4 The Recipient must notify ANZUP as soon as possible if it reasonably considers that the Grant Conditions are no longer satisfied or that they will not be satisfied. The Recipient must provide such notice at least within 5 Business days from the date which the Recipient from such view, or the Grant Conditions cease to be satisfied (whichever occurs earlier).

2.5 ANZUP may terminate the Agreement in accordance with clause 21.2 if the Recipient is unable to satisfy the Grant Conditions.

Acknowledgement

- 2.6 ANZUP acknowledges and agrees that:
- (a) the Project involves research;
 - (b) the nature of research means that the Project may not result in any particular outcome, product or commercial Intellectual property; and
 - (c) the Recipient is not obliged to create any outcome, product or commercial Intellectual property as a result of the Project.

3 Accounts and Records

- 3.1 In conducting the Project, the Recipient must keep and maintain complete, accurate and proper accounts and records, including financial accounts and records, in relation to:
- (a) the use of the Funding;
 - (b) the conduct of the Project;
 - (c) all Intellectual Property created in the course of the Project and any Background IP used in the Project.

(collectively, “**the Accounts and Records**”)

- 3.2 The Accounts and Records must be sufficient:
- (a) to enable ANZUP to identify all expenditure of the Funding;
 - (b) for the preparation of financial statement in accordance with Australian Accounting Standards;
 - (c) for the audit of those account and records in accordance with Australian Auditing Standards and generally accepted auditing practices.

3.3 The Recipient must provide copies of any Accounts and Records to ANZUP, ANZUP’s auditors or accountants, at ANZUP’s request.

4 Performance of Project

- 4.1 The Recipient must:
- (a) **(Compliance with Agreement)** perform, and require all of its Research Personnel, and any other personnel or third parties involved in the Project to perform, the Project in accordance with this Agreement, the Grant Application and any reasonable directions of ANZUP;
 - (b) **(Terms)** complete the Project within the Term or any agreed extension thereof;
 - (c) **(Expected or actual delay)** promptly notify ANZUP in writing of any expected or actual delay or suspension of more than 3 months in the progress of the Project;
 - (d) **(Collaborating Institutions)** enter into a separate agreement with each Collaborating Institution to facilitate the conduct of the Project and performance of this Agreement, including in relation to the Intellectual property use and commercialisation obligations in clause 17, the use of the Funding, identifying what aspects of the project will be performed by the Collaborating Institution to comply with any obligations imposed on the Collaborating Institution under this Agreement;
 - (e) **(Law, ethics, standards and approvals)** perform, and ensure all of its Research Personnel, and any other personnel or third parties involved in the Project perform, the Project:
 - (i) in accordance with all applicable laws, including not engaging in any practice that is contrary to any industrial law or any modern award or other industrial instrument made under or pursuant to such laws;
 - (ii) with due care and skill;
 - (iii) to high professional, ethical and industry standards, including best practice standards for the conduct of research and good scientific practice.

- (f) **(Expertise and ability to perform)** ensure that it has the ability, expertise, staff, premises, laboratory equipment, machinery and other resources necessary to perform the Project and its obligations under this Agreement.
- (g) **(No other funding for research covered by Project)** not accept, and procure that none of its Research Personnel accepts, funding from a third party for a project or for research that duplicates any aspect of the Project or research specified in the Project.

5 Reporting

- 5.1 The Recipient acknowledges and agrees that it must provide to ANZUP such reports as outlined in Schedule 3 and detailed as follows:
 - (a) **(Progress Reports)** annual progress reports detailing the progress of the Project in the 12 month period, or part thereof, preceding the annual progress report each year of the Project after the Commencement Date; and
 - (b) **(Final Report)** a final report due no later than 30 days after the completion of the Project.
- 5.2 Each report provided in accordance with clause 5.1 must contain accurate and complete information on the:
 - (a) conduct or performance of the Project;
 - (b) progress in achieving the aims of the Project as described in the Grant Application, including progress in achieving the expected outcomes and any delays or anticipated delays and their projected impact on the Project; and
 - (c) any technical problems encountered by the Recipient, or any Research Personnel involved in the Project, and progress in resolving those problems
- 5.3 On the date set out under Schedule 3, the Recipient must provide a Final Audited Financial Report, prepared by an independent auditor in compliance with Australian Auditing Standards and generally accepted auditing practices and containing accurate and complete information, for the entire period up to and including the earlier of the end of the Term and the completion of the Project, including:
 - (a) a detailed statement of receipts and expenditure in respect of the Funding received by the Recipient and expended by the Recipient and any Collaborating Institution for the Project;
 - (b) a definitive statement as to whether the financial accounts are complete and accurate;

- (c) a statement of the balance of the Recipient's bank account/ledger relating to the Project.

- 5.4 Any reports provided by the Recipient to ANZUP must be provided both electronically and in hard copy, and on or before the dates set out in Schedule 3.

6 Non-solicitation of ANZUP donors and supporters

- 6.1 The Recipient acknowledges and agreed that ANZUP expends time and resources in selecting appropriate projects to fund through its Below the Belt funding scheme under the recommendation from the Scientific Advisory Committee and its Board of Directors allowing trials to begin that other would not have been able to proceed, and providing support for other projects in line with ANZUP's missions of improving the lives of people affected by bladder, kidney, testicular, penile and prostate cancer through practice changing multidisciplinary collaborative clinical trials.
- 6.2 The Recipient agrees not to, and must ensure that the Research Personnel do not, solicit additional or further funding directly from any ANZUP Donor. This clause 6.2 does not apply in respect of any ANZUP Donor with whom the Recipient has a pre-existing relationship before that ANZUP Donor is introduced to the Recipient by ANZUP.

7 Changes to Project

- 7.1 Subject to this clause 7, the Recipient must not change, amend or modify the Project without ANZUP's prior written consent.
- 7.2 The parties may, at any time, request a change to the Project ("**Change**"). The Recipient must not make a request for a Change to ANZUP unless the Recipient has first consulted in good faith with any Collaborating Institutions about such Change.
- 7.3 If the Recipient requests a Change, it must provide to ANZUP information reasonably necessary to assess the request for Change, including:
 - (a) the reasons for the request;
 - (b) evidence that the Recipient has consulted with any Collaborating Institutions;
 - (c) the anticipated impact on the Project, including whether any additional or less time or resources will be reasonably required to implement the Change, and any proposed new completion date or extension of time in accordance with clause 1.

8 Insurance

- 8.1 The Recipient must effect and maintain, at the Recipient's sole cost and expense, during the Term, valid and enforceable insurance. This insurance must provide adequate and appropriate cover against the risk of legal liability to any person arising in connection with this Agreement, the performance of the Project or the subject matter of the Project, including, as appropriate, public liability, worker's compensation and professional indemnity insurance, and any other insurance required, including by law, to be effected and maintained in connection with the Agreement, the performance of the Project or the subject matter of the Project.
- 8.2 The Recipient must ensure that any insurance required under clause 8.1:
- (a) is placed with a reputable insurer authorised to conduct an insurance business in Australia by the Australian Prudential Regulation Authority, which has a financial strength rating of A- or better by Standard & Poor's or the equivalent index in relation to other rating agencies; and
 - (b) is placed with minimum limits of \$20,000,000 per event, occurrence or claim as appropriate.

9 Indemnity

- 9.1 The Recipient indemnifies ANZUP against all damage, expense, loss or liability suffered or incurred by ANZUP, its officers, employees and agents in connection with:
- (a) any breach or negligence by the Recipient, any Collaborating Institution or any of its Research Personnel (including any Principal Investigator or Co-Investigator) or any external investigator, in connection with this agreement or the Project, including a failure by the Recipient to ensure that any of its Research Personnel comply with this agreement or perform the Project; and
 - (b) any third party claim relating to the Project or any part of the Project, including its conduct or outcome or that use by the Recipient, Collaborating Institution or any of the Research Personnel (including any Principal Investigator or Co-Investigator) or any external investigator of any Background IP or New IPRs or the conduct of the Project, or any part of the Project, infringes a third party's rights, including any IPRs, right of confidentiality or moral rights.
- 9.2 The Recipient's liability to indemnify ANZUP under clause 9.1 will reduce proportionally to the extent

that any damage, expense, loss or liability suffered or incurred by ANZUP, its officers, employees and agents was caused by a breach of this Agreement, or negligence in connection with this Agreement or the Project, by ANZUP its officers, employees or agents.

10 Payment of Funding

- 10.1 Subject to the Recipient complying with this Agreement, the Recipient may issue a tax invoice to ANZUP for payment of the instalment of the Funding ("**Payment Schedule**"), and on the dates, set out in Schedule 2.
- 10.2 On ANZUP's receipt of a correctly rendered tax invoice in accordance with clause 10.1, ANZUP must pay the applicable instalment of the Funding, set out in Schedule 2, to Recipient within 30 Business Days after ANZUP receives the invoice.
- 10.3 Except as set out in clause 10.2, ANZUP is not obliged to make any payment in connection with the Project. ANZUP is not obliged to provide any further funding to the Recipient or otherwise in connection with the Project. For the avoidance of doubt, the parties agree that the Funding is non-renewable.
- 10.4 ANZUP may, at its sole discretion, withhold, defer, reduce or not make a payment of any part of the Funding:
- (a) if it forms the reasonable opinion following discussion with the Recipient that the full payment of the Funding is not required to complete the Project; or
 - (b) until the Recipient performs or complies with its obligations under this Agreement including financial reporting requirements as set out under clause 5, that are required to be completed up to the date when the applicable instalment of the of the Funding is due to be paid, to ANZUP's reasonable satisfaction.

11 Use of Funding

- 11.1 The Recipient acknowledges and agrees that:
- (a) it must only use, and permit Research Personnel involved in the Project to use the Funding for the purpose of performing the

- Project as described in Schedule 2 and direct costs associated with the Project and for no other purpose, project or research; and
- (b) the Funding will not be used towards indirect costs, only for research costs as itemised in the application budget.

11.2 For the avoidance of doubt, ANZUP is not responsible, and Funding must not be used, for any salary or other remuneration, employee on-costs or other entitlements or conditions of service under any law or industrial instrument in relation to any Research Personnel (including any Principal Investigator or Co-Investigator), except as explicitly included as part of the approved budget specified in the Grant Application. The Recipient must pay and otherwise take responsibility for any Excluded Employment Costs and other entitlements or conditions of service payable or due to its Research Personnel.

11.3 The Recipient acknowledges and agrees that it is solely responsible for administration of the Funding, including distribution of the Funding to the Research Personnel (including any Principal Investigator or Collaborating Investigator) and all Collaborating Institutions involved in the Project, and accepts full financial responsibility for the Funding, and that ANZUP has no obligation to pay any part of the Funding to any Collaborating Institution or Research Personnel (including any Principal Investigator or Co-Investigator).

12 Refund of unused Funding

12.1 If the Agreement is terminated, for any reason, prior to the completion of the Project, or the Project is completed without the expenditure of the entire Funding, the Recipient must:

- (a) notify ANZUP of the amount of any surplus funds within 20 Business Days of termination or completion of the Project; and
- (b) return all remaining funds to ANZUP within a further 20 Business Days of providing notice to ANZUP under clause 12.1(a).

12.2 ANZUP may, in its sole discretion, negotiate with the Recipient in relation to the use of any of the surplus funds referred to in clause 12.1, by the Recipient, in relation to further research related to the Project as described in the Grant Application.

13 Principal Investigator and Research Personnel

13.1 The Recipient must:

- (a) use all reasonable efforts to ensure that the Principal Investigator, Co-Investigator and any other Research Personnel involved in the

Project are available to perform or conduct the Project during the Term; and

- (b) promptly notify ANZUP if the Principal Investigator, Co-Investigator or any other Research Personnel involved in the Project become unavailable to perform or conduct the Project during the Term and must use all reasonable efforts to replace that person with a suitable candidate with the expertise required to undertake the Project.

14 GST

Definitions regarding GST

14.1 In this clause 14:

- (a) expressions that are not defined, but which have a defined meaning in the GST Law, have the same meaning as in the GST Law;
- (b) any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 14; and
- (c) any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause 14.

Consideration is exclusive of GST

14.2 Unless expressly stated otherwise, any sum payable, or amount used in the calculation of a sum payable, under this Agreement has been determined without regard to GST and must be increased on account of any GST payable under this clause 14.

Receiving Party to pay additional amount

14.3 If GST is imposed on any supply made under or in accordance with this Agreement, the recipient of the supply ("**Receiving Party**") must pay to the supplier ("**Supplier**") an additional amount equal to the GST payable on the supply, subject to the Receiving Party receiving a valid tax invoice, or a document that the Commissioner will treat as a tax invoice, in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time and in the same manner as payment for the supply is required to be made in accordance with this Agreement.

Fines, penalties and interest

14.4 The amount recoverable on account of GST under this clause 14 by the Supplier will include any fines, penalties, interest and other charges incurred as a

consequence of any late payment or other default by the Receiving Party under this clause 14.

Reimbursement

14.5 If any party is required to pay, reimburse or indemnify another party for the whole or any part of any cost, expense, loss, liability or other amount that the other party has incurred or will incur in connection with this Agreement, the amount must be reduced by the amount for which the other party can claim an input tax credit, partial input tax credit or other similar offset.

Adjustment events

14.6 If, at any time, an adjustment event arises in respect of any supply made by a party under this Agreement, a corresponding adjustment must be made between the parties in respect of any amount paid to the Supplier by the Receiving Party pursuant to clause 14.3 and payments to give effect to the adjustment must be made and the Supplier must issue an adjustment note.

15 Institutional Approvals

15.1 The Recipient must ensure that any research conducted pursuant to the Project is done in accordance with the principles outlined in relevant National and International regulations and guidelines, codes, and statements (and any replacement versions) including but not limited to:

- (a) ICH Guideline for Good Clinical Practice and Integrated Addendum to ICH E6(R1): Guidelines for Good Clinical Practice ICH E6(R2) 2016 (replaced Note for Guidance on the Good Clinical Practice, Annotated with TGA comments CPMP/ICH/135/95, July 2000);
- (b) National Clinical Trials Governance Framework and User Guide for Health Service Organisations Conducting Clinical Trials;
- (c) Australian Clinical Trial Handbook: Guidance on conducting clinical trials in Australia using 'unapproved' therapeutic goods (2021);
- (d) NHMRC Guidance on Risk-based Management and Monitoring of Clinical Trials Involving Therapeutic Goods;
- (e) Relevant ANZUP and Institutional Clinical Trial Standard Operating procedures that are available via the ANZUP member portal webpages;
- (f) National Statement on Ethical Conduct in Human Research (NHMRC, 2023);
- (g) Australian Code for the Responsible Conduct of Research (2018);
- (h) National Principles of Intellectual Property Management for Publicly Funded Research;

- (i) Values and Ethics - Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research (NHMRC, 2003);
- (j) Ethical guidelines on the use of assisted reproductive technology in clinical practice and research (NHMRC, 2007);
- (k) Guidelines for Genetic Registers and Associated Genetic Material (NHMRC, 1999);
- (l) Guidelines issued under section 95 of the Privacy Act 1988 (Cth);
- (m) Guidelines approved under section 95A of the Privacy Act 1988 (Cth);
- (n) Medical Device Specific: ISO 14155:2020 Clinical investigation of medical devices for human subjects — Good clinical practice;
- (o) Animal Specific: Australian code of practice for the care and use of animals for scientific purposes (NHMRC, 2004); and
- (p) Animal Specific: Principles and guidelines for the care and use of non-human primates for scientific purposes.

15.2 The Recipient must ensure all necessary approvals for the duration of the Project are in place, including:

- (a) TGA approvals (eg CTN, CTA scheme);
- (b) Human Research Ethics Committee (HREC) and local Research Governance Officer (RGO) approvals for research involving human subjects (initial and annual as required); and
- (c) Institutional Biosafety Committee approvals for the use of radioactive substances, ionising radiation, biohazardous materials, potent teratogens and/or carcinogens.

16 Acknowledgement of Support

16.1 The Recipient must:

- (a) acknowledge ANZUP as a funding source on all publications related to the Project (according to the Publication Policy in Schedule 4), and in any presentation in connection with the Project or the subject matter of the Project, in a clear, unambiguous and readily-identifiable way in such form as ANZUP reasonably requests or approves prior to publication or the presentation;
- (b) participate in donor, media or other publicity events in connection with the Project as reasonably requested by ANZUP during the Term and for a period of 1 year following the Term or such other period as agreed in writing by ANZUP and the Recipient from time to time.

16.2 The Recipient acknowledges and agrees that clause 16.1 applies to publications, including any publication resulting from the research or project the subject of the Project, oral and poster conference presentations containing or referring to that research or project and institutional reports, or releases of details of such research or project to the media, in any form.

17 Intellectual Property Rights (IPRs)

Background IP

17.1 The parties agree that ANZUP and the Recipient, (and relevant Collaborating Institutions) own their respective Background IP and is responsible for ensuring that it has the rights necessary to conduct the Project with the Collaborating Institutions.

17.2 The parties, including any Collaborating Institutions or Research Personnel, must not directly or indirectly engage in any conduct that might impair or prevent the protection of any Background IP.

New IPRs

17.3 All right, title and interest in each identifiable or separately registrable item of New IPRs arising from the Project will be owned jointly by both parties as tenants in common.

17.4 The Recipient must notify ANZUP promptly, in writing, of any New IPRs to which the Recipient reasonably believes ANZUP may have rights.

17.5 Each party must do all things necessary to perfect and record the ownership of any New IPRs as contemplated by clause 17.3.

Commercialisation

17.6 If the Recipient wishes to commercialise, or have commercialised, any Project Results or New IPRs, or otherwise deal with any Results, data or other information derived from the Project, for any commercial purpose, it must first enter into an appropriate licence agreement with ANZUP.

17.7 ANZUP agrees to negotiate a licence agreement in good faith on terms acceptable to all parties.

18 Confidentiality and Privacy

General obligations

18.1 Each party must:

- (a) hold the Confidential Information of the other party in strict confidence and refrain from disclosing, causing or, or permitting disclosure

of the information, unless expressly permitted by this Agreement or with the prior written consent of the other party;

- (b) not use any other party's Confidential Information except as required to perform its obligations under this Agreement;
- (c) not perform any analysis, synthesis, reformation, decomposition, disassembly or reverse engineering of a party's Confidential Information without the written consent of the other party;
- (d) not make use of another party's Confidential Information to the commercial, financial or competitive disadvantage of the owner of such Confidential Information; and
- (e) promptly notify the other if they suspect, or become aware of, any unauthorised use, storage, copying or disclosure of the other party's Confidential Information.

18.2 The Recipient must ensure all Collaborating Institutions, Research Personnel or other third parties engaged to perform any part of the Project, complies with this clause 18.

Required by Law

18.3 If required by law, a party may disclose the Confidential Information of any other party, but only after providing written notice to the other parties and use reasonable efforts to limit the terms of any disclosure properly requested.

Return of Confidential Information

18.4 If requested by ANZUP at any time, and upon expiry or termination of this Agreement, the Recipient must immediately return to ANZUP, or destroy, delete and erase as ANZUP directs, all original documents and copies that contain Confidential Information of ANZUP or that reproduce, are based on, utilise or relate to ANZUP's Confidential Information.

18.5 The Recipient's obligations under clause 18.4 does not relieve the Recipient from its other obligations under this Agreement.

Privacy

18.6 Any Personal Information or Health Information (as defined under any applicable Privacy Laws) that a party collects during the Project or becomes privy to as a result of this Agreement must be handled in accordance with that party's obligations under all applicable laws.

19 Publication

General obligations

- 19.1 The parties acknowledge that the fundamental objective this Agreement is for ANZUP to provide the Funding so that the Recipient may conduct the Project, which includes research activities for the advancement and dissemination of research findings which may benefit the public and create new knowledge.
- 19.2 Each party ("**Publishing Party**") (including any Collaborating Institution or Research Personnel) must prior to publishing any information pertaining to the conduct and findings of the Project (including New IPRs) provide the other parties a copy of all proposed publication material along with information on how, when, and to whom it is proposed to be published at least 30 days prior to the proposed submission date for publication ("**Review Period**"), with the only requirement that the review be performed in accordance with clause 19.3;

Requests for changes

- 19.3 If during the Review Period, a party reasonably requests that the material not be published or submitted for publication in the form specified by the Publishing Party, the Publishing Party must:
- (a) make all reasonable attempts to amend the proposed publication material to remove all of the Confidential Information requested by the other party, in which case the requesting party will be deemed to have approved the publication or submission of the amended material; and
 - (b) if requested, postpone the publication of the material or submission of the material for publication for a period not exceeding 30 days to allow for proper registration of any registrable IPRs.
- 19.4 If a party withholds consent or demands adjustments in accordance with clause 19.3, it must provide its reasons for such refusal in writing.

Failure to notify of decision

- 19.5 If a party fails to notify the Publishing Party of its decision to approve or request changes to the publication material, along with any appropriate justifications, during the Review Period, such party is deemed to have consented to the publishing or submissions of the material under this clause 19.

20 Students (if applicable)

Student participation

- 20.1 The Recipient must ensure that any Student(s) participating in the Project are supervised by appropriate staff and comply with any internal policies and procedures applicable to students.
- 20.2 The Recipient acknowledges and agrees that any Student(s) will be considered Research Personnel for the purposes of this Agreement.

Thesis copyright

- 20.3 The parties acknowledge and agree that the copyright in any thesis authored by a Student who participates in the Project vests and remains with the Student.

Student IPRs

- 20.4 Prior to participating in any aspect of the Project pursuant to this Agreement, the Student(s) must notify their relevant university (where the Student is admitted) of the Student's participation, and the university must ensure that the Student:
- (a) assigned to the parties any of their rights in any New IPRs (other than copyright vested in their thesis);
 - (b) grants a royalty-free, unrestricted perpetual licence (including a right to sub-licence) to the parties for the purpose of using any copyright in the Student's thesis in accordance with clause 17.6; and
 - (c) agrees to comply with clause 19 prior to publishing any thesis, including any reference to material relating to the Project.

Confidentiality

- 20.5 ANZUP may, at its sole discretion, require that the Recipient must enter into confidentiality agreements with each of its Students and any external examiners appointed to review a thesis of such Student before being granted access to another party's Confidential Information, and such confidentiality agreement must comply with the provisions of clauses 17 and 19.

Thesis content

- 20.6 The parties acknowledge and agree that, notwithstanding any other provision of this Agreement, a Student participating in the Project may include material other than Results, Confidential Information or personal information relating to the conduct and findings of the Project in any thesis authored by the Student, which is to be made publicly available in accordance with any applicable policies and regulations of the university where the Student is admitted.

21 Termination

Termination with notice

21.1 Either party may terminate this Agreement at any time by giving the other party 30 days' written notice of termination.

Termination without notice

21.2 ANZUP may immediately terminate this Agreement by giving written notice to the Recipient if:

- (a) the Recipient breaches a material term of this Agreement, which is not capable of remedy;
- (b) the Recipient commits a breach of any of the provisions of this Agreement which is capable of being remedied to ANZUP's satisfaction, but is not remedied within 14 days after written notice of that breach being given to the Recipient; or
- (c) the Recipient suffers an Insolvency Event.

Termination upon completion

21.3 Without limiting clauses 21.1 and 21.2, this Agreement will terminate automatically upon the completion of the Project.

Reservation of rights and remedies

21.4 Termination of this Agreement for any reason will not prejudice any rights or remedies a party may have already accrued under, or in respect to, any breach of this Agreement.

Survival

21.5 Without limiting those clauses which, by their nature, survive termination or expiry, clauses 1, 3, 5, 6, 8, 9, 12, 14, 16, 17, 18, 22.1, 22.2, 22.3 and 23 survive termination or expiry of this Agreement.

22 General

Notices

22.1 Any notice under this Agreement must be in writing and signed by the relevant party's Officer nominated under the Parties details and addressed to the recipient party's address nominated on page 1 (Parties details) of this Agreement.

22.2 A notice will be deemed to have been received if, posted in Australia, on the seventh day (or upon any earlier acknowledgement thereof by the recipient party), or if sent by email, the date which the email arrives in the recipient party's inbox prior to 5pm AEST. If an email is sent after 5pm AEST, it

will be deemed to have been received the following day.

22.3 Where a notice fails to comply with clause 21.1, the parties agree that it will be of no effect.

Further assurances

22.4 Each party must promptly do all further acts required by law or reasonably requested by the other party to give effect to this Agreement or any obligation thereunder.

Inconsistency

22.5 Where there is an inconsistency between the Agreement or a Schedule, then the first-mentioned terms will prevail to the extent of the inconsistency.

Representations and warranties

22.6 Each party acknowledges that they have not relied on any representations or warranties made by the other party in relation to the subject matter of this Agreement except as expressly provided for in this Agreement.

Waiver

22.7 Waiver of any rights arising from a breach of this Agreement must be in writing and executed by the party granting the waiver.

22.8 A failure to exercise, a delay in exercising or a partial exercise of a right created or arising from a breach of this Agreement does not result in a waiver of that right.

Variations

22.9 Any variation of this Agreement must be agreed to in writing and executed by both parties.

Relationship between the parties

22.10 This Agreement is not intended to create a relationship of joint venture, agency or partnership between any of the parties, or except as otherwise provided for in this Agreement, establish any of the parties as an agent or representative of any other party.

Entire Agreement

22.11 This Agreement including any Schedules, replaces all previous Agreements between the parties concerning the subject matter and contains the entire Agreement between the parties.

Severability

22.12 A provision of, or the application of a provision of, this Agreement which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction, or the remaining provision in that or any other jurisdiction.

22.13 Where a clause in this Agreement is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this Agreement.

Execution and counterparts

22.14 This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this Agreement, and all together constitute one agreement.

22.15 Delivery of an executed counterpart of this Agreement by email in PDF or other image format, will be equally effective as delivery of an original signed hard copy of that counterpart.

22.16 If a party delivers an executed counterpart of this deed under clause 22.16:

- (a) it must also deliver an original signed hard copy of that counterpart, but failure to do so will not affect the validity, enforceability or binding effect of this Agreement; and
- (b) in any legal proceedings relating to this Agreement, each party waives the right to raise any defence based upon any such failure.

Governing law and jurisdiction

22.17 This Agreement is governed by and construed in accordance with the law of New South Wales, and the parties agree to submit to the exclusive jurisdiction of the courts of New South Wales, Australia.

23 Interpretation and Definitions

Interpretations

23.1 Except where context otherwise requires:

- (a) headings in this Agreement are for convenience only and do not affect its interpretation or construction;
- (b) no rule of construction applies to the disadvantage of a party because this Agreement is prepared by (or on behalf of) that party;
- (c) where any word or phrase is defined, any other part of speech or other grammatical

form of that word or phrase has a cognate meaning;

- (d) a reference to a document (including this Agreement) is a reference to that document (including any schedules and annexures) as amended, consolidated, supplemented, novated or replaced;
- (e) references to recitals, clauses, subclauses, paragraphs, annexures or schedules are references to recitals, clauses, subclauses, paragraphs, annexures and schedules of or to this Agreement;
- (f) in each schedule to this Agreement, a reference to a paragraph is a reference to a paragraph in that schedule;
- (g) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (h) an expression importing a natural person includes any individual, corporation or other body corporate, partnership, trust or association and any Governmental Agency and that person's personal representatives, successors, permitted assigns, substitutes, executors and administrators;
- (i) a reference to writing includes any communication sent by post or email;
- (j) a reference to time refers to time in Sydney, New South Wales and time is of the essence;
- (k) all monetary amounts are in Australian currency;
- (l) a reference to a "**liability**" includes a present, prospective, future or contingent liability;
- (m) the word "**month**" means calendar month and the word "**year**" means 12 calendar months;
- (n) the meaning of general words is not limited by specific examples introduced by "**include**", "**includes**", "**including**", "**for example**", "**in particular**", "**such as**" or similar expressions;
- (o) a reference to a "**party**" or "**parties**" is a reference to a party or the parties to this Agreement and a reference to a "**third party**" is a reference to a person that is not a party to this Agreement;
- (p) a reference to anything is a reference to the whole and each part of it;
- (q) a reference to a group of persons is a reference to all of them collectively and to each of them individually;
- (r) words in the singular include the plural and vice versa; and
- (s) a reference to one gender includes a reference to the other genders.

Definitions

23.2 The following words have these meaning in this Agreement:

Agreement means this Below the Belt Funding Agreement and any Schedules thereto.

ANZUP Donor means an ANZUP donor or supporter, or a person who has donated or supported ANZUP, who is introduced to the Recipient as part of an ANZUP promotional or fundraising activity.

Australian Accounting Standards means the standards of that name maintained by Australian Accounting Standards Board created by s 226 of the *Australian Securities and Investments Commission Act 2001* (Cth).

Australian Auditing Standards means the standards of that name maintained by Australian Accounting Standards Board created by s 227A of the *Australian Securities and Investments Commission Act 2001* (Cth)

Background IP means Intellectual Property that is owned or controlled by a party prior to the Commencement Date or is independently developed after the Commencement Date by a party and includes any Improvements made solely by a party to Intellectual Property so owned or controlled by that Party.

Business Day means a day on which banks are open for business in Sydney, New South Wales, and the capital city in the state or territory in which ANZUP is primarily located, excluding Saturday, Sunday or a public holiday in those cities.

Commencement Date has the meaning given under Item 1

Confidential Information means all information relating the activities and business of a party, all whether in oral, written, graphic, or machine-readable form, or in any other form, including, but not limited to, concepts, techniques, processes, methods, systems, designs, drawings, proprietary images, photographs, models, prototypes, computer programs, research materials, formulas and formulation, development or experimental work, work in progress, mask work, inventions, know how, cost data, price lists, marketing plans and activities, market, product plans and roadmaps, business practices and strategies, financial information, forecasts, personnel information and customer or supplier lists, and any object that embodies any of the foregoing or derived there from, whether such information is specifically designated by any of them as

confidential, or may reasonably be regarded as confidential by its nature.

Excluded Employment Costs means all employment related costs and expenses including but not limited to overhead costs, payroll tax, leave entitlements, other salary on-costs, termination payments, overtime or penalty rates, leave loading, incentives such as bonuses, workers compensation insurance, long service leave allowances and any other employment allowances or entitlements howsoever described.

Funding means the Below the Belt funding set out under Schedule 2 and paid by ANZUP to the Recipient in accordance with this Agreement.

Governmental Agency means any government or governmental, semi governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

Grant Application means the Grant Application set out in Schedule 2.

GST has the same meaning given to that expression in the GST Law.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as in force from time to time.

GST Law has the same meaning given to that expression in the GST Act.

Improvements means any improvements, enhancements, modifications, adaptations, extensions, developments, mutations, applications, and all other technical advances made by or on behalf of a party to its Background IP.

Insolvency Event means, in respect of a party:

- (a) where the party is an individual, that party commits an act of bankruptcy or is declared bankrupt or insolvent or that party's estate otherwise becomes liable to be dealt with under any law relating to bankruptcy or insolvency;
- (b) where the party is a company, a resolution is passed, or court order made for the winding up of that party or an administrator is appointed to that party pursuant to any relevant law;
- (c) a receiver or manager or receiver and manager is appointed to the assets or undertaking of the party or any part thereof; or

- (d) the party is otherwise unable to pay its debts as and when they fall due.

Intellectual Property (IPRs) means patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, trade names and domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how, trade secrets and marketing secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

New IPRs means all discoveries, developments, inventions (whether patentable or not), improvements, methods of use or delivery, know-how, or trade secrets which are made by the Recipient as a result of the performance of the Project or the use of any information provided to the Recipient under 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; (this definition has been taken from section 6 of the *Privacy Act 1988* (Cth)).

Principal Investigator means the principal investigator set out in Item 6 of Schedule 1 and the Grant Application.

Privacy Laws means the *Privacy Act 1988* (Cth), including the Australian Privacy Principles, and any other legislation, code or guideline which applies in the jurisdiction in which the Project is located and which relates to the protection of Personal Information.

Progress Report has the meaning given in clause 5.1(a).

Project means the Project listed in Schedule 1 and otherwise conducted pursuant to the Grant Application.

Publication means any proposed manuscript, abstract, paper, journal article, student thesis, or content of any oral, poster or other presentation.

Reports means the reports set out at Item 10 of Schedule 1 and clause 5.

Representatives means any employee, officer, agent, contractor, sub-contractor, student or volunteer of a party to this Agreement.

Research Personnel are all those persons listed under Item 7 of Schedule 1, or otherwise engaged by the Recipient to perform the Project.

Results means all outcomes from the Recipient conducting or performing the Project, including all information, data and tangible objects arising from Recipient's performance of the Project.

Stamp Duty means any stamp, transaction or registration duty or similar charge imposed by any Governmental Agency and includes any interest, fine, penalty, charge or other amount in respect of the above.

Student means a person admitted as a student with a party that is a university under the rules and policies of that university.

Tax or Taxation means:

- (a) any tax, levy, impost, deduction, charge, rate, compulsory loan, withholding or duty by whatever name called, levied, imposed or assessed under the Tax Acts or any other statute, ordinance or law by any Governmental Agency (including profits tax, property tax, interest tax, income tax, tax related to capital gains, tax related to the franking of dividends, bank account debits tax, fringe benefits tax, sales tax, payroll tax, superannuation guarantee charge, group or Pay as You Go withholding tax and land tax);
- (b) unless the context otherwise requires, Stamp Duty and GST; and
- (c) any interest, penalty, charge, fine or fee or other amount of any kind assessed, charged or imposed on or in respect of the above.

Term means the period nominated under Item 5 of Schedule 1, or such other period agreed to between the parties in writing.

Execution

Executed as an agreement

Executed by an authorised person of **ANZUP Cancer Trials Group Limited**
ACN 133 634 956:

.....
Signature of authorised person

.....
Name of authorised person

Date:

Executed by an authorised person of **[Insert Recipient name and ACN/ABN]:**

.....
Signature of authorised person

.....
Name of authorised person

Date:

Schedule 1

Key Terms

ITEM #		
1.	Commencement Date	The date this Agreement is signed by all parties
2.	Research Period	Period during which the Research will be undertaken: Start Date: XX December XXXX End Date: XX December XXXX or when the results are published
3.	Location	The research will be conducted at NAME ADDRESS Attention Email: Telephone: Fax:
4.	Research Purpose	The Below the Belt moneys are to used in accordance with the application as described in Schedule 2 and the terms of this Agreement.
5.	Term	This Agreement will commence on the Commencement Date and continue until the end of the Research Period, unless terminated earlier in accordance with this Agreement.
6.	Principal Investigator	[name]
7.	Research Personnel (where applicable)	Research Personnel: [add names as applicable]
8.	Ethics/Biosafety Approvals	All approvals required are detailed in the Agreement.
9.	Project	[name of project]
10.	Reports (if any)	Annual Reports on the anniversary of the Commencement Date and Final Report at the end of the Study due no longer than 30 days after the completion of the Study

Schedule 2

[attach grant application]

Schedule 3

Payment and Reporting Schedule

All amounts are in AUD and exclusive of GST

Payment Schedule:

Payment milestone	Total \$AUD
30 Days after execution and receipt of an invoice (XX XX XXXX)	\$XX,XXX
Total	\$XX,XXX

Reporting Schedule:

Report	Date
Annual Progress report	XX XX XXXX
Final report and audited financial statement	XX XX XXXX

Schedule 4

ANZUP Publication Policy



ANZUP Publications
Policy_V3_Dec 2022.p