

Biomedical Translation Fund - Licence for BioScience Managers Translation Fund I

Commonwealth of Australia represented by the Department of Industry,
Innovation and Science
Commonwealth

BioScience Managers Pty Ltd
Manager

Phillip Asset Management Limited
Trustee

s22

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Date s47(1)(b)

Parties

Commonwealth of Australia, represented by the Department of Industry, Innovation and Science of 10 Binara Street, Canberra City ACT 2600 (Commonwealth)

BioScience Managers Pty Ltd ACN 124 669 192 of Level 10, 330 Collins Street, Melbourne, Victoria (Manager)

Phillip Asset Management Limited ACN 064 847 669 of Level 10, 330 Collins Street, Melbourne, Victoria (Trustee)

Details

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Background

- A. The BTF Programme is an equity co-investment venture capital programme that will support the development of Biomedical Discovery ventures in Australia as a result of the Australian Government's commitment of capital to establish the Biomedical Translation Fund (**BTF**). The programme objectives are set out in full in clause 6.1.
- B. The Trustee and Manager have applied for a licence to act as the trustee and manager (respectively) of a venture capital fund under the BTF Programme.
- C. The Commonwealth has accepted the Trustee's and Manager's application on the terms of this licence, and without in any way approving or being taken to have approved the legal or taxation implications of the form or structure of the fund proposed by the Trustee and Manager, for the purposes of this licence or otherwise.

Operative provisions

1. Definitions and Interpretation

1.1 Definitions

The following words have these meanings in this licence. Other capitalised terms have the meaning set out in the BTF Terms.

Advisory Board means that committee referred to at clause 5.3 of this licence and as established under clause 3 of the BTF Terms.

Associate has the meaning given in clauses 1.4 to 1.6 of the BTF Terms.

Auditor means the auditor of the Fund appointed under the Investment Documents, and **Audit** and **Audited** each has a corresponding meaning.

Auditor-General means the office established under the *Auditor-General Act 1997* (Cth) and includes any other person that may, from time to time, perform the functions of that office.

Australian Accounting Standards means, at any time:

- (a) the requirements of the Corporations Act about the preparation and contents of financial reports;
- (b) the accounting standards approved under the Corporations Act; and
- (c) generally accepted accounting principles, policies, practices and procedures in Australia to the extent not inconsistent with the accounting standards described in paragraph (b).

Authorised Deposit-Taking Institution or **ADI** has meaning given in the *Banking Act 1959* (Cth).

Authorised Investment means:

- (a) money in an account or on deposit with an Authorised Deposit-Taking Institution; or
- (b) an Eligible Investment.

Authorised Officer means a person appointed by a party to act as its authorised officer for the purposes of this licence.

Biomedical Discovery means a therapeutic, medical or pharmaceutical product, process, service (including digital health services), technology or procedure that represents the application and commercialisation of the outcomes of health and medical research for the purpose of improving health and wellbeing through prevention, diagnosis and treatment. It does not include alternative or complementary medicine, or traditional medicine.

Board means Innovation and Science Australia constituted under section 6 of the IR&D Act, and includes its successors.

Books and Records of the Fund means:

- (a) all books, records, information and data of the Fund; and
- (b) all books, records, information and data of the Trustee and Manager relating to the Fund or the Trustee's or Manager's performance of its obligations under the Governing Documents,

in the custody or under the control of the Manager, and includes:

- (c) all Books of Account; and
- (d) the other information required to be kept under the BTF Terms.

Books of Account means the proper business records in respect of all Fund Property and all investments, dealings and transactions of the Fund, including the Accounts, information regarding transactions affecting bank accounts, the capital account for each Investor, and all documents and books necessary to prepare them.

Borrow means to raise money on Loan or under any other Finance Arrangement, and **Borrowing** has a corresponding meaning.

BTF Licence means a licence granted by the Commonwealth under the BTF Programme.

BTF Policy Objectives means the policy objectives set out in clause 6.1.

BTF Programme means the Commonwealth's equity co-investment venture capital programme to support the development of Biomedical Discovery ventures in Australia.

BTF Terms means the schedule of key terms attached to the Investment Documents.

Business Day means a day (not being a Saturday, Sunday or public holiday) on which Banks are open for general banking business in the Australian Capital Territory and Victoria.

Call has the meaning given in the BTF Terms.

Commencement Date means the date of this licence, as described in item 2 of Schedule 1.

Committed Capital means:

- (a) in respect of the Fund, at any time, the aggregate of the Commitments of the Investors;
- (b) in respect of an Investor, the amount of its Commitment; and
- (c) in the case of another Licensed Fund, its committed capital or committed funds as defined in its constituent documents.

Commitment means:

- (a) the capital that each Investor is obliged to contribute to the Fund as set out in item 4 of Schedule 1; and
- (b) to the extent not covered by paragraph (a), the capital that each Investor is obliged to contribute to the Fund as set out in the Subscription Deed Poll of that Investor; and
- (c) if a person acquires all or part of the Fund Interest of another Investor, the capital that the selling Investor would otherwise be obliged to contribute to the Fund in respect of that Fund Interest, unless the purchasing Investor is already an Investor at the time of purchasing the Fund Interest, in which case the 'Commitment' of that Investor will be increased by that amount,

less any reduction in the amount that Investor is required to contribute to the Fund as a result of a transfer of part of that Investor's Fund Interest to another person in accordance with this schedule.

Commonwealth means the Commonwealth of Australia.

Commonwealth Confidential Information means all confidential, non-public or proprietary information of the Commonwealth regardless of how the information is stored or delivered, exchanged between the Trustee or Manager and the Commonwealth before, on or after the date of this licence, excluding information which:

- (a) is in or becomes part of the public domain other than through breach of this licence or an obligation of confidence owed to the owner of the information; or
- (b) the Trustee or Manager can prove by contemporaneous written documentation was already known to it at the time of disclosure (unless that knowledge arose from disclosure of information in breach of an obligation of confidentiality); or
- (c) the Trustee or Manager acquires from another source entitled to disclose it.

Commonwealth Programme Capital means amounts invested in, or provided to, any Licensed Fund by the Commonwealth under any of the Venture Capital Programmes.

Corporations Act means the *Corporations Act 2001* (Cth).

Deal With in relation to a person and any Fund Interest means to sell, transfer, assign, declare a trust over or part with the benefit of or otherwise dispose of that Fund Interest (or any interest in it) or deal with it in a way which affects the existence or extent of its title and legal and beneficial interest in that Fund Interest (or any interest in it) whether before, on or after the person obtains any interest in the Fund Interest, including to enter into a transaction in relation to the Fund Interest (or any interest in the Fund Interest) which results in a person:

- (a) acquiring or having any interest in the Fund Interest, including an equitable interest arising under a declaration of trust, an agreement for sale and purchase or an option over the Fund Interest;
- (b) acquiring or having any right to receive directly or indirectly any distribution or proceeds of disposal payable in respect of the Fund Interest or any right to receive an amount calculated by reference to any of them;
- (c) acquiring or having any rights of pre-emption, first refusal or other direct or indirect control over the disposal of the Fund Interest;
- (d) acquiring or having any rights of direct or indirect control over the exercise of any voting rights attaching to the Fund Interest; or

- (e) otherwise acquiring or having legal or equitable rights in relation to the Fund Interest which has the effect of placing the other person in substantially the same position as if the person had acquired a legal or equitable interest in the Fund Interest itself.

It includes an agreement to do any of those things, and **Dealt With** has a corresponding meaning.

Department means, subject to section 19C of the *Acts Interpretation Act 1901* (Cth), the Department of Industry, Innovation and Science, and its successors.

Early Stage Venture Capital Limited Partnership or **ESVCLP** has the meaning given in the Venture Capital Act and Tax Act.

Economic Interest has the meaning given the BTF Terms.

Eligible Investee Company means a company which:

- (a) at the time the Fund first makes an investment in it:
- (i) has a majority of its employees (by number) and assets (by value) inside Australia, or will use the whole of the initial investment within Australia;
 - (ii) neither it, nor the corporate group of which it is a member (if applicable), has an average annual revenue over the previous two years in excess of \$25 million per year (the calculation of revenue for a year of income will exclude any abnormal items); and
 - (iii) is incorporated under the Corporations Act and has an Australian Business Number (**ABN**); and
- (b) at the time the Fund first makes an investment in it and at all times thereafter while the Fund holds an interest in the company:
- (i) is commercialising Biomedical Discoveries or will, under the investment arrangement with the Fund, be required to commercialise Biomedical Discoveries;
 - (ii) is providing all of the goods and services it produces through commercialising Biomedical Discoveries to persons who are not Associates; and
 - (iii) is not a body that is an Ineligible Investment.

Eligible Investment means:

- (a) an Economic Interest in an Eligible Investee Company; or
- (b) a loan to an Eligible Investee Company (where the Fund has already invested in the company) for a period not exceeding 185 days (other than a loan, the amount of which is evidenced or created by a new equity convertible note) in accordance with this licence.

Encumbrance means a security for the payment of money or the performance of obligations, including a mortgage, charge, lien, pledge, trust or power, or any agreement to create any of them or allow them to exist, other than any such security arising by operation of law, and **Encumber** has a corresponding meaning.

Event of Default means an event referred to in clause 22.1.

Financial Year means:

- (a) the period from the Commencement Date to the next 30 June;
- (b) the period beginning on 1 July before the date the Investment Documents terminate to the date the Investment Documents terminate; and
- (c) each intervening period of 12 consecutive months ending on 30 June in each year.

Fund means the fund referred to in item 1 of Schedule 1.

Fund Interest has the meaning given in the BTF Terms.

Fund Property means at any time, all the assets of the Fund (including the proceeds from Calls), but subject to the Liabilities at that time of the Fund.

Good Industry Practice has the meaning given in clause 19.4.

Governing Documents means:

- (a) this licence;
- (b) the Investment Documents, including the BTF Terms;
- (c) and any other documents to which the Trustee or Manager (in that capacity) is a party relating to the Fund, the Investors or the investment of Fund Property.

Governing law means Australian Capital Territory.

GST has the meaning given in the GST Law.

GST Law means *A New Tax System (Goods & Services Tax) Act 1999* (Cth) and the related imposition legislation of the Commonwealth.

Ineligible Investment means a company:

- (a) whose primary business activities involve, directly or indirectly, providing capital to others, purchasing debt obligations or factoring;
- (b) whose business is not substantially that of developing and/or commercialising Biomedical Discoveries;
- (c) which is, or is the manager of, another fund licensed under the BTF Programme, the Innovation Investment Fund programme, the PreSeed Fund, the Renewable Energy Venture Capital Fund or any other Government supported venture capital programme in operation from time to time;
- (d) which carries on a business in the capacity of trustee of a trust or in any nominee or representative capacity;
- (e) which proposes to use all or part of the investment made by the Fund to finance the acquisition of land used or intended to be used for agricultural, horticultural or forestry purposes;
- (f) which is a non-profit health and medical research centre; or
- (g) which is, or is in a class of companies, determined by the Programme Delegate from time to time to be ineligible.

Information Commissioner means the office established under the *Australian Information Commissioner Act 2010* (Cth) and includes any other person that may, from time to time, perform the functions of that office.

Insolvent has the meaning given in the BTF Terms.

Interested Person has the meaning set out in the BTF Terms.

Investee Company means a company in which an investment has been made, and continues to be held, by the Fund.

Investment Documents means the deed, constitution or other documents referred to in item 7 of Schedule 1 for the establishment of the Fund, as approved by the Commonwealth, and includes the BTF Terms.

Investment Plan means an investment plan developed by the Manager in accordance with clause 9.1 of this licence.

Investors means all the members of the Fund from time to time, and **Investor** is a reference to any one of them. The initial Investors are listed in item 4 of Schedule 1 to the BTF Terms.

IR&D Act means the *Industry Research and Development Act 1986* (Cth), and any replacement or successor act.

Key Personnel means the personnel listed in item 8 of Schedule 1, subject to any changes approved in accordance with the Investment Documents.

Liabilities in respect of the Fund has the meaning given in the BTF Terms.

Licensed Fund means a fund of whatever nature and whether incorporated or not which, or the manager or responsible entity of which, is to be or has been granted (and continues to hold) a licence under any of the Venture Capital Programmes.

Management Investors means the Private Investors that that are Associates of the Trustee or Manager.

Manager's Office means the registered office for the time being of the Manager. The Manager's Office at the Commencement Date is its address set out in this licence.

Maximum Committed Capital means the amount set out in item 5 of Schedule 1.

Minister means the Minister or Ministers for the time being administering the IR&D Act.

Ministerial Directions means the Ministerial Directions for the BTF Programme.

Pooled Development Fund or **PDF** means a company which is a pooled development fund for the purposes of the *Pooled Development Funds Act 1992* (Cth).

Private Investor means an Investor that provides Privately Sourced Capital.

Privately Sourced Capital means the Committed Capital of Investors other than the Commonwealth, which is not Government Sourced Capital or State and Territory Government Sourced Capital.

Programme Delegate means the officer of the Department authorised from time to time by whatever means to act as programme delegate for the BTF Programme (including any sub-delegate or authorised representative of that officer).

Programme Guidelines means the BTF programme guidelines published by the Commonwealth on 3 August 2016, as amended from time to time.

Required Amount means the amount of Privately Sourced Capital set out in item 6 of Schedule 1.

Subscription Deed Poll means the deed poll in the form set out in Schedule 6 of the BTF Terms.

Term means the period of the Fund referred to in clause 3.1.

Venture Capital Act means the *Venture Capital Act 2002* (Cth).

Venture Capital Limited Partnership or **VCLP** has the meaning given in the Venture Capital Act and Tax Act.

Venture Capital Programmes means the Commonwealth's BTF Programme, s22

1.2 Interpretation rules

In this licence, unless the contrary intention appears:

- (a) a reference to a document or standard (including this licence, accounting standards and Australian standards) includes any variation or replacement of it;
- (b) a reference to a clause or schedule is a reference to a clause in, or schedule to, this licence;
- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) a reference to **law** means common law, principles, doctrines and rules of equity and laws made by parliament (and laws made by parliament include laws made by the parliaments of the Commonwealth of Australia, a State or Territory, and regulations and other instruments under them and consolidations, amendments, re-enactments or replacements of any of them);
- (e) the singular includes the plural and vice versa;
- (f) the word **company** means a company incorporated under the Corporations Act;
- (g) the word **corporation** has the meaning given to it in section 57A(1)(a) and (b) of the Corporations Act;
- (h) the word **director** includes, in the case of a corporation, a member of its board of directors or other governing body;
- (i) the word **consent** means prior written consent;
- (j) the words **Commonwealth may** or **Programme Delegate may** are permissive and not mandatory;
- (k) the word **investment** includes any form of Financial Accommodation, and **invest** and **invested** each has a corresponding meaning;
- (l) the word **person** includes an individual, a firm, a corporation, a partnership, a joint venture, an unincorporated body or association or an authority;

- (m) the word **right** includes any legal, equitable, contractual, statutory or other right, power, authority, benefit, privilege, immunity, remedy, discretion or cause of action;
- (n) a reference to the **affairs** of the Fund includes the business, management and affairs of the Fund;
- (o) a reference to a **person** includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns. This paragraph (o) does not, however, confer any right or power of assignment;
- (p) a reference to the **Manager and its Associates** is a reference to the Manager and its Associates or any of them;
- (q) a reference to the **Trustee and its Associates** is a reference to the Trustee and its Associates or any of them;
- (r) an agreement, representation or warranty on the part of 2 or more persons binds them jointly and severally;
- (s) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (t) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (u) if an act under this licence to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day;
- (v) if an event under this licence must occur on a stipulated day which is not a Business Day, the stipulated day will be taken to be the next Business Day; and
- (w) a reference to anything (including any amount) is a reference to the whole and each part of it.

1.3 Headings and footnotes

Headings and footnotes are for convenience only and do not affect the interpretation of this licence.

1.4 Including etc

Including, include, includes, such as and **in particular** are not to be construed as words of limitation in this licence.

1.5 Power

A reference in this licence to power is a reference to power, whether or not having statutory legal or equitable rights and whether or not capable of being made subject to any restriction, that is express or implied, formal or informal, direct or indirect or is, or is capable of being, exercised as a result of, or by means of, or in breach of, or by revocation of, trusts, agreements, arrangements, understandings, practices, the ownership of any property or otherwise, whether or not they are enforceable.

1.6 Joint power

Where a power is exercisable by a person jointly with another person or other persons, that power is taken to be exercisable by any of them.

1.7 Money

References in this licence to money, and to expressions preceded by "\$", are to Australian currency.

2. Grant of licence

2.1 Grant

The Commonwealth grants the Manager and the Trustee a licence under the BTF Programme to act as the manager and trustee of the Fund according to the Governing Documents, the Programme Guidelines and the BTF Policy Objectives.

2.2 Due care and skill

Each of the Manager and Trustee must act honestly and observe good management methods and practices and exercise due care, skill, diligence and vigour in acting as the manager and trustee of the Fund, respectively.

3. Term

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4. Conditions precedent

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5. Governance

5.1 Bodies comprising the Commonwealth

The Board and the Programme Delegate each have a role in the regulation of the BTF Programme. The roles of each are set out in detail at clause 2 of the BTF Terms.

5.2 Where the Board ceases to exist

If the Board ceases to exist, references in this licence to the Board are references to a person or group of persons nominated by the Commonwealth from time to time as "the Board" for the purposes of this licence.

5.3 Advisory Board

The Advisory Board is an investor body which will function in an oversight role, making decisions on matters brought to it by the Manager. Notwithstanding that further details of the role of the Advisory Board are further set out at clause 3 of the BTF Terms, the parties agree that:

- (a) the Advisory Board may only operate in an oversight role making decisions on matters brought to it by the Trustee or Manager;
- (b) the Advisory Board must not make investment decisions for or in relation to the Fund; and
- (c) the Trustee, Manager and their Associates may not vote on the Advisory Board.

5.4 Decision making

- (a) Clause 4 of the BTF Terms identifies the decisions to be made by the Programme Delegate and the Advisory Board under the Investment Documents.

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5.5 Commonwealth as an Investor

- (a) The fact that the Commonwealth is an Investor does not affect the Commonwealth's ability to exercise any rights it may have, including its rights under this licence.
- (b) Similarly, this licence does not affect the Commonwealth's ability to exercise its rights as an Investor in the Fund.

5.6 Clause 5.5 paramount

Clause 5.5 applies notwithstanding any apparent or actual conflict with, and prevails over all other provisions of, this licence (including any that are expressed, or would otherwise be construed, to prevail over it).

6. BTF Policy Objectives and Evaluation

6.1 Acknowledgment of BTF Policy Objectives

- (a) The Trustee and Manager acknowledge that it:
- (i) has read and is familiar with; and
 - (ii) will operate the Fund consistent with,
- the BTF Policy Objectives, which are:
- (iii) to invest in promising Biomedical Discoveries and assist in their commercialisation; and
 - (iv) to address capital and management constraints, by encouraging the development of companies which are commercialising these Biomedical Discoveries.
- (b) In acting as the manager of the Fund, the Manager and Trustee must always act in a way that a reasonable person in a like position would reasonably believe promotes these objectives.

6.2 Evaluation of the BTF Programme

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7. Not used

8. Committed capital**8.1 Initial Committed Capital**

- (a) The initial Committed Capital of the Fund is set out in item 4 of Schedule 1.
- (b) The Commonwealth has granted this licence on the basis that the Private Investors in the Fund have, as the Trustee and Manager now represents and warrants, committed an amount of Privately Sourced Capital equal to or exceeding the Required Amount.
- (c) The Trustee and Manager must ensure that at all times the Commonwealth Programme Capital does not exceed 50% of the total Committed Capital of the Fund.
- (d) The Trustee and Manager must ensure that at all times the capital of the Fund does not exceed the Maximum Committed Capital.
- (e) Each Fund Interest requires the Investor who holds it to contribute to the capital of the Fund the amount of its Commitment according to the Investment Documents.

8.2 Investors

- (a) The Management Investors may be an Investor in the Fund, for any amount, but the Manager must not invest its Management Fee in the Fund under any circumstance.
- (b) The following entities must not invest in, or provide money or any other funding to, the Fund:
 - (i) a Pooled Development Fund;
 - (ii) an Early Stage Venture Capital Limited Partnership; and
 - (iii) a Venture Capital Limited Partnership.

9. Investments

9.1 Investment Plan

- (a) Within 20 Business Days of the Commencement Date, or as otherwise agreed by the Programme Delegate, the Manager must submit to the Programme Delegate and the Advisory Board a draft Investment Plan for the Fund which sets out a detailed strategy for the investments of the Fund.
- (b) This Investment Plan must:
 - (i) amongst other things, include a detailed investment profile and dates by which minimum investments are expected to have been achieved;
 - (ii) be updated at least once every 12 months and resubmitted for approval by the Programme Delegate and the Advisory Board; and
 - (iii) unless otherwise agreed by the Programme Delegate and the Advisory Board, be consistent with the investment strategy submitted by the Manager during the licence application process.
- (c) Within 30 Business Days of receipt of the Investment Plan, the Programme Delegate must issue a notice to the Manager:
 - (i) if the Investment Plan is, in the opinion of the Programme Delegate and the Advisory Board, in accordance with clause 9.1(b) and otherwise consistent with the Governing Documents, approving the Investment Plan; or
 - (ii) if clause 9.1(c)(i) does not apply, rejecting the Investment Plan and detailing the matters which must be addressed before the Investment Plan can be approved.
- (d) If the Programme Delegate issues a notice of rejection under clause 9.1(c)(ii), the Manager must within 15 Business Days amend the Investment Plan to address the matters identified in the notice and resubmit it to the Programme Delegate and the Advisory Board in which case clauses 9.1(a) to 9.1(d) will reapply until there is an approved Investment Plan.
- (e) The Trustee and Manager must not materially amend or depart from the Investment Plan without the prior written agreement of the Programme Delegate and the Advisory Board.

9.2 Investment

The Trustee and Manager must ensure that investments of the Fund are only undertaken:

- (a) in accordance with this licence and the Investment Documents;
- (b) in accordance with the Investment Plan; and
- (c) in Eligible Investments.

9.3 Pre-Licence Investments

- (a) Where the Trustee or Manager has made an investment in an Eligible Investee Company after the lodgement of an application for this licence but before the granting of this licence, the Trustee or Manager may apply in writing to the Programme Delegate to allow for the relevant investment to form part of the Fund

and in respect of which a Call may be made under the Investment Documents in relation to the purchase of the relevant investment by the Trustee or Manager (**Pre-Licence Investment**).

- (b) Within 20 Business Days of receipt of a Pre-Licence Investment application, the Programme Delegate will issue a notice to the Trustee or Manager either (at her/his absolute discretion):
 - (i) recognising the Pre-Licence Investment and permitting Calls of Committed Capital in relation to that investment; or
 - (ii) rejecting the Pre-Licence Investment.
- (c) Pre-Licence Investments may only be made by the Trustee or Manager after the licence application has been made but before the Commencement Date.

10. Eligible Investee Company Changes

Where the Trustee or Manager has made an investment in an Eligible Investee Company, but the relevant investee company ceases to meet the definition of "Eligible Investee Company" at any time within 12 months of the Trustee or Manager first investing in the relevant investee company, then the Programme Delegate may (at her/his absolute discretion):

- (a) permit follow-on funding to be provided for that investee company from the Fund, but only where the Programme Delegate is satisfied (in her/his absolute discretion) that the investment in the investee company remains consistent with and will continue to promote the objectives of the BTF Programme;
- (b) not permit any follow-on funding from the Fund in the relevant investee company; or
- (c) not permit any follow-on funding from the Fund and require the divestment of the investment as soon as practicable or as otherwise directed by the Programme Delegate pursuant to clause 18.1 of the BTF Terms.

11. Change to Fund structure

Neither the Trustee nor Manager may change the structure of the Fund without the prior written consent of the Programme Delegate, where such consent may be given or withheld at the absolute discretion of the Programme Delegate.

12. Reporting

- (a) The Manager must provide the Programme Delegate and Investors with reports in accordance with Schedule 3.
- (b) The reporting obligations of the Manager under this clause 12 are in addition to its reporting requirements under any Act or other law.
- (c) The Programme Delegate may vary the form and content of the Manager's reporting obligations under Schedule 3 from time to time, by 3 months' notice to the Manager.

13. Books and Records

- (a) The Manager must ensure that Books and Records of the Fund are kept according to the Australian Accounting Standards (or other approved principles and practice approved by Programme Delegate from time to time) in respect of this licence, recording:

- (i) true accounts of all money received and expended by or on behalf of the Manager;
 - (ii) the matters in respect of which each receipt and expenditure takes place;
 - (iii) details of sales and purchases of the Manager; and
 - (iv) details of all liabilities and Borrowings of the Manager.
- (b) The Manager must keep those Books of Account in a form that enables them to be conveniently audited by the Programme Delegate as requested by the Programme Delegate from time to time.

14. Commonwealth power to audit

14.1 Obligation to provide access

- (a) The Trustee and Manager must permit each of the Commonwealth, Programme Delegate, the Auditor-General and Information Commissioner (those concerned) at reasonable times and on reasonable notice, through their officers, agents or advisers authorised on their behalf, to:
- (i) access the Trustee's or Manager's premises (including the Trustee's or Manager's Office);
 - (ii) examine, inspect, audit and copy the Books and Records of the Fund; and
 - (iii) provide all necessary facilities for this purpose.
- (b) The Trustee and Manager must do all things necessary to comply with the requirements of those concerned or their delegates in the exercise of their rights under this clause 14.1.
- (c) The requirement for access and participation in audits does not in any way reduce the Trustee's or Manager's responsibility to perform its obligations in accordance with this licence.

14.2 Information about Interested Persons

The Trustee and Manager must make available to the Commonwealth or its nominees (including the Programme Delegate), all the Books and Records of the Fund relating to transactions and investments of the Fund of which it is aware as involving an Interested Person (other than Trustee or the Manager in that capacity) and provide such explanations and evidence in connection with them as the Commonwealth or its nominees (including the Programme Delegate) may require.

14.3 Trustee and Manager to co-operate

The Trustee and Manager must:

- (a) co-operate fully with the Commonwealth in any examination or review of the Fund and its affairs that the Commonwealth may from time to time undertake;
- (b) for that purpose, make available to the Commonwealth all books, documents and records relating to the Fund and its affairs as and when the Commonwealth may require;

- (c) by the terms of appointment of the Auditor, require the Auditor to co-operate with the Commonwealth in connection with any such examination or review, including by producing to the Commonwealth those of the Auditor's working papers as the Commonwealth may require;
- (d) obtain any information required by the Commonwealth or its nominee for the purpose of verifying the contents of a statement or report given under Schedule 3;
- (e) provide the Commonwealth or its nominee with all such documents and information as they may require in connection with the Fund and its affairs or any audit of it and permit the Commonwealth or its nominee to audit the Fund and its affairs should the Commonwealth so require; and
- (f) submit all documents required to be provided under this clause 13 in hard copy and (if the Commonwealth requires and available in that format) on disk (or other available electronic format) acceptable to the Commonwealth.

14.4 Valuation at request of the Commonwealth

s47(1)(b)

14.5 Explanation and details

The Trustee and Manager must make available, or ensure that there is made available, to the Commonwealth or its nominee such explanations and details as the Commonwealth requires with respect to all matters relating to the Trustee, the Manager, the Fund and its affairs (including the Authorised Investments and their value) and the Investors.

15. Trustee's and Manager's general undertakings

The Trustee and Manager (as applicable) must:

s47(1)(b)

- (c) take responsibility for all investment decisions of the Fund;
 - (d) be solely responsible for each decision to make or divest an Eligible Investment;
- s47(1)(b)
- (f) comply with the requirements of the Commonwealth in relation to the use, change and utilisation of Key Personnel as set out in the Governing Documents;
 - (g) comply with all laws, and hold and maintain an Australian Financial Services Licence (if required under law);

s47(1)(b)

- (i) not act in a way which, in the opinion of the Commonwealth, would or would be likely to bring the Commonwealth, the Programme Delegate, the Board or the BTF Programme into disrepute.

16. Indemnity

The Trustee and Manager indemnify the Commonwealth, the Programme Delegate and each member of the Board (and its committees and each of their members) (“those indemnified”) against all liability and loss arising out of, and all costs, charges and expenses incurred in connection with:

- (a) the Trustee or Manager discharging or purporting to discharge its obligations under or exercising or purporting to exercise the Trustee’s or Manager’s rights under, this licence, the Investment Documents or the terms of any investment in an Eligible Investee Company, including as a result of:
 - (i) loss of or damage to any property;
 - (ii) injury to, or death of, any person;
 - (iii) any act or omission (including negligence) of the Trustee or Manager or the Trustee’s or the Manager’s officers, agents or employees;
 - (iv) any default in the Trustee’s or Manager’s performance of its or their obligations under this licence or the Investment Documents; or
 - (v) any intervention or participation by the Trustee or Manager (or that of its or their nominee) in the management of, or advice it (or its nominee) gives to, an Eligible Investee Company;
- (b) the imposition of additional conditions under clause 21.1;
- (c) the termination of this licence under clause 22; or
- (d) the resignation of the Manager or Trustee.

17. Trustee’s and Manager’s representations and warranties

17.1 Representations and warranties

Each of the Trustee and the Manager represent and warrant to the Commonwealth that:

- (a) as at the Commencement Date, the key members of its management team are the Key Personnel identified in item 8 of Schedule 1;
- (b) it has power to enter into and observe its obligations under the Governing Documents;
- (c) it has in full force and effect the authorisations necessary to enter into the Governing Documents, observe obligations under them and allow them to be enforced;
- (d) the Governing Documents and the transactions under them do not contravene its constituent documents or any law, regulation or official directive binding on it or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers or the powers of its directors to be exceeded;

- (e) no Event of Default or event which with the giving of notice, lapse of time or fulfilment of any condition would be likely to become an Event of Default, continues unremedied;
- (f) it is not in default under a law, regulation, official directive, instrument, undertaking or obligation affecting it or its assets;
- (g) there is no pending or threatened action or proceeding affecting the Trustee or the Manager or any of its assets before a court, governmental agency, commission or arbitrator which would or might reasonably be expected to adversely affect the Trustee's or Manager's ability to discharge its obligations under the Governing Documents or result in an Event of Default;
- (h) it does not and will not enter into any Governing Document in the capacity of a trustee of any trust or settlement or otherwise as agent or nominee for any other person; and
- (i) it will not permit any Private Investor to enter into any Governing Document in the capacity of a trustee of any trust, or otherwise as agent or nominee for any other person, except as otherwise permitted under the Investment Documents.

17.2 Representations and warranties repeated

Unless otherwise specified, the representations and warranties contained in clause 17.1 are taken to be made on the Commencement Date and on each day during the Term of this licence.

18. Exclusion of liability of the Commonwealth

18.1 No liability generally

- (a) The Trustee and Manager acknowledge that the role of:
 - (i) the members of the Board (which, for the purposes of this clause 18, includes its committees);
 - (ii) the Programme Delegate;
 - (iii) the Commonwealth; or
 - (iv) any officer, employee, agent or consultant of any of them, not described above,

(jointly and severally, **those parties**) includes administering the BTF Programme and regulating the Licensed Funds established under the BTF Programme. In this role, those parties will amongst other things be giving advice, consents, approvals and making determinations in relation to the BTF Programme and the Licensed Funds.
- (b) For the avoidance of doubt, none of those parties is under any obligation whatever to the Trustee or Manager or any Investor or any creditor of the Trustee or Manager or any Investor for anything done or not done by those parties in compliance with the Ministerial Directions, the Programme Guidelines, the Governing Documents or their negotiation (including the identification of, or imposition of requirements as to, Key Personnel). This clause 18.1 extends to and includes acts or omissions which are negligent or wilful but not fraudulent or malicious.

18.2 No liability for funding shortfall

Without limiting clause 18.1, none of those parties has any obligation whatever to the Trustee or Manager in connection with anything done or not done by them prior to the date of this licence (that date) relating to the availability for investment in the Fund by the Commonwealth of any amount (whether or not that amount was indicated or notified to the Trustee or Manager before that date, or at all).

18.3 No claims

Each of the Trustee and the Manager agree that they will not make any claim on, and will not take any action or legal proceedings against, those parties arising out of or in any way connected with the Ministerial Directions, the Programme Guidelines, the Governing Documents or their negotiation or anything contemplated by them (including the matters referred to in clause 18.2), and if the Trustee or Manager in any action against any of those parties pleads or claims in breach of this clause 18.3, that party may plead this clause as an absolute bar to the pleading or claim. This clause 18.3 extends to and includes acts or omissions which are negligent or wilful but not fraudulent or malicious.

18.4 No rights

Without limiting clauses 18.1 and 18.3, the Trustee and Manager agree that:

- (a) no consent, agreement, determination or approval given, made or withheld by the Commonwealth, the Minister, the Board or the Programme Delegate, the request for which is contemplated by the Ministerial Directions, the Programme Guidelines, or the Governing Documents, or made in connection with them;
- (b) no conditions to which any such consent, agreement, determination or approval is given, made or withheld;
- (c) no policies, guidelines, recommendations or other decisions of the Commonwealth, the Minister, the Board or the Programme Delegate made under or in connection with the Ministerial Directions, the Programme Guidelines, or the Governing Documents;
- (d) no other advice, consent, agreement, determination or approval given, made or withheld, or any other act or omission, by the Commonwealth, the Minister, the Board or the Programme Delegate; and
- (e) no representation (other than an express representation given under the Subscription Deed Poll executed by the Commonwealth) made by the Commonwealth, the Minister, the Board or the Programme Delegate in connection with the BTF Programme or the Fund,

confers on the Trustee or Manager any rights whatever against those parties.

19. Breach by Manager or Trustee

19.1 Trustee and Manager must notify Commonwealth of breach

Each of the Manager and Trustee must immediately notify the Commonwealth if the Manager or Trustee becomes aware that either or both have breached, or is likely to breach, this licence or any other Governing Document, in accordance with its reporting requirements set out in Schedule 3.

19.2 Commonwealth's notice to Manager or Trustee to remedy breach

If the Manager or Trustee is in breach of this licence or any other Governing Document, the Commonwealth may give the Manager and/or Trustee a notice specifying the breach and requiring the Manager or Trustee (as applicable) to remedy it. The Manager and/or Trustee must remedy the breach as soon as possible, and in any event (subject to any other period of notice specified in this licence or any longer period agreed by the parties) within 30 days of receipt of the notice.

19.3 Meeting to discuss breach etc

- (a) From the date the Manager or Trustee becomes aware of a breach of this licence or other Governing Document, or where the Commonwealth notifies the Manager or Trustee that the Commonwealth believes that the Manager or Trustee has or may have breached this licence or any other Governing Documents, the Manager and/or Trustee must:
- (i) if required by the Commonwealth, promptly convene a meeting of all Investors to discuss the relevant contravention;
 - (ii) if required by the Commonwealth, participate in mediation or any other form of alternative dispute resolution required by the Commonwealth, as directed by the Commonwealth (at the cost of the Commonwealth);
 - (iii) allow the Commonwealth or its nominee to inspect all the Books and Records of the Fund;
 - (iv) provide all the information that the Commonwealth or its nominee requires in respect of the Fund or the Manager's or Trustee's performance of their obligations under the Governing Documents;
 - (v) take all steps to ensure that the officers, employees and agents of the Manager and Trustee provide the information referred to in paragraph 19.3(iv) to the Commonwealth or its nominee; and
 - (vi) permit and assist in the conduct of any investigation in respect of any alleged contravention that the Commonwealth or its nominee may require.
- (b) Nothing in this clause limits any right or remedy that the Commonwealth may have against the Manager or Trustee in respect of any breach.

19.4 Unsatisfactory performance

- (a) The Programme Delegate may give notice (a "**Performance Notice**") to the Manager or Trustee if it considers that:
- (i) the Manager's or Trustee's performance of its or their obligations under the Governing Documents is below Good Industry Practice; or
 - (ii) clause 6.4 of the BTF Terms applies; or
 - (iii) the Manager, the Trustee or the Fund is not achieving substantially all of the expected outcomes and objectives to be achieved by the Manager, the Trustee or the Fund (respectively) as set out in the Programme Guidelines within a timeframe within which those outcomes and objectives could reasonably have been achieved,
- (such performance being "**unsatisfactory performance**").

- (b) The Programme Delegate must provide reasonable details of the Manager's or Trustee's unsatisfactory performance in the Performance Notice.
- (c) The parties must promptly meet to discuss the aspects of the Manager's or Trustee's performance which the Programme Delegate considers unsatisfactory performance and negotiate in good faith with a view to resolving the Programme Delegate's concerns ("**Resolution**").
- (d) If, within 20 Business Days after the date of the Performance Notice, the parties are able to agree on the Resolution, the Manager and/or Trustee must undertake the steps required for Resolution and complete doing so within the timeframe agreed by the parties (which must be a minimum of three months from the date of the Performance Notice) (the "**Resolution Period**").
- (e) If, within 20 Business Days after the date of the Performance Notice, the parties are unable to agree any or all of:
 - (i) that there is subsisting unsatisfactory performance;
 - (ii) the steps required to rectify it (including any Resolution); or
 - (iii) the Resolution Period,
 (a "**Dispute**"), then any or all of those matters will be determined by the Programme Delegate.
- (f) The Manager and/or Trustee must comply with any determination made by the Programme Delegate in accordance with clause 19.4(e).
- (g) In this clause 19.4, "**Good Industry Practice**" means the standard of performance of the duties and obligations of a manager of a venture capital fund to be expected from a solvent, reputable, properly resourced, experienced, diligent and competent venture capital fund manager acting always in the best interest of the investors in that fund.

20. Side Agreements

- (a) Prior to the Commencement Date and otherwise during the Term, the Manager and/or Trustee must disclose any and all proposed and existing agreements between the Manager, The Trustee, any Associate of the Manager, any Associate of the Trustee and any Private Investor and/or Associate of a Private Investor (**Side Agreements**) to the Programme Delegate.
- (b) For the avoidance of doubt, the obligation under clause 20(a) applies on the Commencement Date and on each day during the Term.
- (c) Within 20 Business Days of the disclosure of a Side Agreement, the Programme Delegate must (at her/his absolute discretion) issue a notice to the Manager:
 - (i) approving the Side Agreement; or
 - (ii) if the Programme Delegate determines that:
 - A. the Side Agreement is not acceptable for the efficient operation of the Fund in accordance with the Governing Documents;
 - B. the Side Agreement is otherwise in any way inconsistent with the BTF Policy Objectives; or

- C. a termination event is likely to occur,
rejecting the Side Agreement.
- (d) If the Programme Delegate rejects a Side Agreement and the Manager or Trustee:
- (i) fails to exit that Side Agreement; or
 - (ii) enters into, completes or otherwise continues to comply with that Side Agreement; or
 - (iii) otherwise acts in a manner contrary to the determination of the Programme Delegate,
- a termination event will arise under clause 22.1(a)(x).

21. Additional conditions

21.1 Commonwealth may impose additional conditions

The Commonwealth or its nominee (including the Programme Delegate) may (without limiting any other rights or remedies under this licence), by notice to the Manager or Trustee impose additional conditions under (and which by virtue of that notice become conditions of) this licence if:

- (a) the Trustee or Manager is or becomes Insolvent;
- (b) the Trustee or Manager is in breach of this licence, any other Governing Document or any contractual or other obligation owed to a third party;
- (c) any report by the Trustee or Manager under Schedule 3, or any valuation of the assets of the Fund (including a valuation undertaken by or at the direction of the Commonwealth), discloses that the value of the Fund's Authorised Investments is less than 50% of their cost and at least 50% of the Committed Capital has been drawn down; or
- (d) there is a change in the Key Personnel or directors of the Trustee or Manager without the consent of the Programme Delegate.

21.2 Trustee and Manager to comply with additional conditions

The Trustee and Manager must comply with any additional condition imposed under clause 21.1 within the time frame notified by the Programme Delegate (being a time frame that the Programme Delegate considers appropriate in relation to that condition).

21.3 Appointment of an expert

- (a) If the Commonwealth becomes entitled to impose additional conditions under clause 21.1, the Commonwealth may in addition to, or instead of, imposing such conditions, by notice to the Trustee, the Manager and the Investors appoint a third party (**Expert**) to do all those things it is authorised or required to do by clause 21.4 and to report to the Investors as required by the Commonwealth from time to time.
- (b) For the avoidance of doubt, the Commonwealth may only appoint an Expert in the circumstances described in clause 21.1. The Commonwealth may not appoint an Expert merely because an Investor is dissatisfied with the management of the Fund by the Trustee and Manager (such as the investment direction or any other decisions within the authority of the Trustee or Manager under the Governing Documents).

21.4 Role of Expert

- (a) The Trustee and Manager must:
- (i) give the Expert full access to the Trustee's or Manager's premises and all records, documents and supporting materials in connection with the Fund;
 - (ii) promptly give the Expert a copy, or access to, any correspondence received by the Trustee or Manager in connection with the Fund;
 - (iii) provide the Expert with all necessary facilities for this purpose;
 - (iv) obtain the Expert's prior consent to any proposed investment in an Eligible Investee Company, divestment of any such investment, any other material decision or action proposed to be made by the Trustee or Manager in connection with the Fund, and any kind of decision or action notified by the Commonwealth to the Trustee or Manager from time to time; and
 - (v) comply with any directions from the Commonwealth regarding the Trustee's or Manager's obligations to the Expert.
- (b) The Commonwealth will bear the costs of the Expert.

22. Termination

22.1 Immediate termination

- (a) Subject to clauses 21.1(b) and 22.2 and without limiting any termination rights set out in the Investment Documents, the Commonwealth may terminate this licence by notice to the Trustee or Manager effective from the termination date specified in the notice, if:
- (i) the Trustee or Manager fails to remedy a breach of this licence or any other Governing Document to the Commonwealth's satisfaction within 30 days of receipt by the Trustee or Manager of a notice under clause 19.2 (or any longer period agreed by the Commonwealth);
 - (ii) the Trustee or Manager breaches a provision of this licence or any other Governing Document that has been the subject of a previous notice under clause 19;
 - (iii) a warranty in clause 17 (or elsewhere in this licence) is found to be untrue to a material extent when made or taken to be made and, if the breach is capable of remedy, has not been remedied within 30 days (or any longer period agreed by the Commonwealth) of receipt by the Manager of a notice from the Commonwealth requiring the Trustee or Manager to do so;
 - (iv) the Trustee or Manager fails to meet any "Investment Milestone" as defined in, and in accordance with, clause 16.3 of the BTF Terms;
 - (v) the Commonwealth has given the Trustee or Manager a notice under clause 19.2 and the Commonwealth considers that the breach identified in that notice will not be capable of being remedied within the time period required by clause 19.2 or at all;
 - (vi) the Commonwealth has given the Trustee or Manager a notice under clause 19.4(a) and either:

- A. the parties have agreed a Resolution pursuant to clause 19.4(d); or
- B. the Programme Delegate has made a determination under clause 19.4(e) requiring actions on the part of the Trustee or Manager (a "Rectification Plan"),
- and the Trustee or Manager has failed to carry out the Resolution or Rectification Plan (as applicable) to the reasonable satisfaction of the Programme Delegate;
- (vii) the Trustee or Manager has acted to revoke, restrict or condition the power of attorney conferred by clauses 22.4 and 22.5;
- (viii) the Trustee or Manager is removed or resigns from its position as trustee or manager (respectively) under and in accordance with the Investment Documents;
- (ix) an Investment Document has been terminated or brought to an end for any reason;
- (x) there is a failure to disclose a Side Agreement, or clause 20(d) applies;
- (xi) a termination event exercisable by the Commonwealth arises under the Investment Document;
- (xii) a change in Control occurs in respect of the Trustee or Manager without the approval of the Commonwealth;
- (xiii) the Trustee or Manager fails to comply with any additional condition referred to in clause 21, and does not remedy that failure within 30 days of the date on which the Trustee or Manager receives notice from the Commonwealth of such failure;
- (xiv) the Trustee or Manager is, becomes, or is likely to become, Insolvent; or
- (xv) at any time after the date of this licence the Investment Documents are amended or replaced without the prior written consent of the Programme Delegate,
- (each an **Event of Default**).
- (b) Where an Event of Default occurs, the Commonwealth may at its option:
- (i) terminate this licence as contemplated under clause 22.1(a) in respect of both the Trustee and Manager;
- (ii) reduce the amount of the Uncalled Commonwealth Committed Capital by up to 10%; or
- (iii) direct the suspension of the payment of the Management Fee for a specified period (where such period must not exceed 6 months).
- (c) The Trustee and Manager must comply with any direction given by the Programme Delegate under clause 22.1(b), and do all things necessary to facilitate and implement the relevant direction.
- (d) The Commonwealth may, but is not obliged to, consult with the Private Investors before taking action under this clause 22.1.

22.2 Trustee and Manager must resign

If this licence is terminated as a result of any Event of Default, the Trustee and Manager must, within 7 days of this licence being terminated, resign as trustee and manager of, the Fund in accordance with the Investment Documents.

22.3 Trustee and Manager to assist

If clause 22.1 applies, the Trustee and Manager must do everything required by the Commonwealth to assist in the appointment of a person to replace the Trustee as trustee of the Fund and the Manager as manager of the Fund.

22.4 Removal of Trustee and Manager

The Trustee and Manager irrevocably and unconditionally appoint the Commonwealth and the Programme Delegate, severally as their respective attorneys (**Attorneys**) for the purpose of executing and delivering if, being required to do so, the Trustee and/or Manager refuses or fails to resign as trustee or manager of the Fund within 2 days of receipt of notice from the Commonwealth of the termination of this licence:

- (a) a form of resignation as trustee and as manager under the Investment Documents; and
- (b) to any replacement trustee or manager of the Fund, a transfer or assignment of all property or rights of the Fund held or exercisable by or in the name of the Trustee and/or Manager according to the Investment Documents.

22.5 Declaration

The Trustee and Manager:

- (a) declare that all acts, matters and things done by its Attorneys in exercising powers under clause 22.4 will be as good and valid as if they had been done by the Trustee or Manager; and
- (b) agrees to ratify and confirm whatever its Attorneys do in exercising powers under clause 22.4.

22.6 Indemnity to attorney

The Trustee and Manager indemnifies each of the Attorneys against all liability and loss arising out of, and all costs, charges and expenses incurred in connection with, the exercise or purported exercise of powers under clause 22.4.

22.7 Third parties

The Trustee and Manager declare that any person dealing with the Attorneys may accept a written statement signed by any of the Attorneys to the effect that their power of attorney under clause 22.4 has not been revoked as conclusive evidence of that fact.

22.8 Trustee and Manager bound

The Trustee and Manager declare that they and any person claiming under it is bound by anything the Attorneys do in exercising powers under clause 22.4.

22.9 Attorneys may benefit

The Attorneys are expressly authorised to do any act as a result of which a benefit may be conferred on the Attorneys or any of them. The fact that the Commonwealth is an Investor

does not affect the Commonwealth's ability to exercise its rights as Attorney under this clause 22.

22.10 Delivery of books, documents, etc.

Within 7 days of ceasing to be the trustee and manager of the Fund, the Trustee and Manager must deliver to the replacement trustee or replacement manager (or the Commonwealth), at the cost of the Trustee and Manager:

- (a) all Books and Records of the Fund, and other property whatsoever relating to the Fund and its affairs that are in the possession, or under the control of the Trustee or Manager;
- (b) a hard copy and (if the Commonwealth requires and available in that format) on disk (or other available electronic format acceptable to the Commonwealth) of all information relating to the Fund and its affairs compiled by the Trustee or Manager and stored on computer systems, which information has been so compiled or stored by the Trustee or Manager in the course of performing its obligations under the Governing Documents, in readable form; and
- (c) all documents and investments including title to any investment made under this licence and standing in the name of the Trustee or Manager, together with such investments, duly exercised, as may be necessary to transfer title to those investments to the replacement manager or representative nominated by the Investors.

22.11 Effect of Trustee's or Manager's resignation

If the Trustee or Manager resigns, or ceases to be, the trustee or manager of the Fund this licence expires with effect from the date that the Trustee or Manager resigns or ceases to be the trustee or manager of the Fund.

22.12 Effect of termination

The lapsing, termination or other ending of this licence does not, in the absence of any agreement in writing between the parties to the contrary, affect:

- (a) the accrued rights of the Commonwealth, or the accrued rights of the Trustee or Manager, or either of them, under this licence; or
- (b) the rights of the Commonwealth, and the rights and obligations of the Trustee or Manager, arising or expressed to arise or continue under this licence as a result of or after the lapsing, termination or other ending, or any rights and obligations which by their nature survive the lapsing, termination or other ending.

23. Assignment

23.1 Assignment and encumbrances

- (a) This licence is personal to the Trustee and Manager.
- (b) Neither the Trustee nor Manager may Deal With or create any Encumbrance over this licence, or any of its rights under this licence.

23.2 Subcontracting

Subject to the terms of the Investment Documents, neither the Manager nor the Trustee may not delegate or subcontract the management of the Fund or its affairs, or any of its obligations under this licence other than to the extent permitted under the Investment Documents.

23.3 Transfer of Licence

Neither the Trustee nor the Manager may transfer this Licence without the prior written consent of the Programme Delegate.

24. Trustee and Manager as independent contractors

24.1 Independent contractor

- (a) The Trustee and Manager acknowledge that they are independent contractors and act as principals.
- (b) Other than pursuant to the arrangements contemplated under the Investment Documents, neither the Trustee nor the Manager may directly or indirectly hold out or permit to be held out to anyone any statement, act, agreement, matter or thing indicating that it is an agent, partner or employee of the Commonwealth or the Board.
- (c) Neither the Trustee nor Manager may otherwise engage in conduct which may lead others to believe that it is an agent, partner or employee of the Commonwealth (other than as manager of the Fund).

24.2 Trustee and Manager to engage persons

- (a) In addition to its obligations in relation to Key Personnel, the Trustee and Manager must engage such persons as may be necessary for it or them to carry out its or their obligations under this licence and the Investment Documents.
- (b) If such persons are engaged to undertake, or provide any advice in relation to, the Trustee's or Manager's functions under this licence, the Trustee or Manager must ensure that such persons comply with all relevant terms of this licence and the Investment Documents as if a reference to "Trustee" or "Manager" was a reference to such persons.

24.3 Commonwealth not liable

- (a) Neither the Commonwealth, the Board nor the Programme Delegate will be liable for the acts or omissions of any person appointed by the Trustee or Manager pursuant to clause 24.2, or the acts or omissions of Key Personnel, including negligence, fraud, dishonesty, wilful misconduct or breaches of law.
- (b) The Trustee and Manager will be responsible for and indemnifies the Commonwealth, the Board and the Programme Delegate in respect of all liability and loss arising from, and all costs, charges and expenses incurred in connection with, any such act or omission.

25. GST

25.1 Interpretation

Words or expressions used in this clause 25 which are defined in the GST Law, have the same meaning in this clause.

25.2 GST inclusive amounts

For the purposes of this licence, if the expression "GST inclusive" is used in relation to an amount payable or other consideration to be provided for a supply under this licence, the amount or consideration will not be increased on account of any GST payable on that supply.

25.3 Consideration is GST exclusive

Any consideration to be paid or provided for a supply made under or in connection with this licence, unless specifically described in this licence as GST inclusive, does not include an amount on account of GST.

25.4 Gross up of consideration

Despite any other provision of this licence, if a party (**Supplier**) makes a supply under or in connection with this licence on which GST is imposed (not being a supply the consideration for which is specifically described in this licence as GST inclusive):

- (a) the consideration payable or to be provided for that supply under this licence but for the application of this clause (GST exclusive consideration) is increased by, and the recipient of the supply (**Recipient**) must also pay to the Supplier, an amount equal to the GST payable by the Supplier on that supply; and
- (b) the amount by which the GST exclusive consideration is increased must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

25.5 Reimbursement

If a payment to a party under this licence is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

25.6 Tax invoices

The Supplier will provide a tax invoice at the time payment is requested under clause 25.4(b). The consideration for a taxable supply is only payable on the receipt of a tax invoice.

25.7 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a supplier under this licence:

- (a) the amount payable by the recipient under clause 25.4 will be recalculated to reflect the adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires; and
- (b) the supplier must provide an adjustment note to the recipient.

26. Notices

26.1 Form

Unless expressly stated otherwise in this licence, all notices, certificates, consents, approvals, waivers and other communications in connection with this licence must be in writing, signed by an Authorised Officer of the sender and marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

26.2 Delivery

- (a) They must be:
 - (i) left at the address set out or referred to in the Details;

- (ii) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details;
 - (iii) sent by email to the email address set out or referred to in the Details; or
 - (iv) given in any other way permitted by law.
- (b) However, if the intended recipient has notified a changed postal address or changed email address, then the communication must be sent to that address.

26.3 When effective

They take effect from the time they are received unless a later time is specified.

26.4 Receipt

If sent by:

- (a) post, they are taken to be received 3 days after posting (or 7 days after posting if sent to or from a place outside Australia); or
- (b) email, they are taken to be received:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,

whichever happens first.

26.5 Receipt - general

Despite clause 26.4, if they are received after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day.

27. General

27.1 Discretion in exercising rights

The Commonwealth and Programme Delegate may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this licence expressly states otherwise.

27.2 Partial exercising of rights

If the Commonwealth or the Programme Delegate does not exercise a right or remedy fully or at a given time then, unless that right or remedy is waived in writing by the Commonwealth or the Programme Delegate, the Commonwealth or the Programme Delegate may still exercise it later.

27.3 No liability for loss

The Commonwealth and the Programme Delegate are not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this licence.

27.4 No warranty or representation

By giving its approval or consent neither the Commonwealth or Programme Delegate makes or gives any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

27.5 Approvals and consents

The Commonwealth or the Programme Delegate may give conditionally or unconditionally or withhold her/his agreement, approval or consent in her/his absolute discretion unless this licence expressly provides otherwise.

27.6 Remedies cumulative

The Commonwealth's rights and remedies provided in this licence are in addition to other rights and remedies given by law independently of this licence.

27.7 Rights and obligations are unaffected

Rights given to the Commonwealth under this licence and the Trustee and Manager obligations under it are not affected by anything which might otherwise affect them by law.

27.8 Variation and waiver

A provision of this licence or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

27.9 Indemnities

The indemnities in this licence are continuing obligations, independent from the other obligations of the Trustee or Manager under this licence and continue after this licence ends. It is not necessary for the Commonwealth to incur expense or make payment before enforcing a right of indemnity under this licence.

27.10 Further steps

The Trustee and Manager agree, at their own expense, to do anything the Commonwealth or the Programme Delegate asks (such as obtaining consents, signing and producing documents and getting documents completed and signed):

- (a) to bind the Trustee and Manager under this licence;
- (b) to enable the Commonwealth or the Programme Delegate to register any power of attorney in this licence; and
- (c) to show whether the Trustee and Manager are complying with this licence.

27.11 Determinations

- (a) The Trustee and Manager may at any time request a determination from the Programme Delegate as to:
 - (i) whether any proposed investment complies with the terms of this licence and the Investment Document; or
 - (ii) the Programme Delegate's interpretation of any provision of this licence or the Investment Document.

- (b) The Commonwealth may require the payment of a fee for the provision of any such determination.

27.12 Publicity and confidentiality

- (a) The Commonwealth may at any time make public statements and announcements concerning the Fund and the operation of the Programme
- (b) The Trustee and Manager may not make any press or other announcements or releases relating to this licence and the transactions the subject of this licence without the approval of the Commonwealth or the Programme Delegate as to the form and manner of the references to the Commonwealth in any such announcements or releases unless and to the extent that the announcement or release is required to be made by law or by a stock exchange in respect of any act, omission or matter or contains information which is in the public domain.
- (c) In any public announcements made or events held by the Trustee or Manager in any way in relation to, or which references, the Fund or the BTF Programme, the Trustee and/or Manager must acknowledge the support of the Commonwealth in a form provided by the Commonwealth from time to time.
- (d) The Commonwealth acknowledges the obligations of confidentiality imposed under section 47 of the *Industry Research and Development Act 1986* (Cth), section 13(6) of the *Public Service Act 1999* (Cth), and section 70 of the *Crimes Act 1914* (Cth).

27.13 Confidentiality of Commonwealth information

- (a) Neither the Trustee nor the Manager may disclose any Commonwealth Confidential Information, or use that information for any purpose, except:
 - (i) to employees, agents, subcontractors or advisers requiring the information for the purposes of this licence or the Investment Documents;
 - (ii) with the consent of the Commonwealth;
 - (iii) if required to do so by any law or a stock exchange; or
 - (iv) to the extent necessary in connection with legal proceedings relating to this licence or the Investment Documents.
- (b) Where the Trustee or Manager is required to disclose Commonwealth Confidential Information under clauses 27.13(a)(iii) or 27.13(a)(iv), the Trustee and Manager must give the Commonwealth as much notice of the required disclosure as practicable in the circumstances.
- (c) This clause 27.13 survives expiry or termination of this licence.

For the avoidance of doubt, the terms of this licence are not Commonwealth Confidential Information.

27.14 Prompt performance

- (a) If this licence specifies when the Trustee or Manager agrees to perform an obligation, the Trustee and Manager agree to perform the obligation within the time specified. The Trustee and Manager agree to perform all other obligations promptly.

- (b) If this licence specifies that a party must perform an obligation 'promptly', that obligation must be carried out by that party as soon as practicable and, in any event, within 5 Business Days.

27.15 Construction

No rule of construction applies to the disadvantage of the Commonwealth because the Commonwealth was responsible for the preparation of, or seeks to rely on, this licence or any part of it.

27.16 Costs

The parties agree to pay their own legal and other costs and expenses in connection with the preparation, execution and completion of this licence and other related documentation.

27.17 Stamp duty

The Trustee and Manager agree to:

- (a) pay all stamp duty (including interest, fines and penalties) payable and imposed or assessed by legislation or by any revenue office on this licence, on any instruments entered into under this licence, and in respect of a transaction evidenced by this licence; and
- (b) indemnify on demand the Commonwealth against any liability for that stamp duty (including interest, fines and penalties).

27.18 Supervening legislation

Any present or future legislation which operates to vary the obligations of the Manager or Trustee in connection with this licence with the result that the Commonwealth's rights, powers or remedies are adversely affected (including, by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

27.19 Inconsistency with Programme Guidelines and Ministerial Directions

In the event of any inconsistency between this licence with either:

- (a) the Investment Documents;
- (b) the Programme Guidelines; or
- (c) the Ministerial Directions,

the provisions of this licence prevail to the extent of the inconsistency.

28. Governing Law

28.1 Proper law

This licence and the transactions contemplated by this licence are governed by the law in force in the Australian Capital Territory.

28.2 Jurisdiction

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and courts of appeal from them for determining any dispute concerning this licence or the transactions contemplated by this licence. Each party waives any right it has to object to an action being brought in those courts including by

claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

28.3 Service

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address in the Details.

28.4 Entire agreement

- (a) This licence, together with the other Governing Documents, is the entire agreement between the parties about its subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter.
- (b) Each party represents and warrants that it has not relied on any representations or warranties about the subject matter of this licence and the other Governing Documents except as expressly provided in this licence and the other Governing Documents.

29. Counterparts

This licence may consist of a number of counterparts, each signed by one or more parties to the licence. If so, the signed counterparts are treated as constituting the one document, the date of which is the date of execution of the last counterpart.

Executed as a deed

Schedule 1 - Licence Details

1. Fund

BioScience Managers Translation Fund I

2. Commencement Date

s47(1)(b)

3. Term

See clause 3.1

4. Initial Committed Capital

s47(1)(b)

5. Maximum Committed Capital

s47(1)(b)

6. Required Amount of Privately Sourced Capital

s47(1)(b)

7. Investment Documents

s47(1)(b)

8. Key Personnel - percentage of full time involvement

s47(1)(b)

s47F

s47F

s47F

Schedule 2 - Conditions Precedent

1. Conditions precedent

The Fund will not commence and no obligations on the Commonwealth will arise under any of the Governing Documents until and unless the following conditions precedent are met:

- (a) **(subscription of Private Capital)** the Trustee and Manager obtaining the subscription of the Required Amount of Privately Sourced Capital (as set out of Item 6 of Schedule 1);
- (b) **(execution of Investment Documents)** the Trustee and Manager providing the executed Investment Documents, which attach a conflict of interest policy addressing how the Trustee and Manager will deal with conflicts of interest, including co-investment with other funds of which it or any of its Associates is the manager or responsible entity or has Control, or with any of its own moneys;
- (c) **(Manager's governing documents)** the Trustee or Manager delivering to the Commonwealth a certified copy satisfactory to the Commonwealth of:
 - (i) its certificate of incorporation; and
 - (ii) each executed Subscription Deed Poll; or
- (d) **(directors and shareholders)** the Trustee and Manager delivering to the Commonwealth the names of its and their directors and shareholders and their percentage interests;
- (e) **(Manager's authorisations)** the Trustee and Manager delivering to the Commonwealth a certified copy satisfactory to the Commonwealth of:
 - (i) an extract of the minutes of a meeting of the board of directors of the Trustee and Manager, which:
 - A. evidences the resolutions of the Trustee and Manager authorising the signing and delivery by the Trustee and Manager of and observance of, obligations of the Trustee and Manager under, this licence and the Investment Documents; and
 - B. acknowledges that entering into this licence and the Investment Documents will benefit the Trustee and Manager; and
 - (ii) each instrument which evidences any other necessary corporate or other action by the Trustee and Manager in connection with this licence and the Investment Documents;
- (f) **(licences)** the Trustee and Manager delivering to the Commonwealth:
 - (i) a certified copy of the documentation evidencing that the Trustee and Manager or its or their appointees possess the necessary authorisations, licences, approvals and consents that are required under the Corporations Act or any other applicable law to enter into, perform obligations under and enforce this licence and the Investment Documents, and to manage the Fund in accordance with the Governing Documents; or

- (ii) an opinion from the Trustee's or Manager's legal advisers satisfactory to and addressed to the Commonwealth confirming that the Trustee and Manager are not required to hold any licence under the Corporations Act or any other applicable law in respect of its entry into, and performance of its obligations under, this licence and the Investment Documents;

s47(1)(b)

- (i) **(Powers of attorney)** the Trustee and Manager delivering to the Commonwealth a certified copy of each power of attorney (in a form and containing terms satisfactory to the Commonwealth) under which a person signs and delivers this licence and the Investment Documents on the Trustee's and Manager's behalf and, if required by the Commonwealth, evidence of the stamping and registration of the original (if required at law);
- (j) **(Stamp duty and registration)** the Trustee and Manager delivering to the Commonwealth evidence of stamping and registration (if required by law) of the Investment Documents, this licence and each power of attorney referred to in (h) above; and
- (k) **(Commitment by Investors)** the Trustee and Manager demonstrating to the Commonwealth's satisfaction at the time of signing this licence that:
 - (i) under the Subscription Deed Polls the Investors collectively (other than Commonwealth Investor) have offered or agreed, in writing to contribute the Required Amount of Privately Sourced Capital, either unconditionally or on conditions acceptable to the Commonwealth; and
 - (ii) if an Investor executes a Subscription Deed Poll in its capacity as trustee of a trust, the trustee's indemnity and the assets of that trust, are sufficient to cover the Commitment of that Investor.

2. How certification occurs

s47(1)(b)

Schedule 3 - Reporting

1. Reports to Programme Delegate after making an Investment

1.1 s47(1)(b)

2. Periodic Reports to Programme Delegate and Investors

2.1 Monthly reports

The Manager must send or cause to be sent to the Programme Delegate and each Investor, within 10 Business Days after the end of each calendar month, a report in the form of, and covering the issues and matters set out in, the template set out in clause 5 of this schedule 3.

2.2 Financial Year reports - compliance certificate

The Manager must send or cause to be sent to the Programme Delegate and to each Investor, within 90 days after the end of each Financial Year (unless otherwise specified in clause 5 of this schedule 3), provide the Programme Delegate with a certificate from 2 directors of the Manager:

- (a) stating that so far as they are aware (and that they have made all reasonable and prudent enquiries in that regard) the provisions of the Investment Documents and this licence have been complied with during the period of 12 months (or shorter period commencing on the date of this licence) ending on the preceding 30 June respectively; or
- (b) if they are aware that the provisions of the Investment Documents or this licence have not been complied with during that period, the provisions which they are aware have not been complied with, stating when they ceased to be complied with and when compliance recommenced or, if compliance has not recommenced,

setting out the Manager's proposals to remedy the non compliance and the time for doing so.

The certificate must also state whether or not, in the opinion of the Manager, the Manager will continue in compliance with the Investment Documents and this licence (subject to any non-compliances referred to in clause 2.2(b) above).

2.3 Financial Year reports - financial and other information

The Manager must, within 90 days after the end of each Financial Year (unless otherwise specified in clause 5 of this schedule 3), provide to the Programme Delegate and each Investor a report in the form of, and which covers the issues and matters set out in, the template set out in clause 5 of this schedule 3.

2.4 December reports - compliance certificate

The Manager must, within 45 days after each 31 December, provide the Programme Delegate with a certificate from 2 directors of the Manager:

- (a) stating that so far as they are aware (and that they have made all reasonable and prudent enquiries in that regard) the provisions of the Investment Documents and this licence have been complied with during the period of 6 months (or shorter period commencing on the date of this licence) ending on the preceding 31 December; or
- (b) if they are aware that the provisions of the Investment Documents or this licence have not been complied with during that period, the provisions which they are aware have not been complied with, stating when they ceased to be complied with and when compliance recommenced or, if compliance has not recommenced, setting out the Manager's proposals to remedy the non-compliance and the time for doing so.

The certificate must also state whether or not, in the opinion of the Manager, the Manager will continue in compliance with the Investment Documents and this licence (subject to any non-compliances referred to in paragraph (b) above).

3. Per event reports to Programme Delegate

3.1 Key incident reports

Change in directors or shareholders

- (a) The Trustee and Manager must promptly notify the Programme Delegate of any change in the directors (and their alternates) or shareholders of the Trustee or Manager.
- (b) The Trustee and Manager must give the Programme Delegate as much notice as reasonably practical of any such change.

Significant payments

- (c) The Trustee and Manager must, by the next Business Day, notify the Programme Delegate of any significant payment or proposed payment to or by the Manager, the Trustee or its or their Associates in connection with the Fund or any investment, that a reasonable person would expect the Programme Delegate to want to be aware of.

Interested Person becoming party to a transaction involving an asset of the Fund

- (d) The Trustee and Manager must promptly advise the Programme Delegate if it becomes aware that an Interested Person would or might be a party to a transaction involving an asset of the Fund.
- (e) The Trustee and Manager must, if requested by the Programme Delegate, inform the Programme Delegate whether it is aware, having made all reasonable enquiries, that any Interested Person (other than in their capacity as Trustee, Manager or through their interest in the Fund) holds an interest in an asset of the Fund, and, if so, the name of that person, the extent of their rights in that asset and when they acquired those rights.

Breach

- (f) The Trustee and Manager must promptly notify the Programme Delegate if:
 - (i) the Trustee or Manager breaches this licence or any other Governing Document; or
 - (ii) if any event occurs as a result of which the Programme Delegate would or might be or become entitled to terminate any Governing Document,and in that notice give details of the breach or event.

Departure of Key Personnel

- (g) The Trustee and Manager must notify the Programme Delegate of any change or proposed change to the Key Personnel, in accordance with the Investment Documents.

Nominee appointments to Eligible Investee Companies

- (h) The Trustee and Manager must promptly notify the Programme Delegate of any nominee appointed to assist or manage an Eligible Investee Company in any way.

Services provided to Eligible Investee Companies

- (i) The Trustee and Manager must promptly notify the Programme Delegate of any services that it provides to an Eligible Investee Company, and amounts charged.

Material adverse change in value

- (j) The Trustee and Manager must report to the Programme Delegate any material adverse change in the value of an asset of the Fund within 30 days of the valuation which discloses the material change.

Other material information, events, circumstances

- (k) The Trustee and Manager must promptly notify the Programme Delegate of any other material information, event or circumstance, that has or is likely to have a material adverse impact on the Fund or its value, or that a reasonable person would expect the Programme Delegate to want to be aware of (including to enable the Programme Delegate to be in a position to answer questions from the media).

Litigation

- (l) The Manager must promptly notify the Programme Delegate of any litigation, arbitration, mediation or similar proceedings relating to any investment by the Fund, this licence, any Subscription Deed Poll, the Trustee, the Manager, an Associate of the Manager (other than a Secondary Associate), any Eligible Investee Company in which the Fund holds an investment (Litigation), other than Litigation to which the

Manager and the Commonwealth are parties and in respect of which the Manager would otherwise be entitled to legal professional privilege (Notifiable Litigation).

- (m) The Manager must provide the Programme Delegate with:
- (i) such reports as the Programme Delegate may require (having regard to what is known or ought reasonably to be known by the Manager and what the Manager is permitted by statute to disclose) in connection with any Notifiable Litigation;
 - (ii) copies of all pleadings and other documents relating to any Notifiable Litigation as the Programme Delegate may require; and
 - (iii) confirmation in writing of the outcome of any Notifiable Litigation including, if the Notifiable Litigation is settled or compromised, the terms of that settlement or compromise.

3.2 Reports relating to the administration of the Fund

The Manager must provide the Programme Delegate with the following:

- (a) a copy of the constituent documents of any person (other than an Investor at the date of this licence) who acquires an interest in the Fund, within 30 days of the acquisition;
- (b) a copy of any amendment to this licence within 7 days after it is made;
- (c) a copy of any report, application or document filed with the Australian Securities and Investments Commission which relates to the Fund, at the same time as it is filed;
- (d) a copy of any document lodged or filed by the Manager with any regulatory authority (other than the Australian Securities and Investments Commission) which relates to the Fund, or the Manager in connection with the Fund, within 3 Business Days after it is lodged or filed;
- (e) a copy of any report the Manager furnishes to its Investors, including any prospectus, letter or other publication concerning the Fund's financial operations or those of any Eligible Investee Company, at the same time as this information is provided to the investors;
- (f) a copy of any document or report provided by the Manager to the Investors in relation to the Fund, within 3 Business Days after that document or report is provided to the Investors; and
- (g) such other information and reports as the Programme Delegate may require from time to time relating to the Fund and its affairs, or as is required under the Governing Documents.

4. Date for lodgement

4.1 Timing

If the Manager reasonably considers it impracticable to submit any required report under this schedule 3 within the time allowed, the Manager may apply to the Programme Delegate for an extension of time (**Extension**) formally by lodging a request for an extension of time (**Request for EOT**).

4.2 Request for EOT

If the Manager decides to lodge a Request for EOT, it must:

- (a) be lodged by the Manager before the reporting deadline; and
- (b) provide reasons for the late lodgement.

4.3 Provision of Extensions and relevant circumstances

The Programme Delegate may then following receipt of a proper and correct Request for EOT, decide at its discretion to allow the Manager an Extension.

The Manager accepts that an Extension will ordinarily only be allowed in extraordinary circumstances, which are outside of the Manager's and Partnership's control.

5. Reporting template

The Programme Delegate may vary the reporting template below from time to time by giving at least 30 days' notice to the Manager.

For Official Use Only



Australian Government
**Department of Industry,
Innovation and Science**



Australian Government
Department of Health

Biomedical Translation Fund (BTF)

Reporting Templates for the purposes of the Governing Documents

Use of Confidential Information

The Commonwealth respects the commercially sensitive nature of confidential information provided by applicants. All confidential information provided by applicants will be used in accordance with Australian laws and treated as confidential, however confidential information may be disclosed under specific conditions defined in section 9.2 of the [BTF Programme Guidelines](#).

**[Name of BTF Fund]
End of Financial Year Report
[20xx-xx]**

Executive Summary

(Fund Manager to provide a summary of fund activity for the financial year, include capital flows, investee company achievements and fund manager team activities)

1 Financial Statements and Auditor's Report

Please attach the following documents to this report:

- Balance sheet
- Income statement
- Cash flow statement
- Auditor's report
- Copy of the Partnership Register

Note: the auditor's report has to comply with the Investment Document deed.

1.1 Fund overview

First closing date		Final closing date	
Vintage year		Vesting day	
Legal form and structure			
Investment focus (to be consistent with the Investment Plan unless changes approved)			

1.2 Fund financial details

Total committed capital			
Total paid-in capital			
Total uncalled capital			
Total cost of investments		Number of investments	
Total distributions		Number of divestments	
Net asset value ¹		Total cost multiple ²	
Net IRR to Investors			

1 Total assets minus total liabilities

2 (Total distributions + total unrealised fair value) / total cost of investments

Comment on fund financial details, including details of any leverage to the fund (for example, debt, guarantees, charges or contingent liabilities). Include comment and changes from last year.

1.3 Fund manager

Name	
Current shareholders	
Significant changes to the fund manager	
Changes to senior investment personnel	
Significant changes to the environment the fund operates in	

1.4 Fees and related party disclosures

Management fees paid this period	
Total management fees paid	
Carried interest paid or payable on realised investments	
Have the distributions for this year been audited?	
Fund manager insurance details	

Details of any related party transactions

1.5 Calls and distributions

Please attach a complete list of all calls and distributions, showing the type of transaction, the date of the transaction and the transaction amount.

2.2 Schedule of movement in fair value this period

Investee	Prior period fair value	Investment cost/loans advanced	Realisations/loans repaid	Re-valuations	Current fair value
TOTAL					

2.3 Portfolio companies

Please provide the following information for each investee company of the fund.

[Company Name]

Business Overview (including unique value proposition):

Investment Rationale:

Key Business Developments:

Research Pipeline Stage:

Management:

Cash Position:

Investment Exit Update:

Legal and trading name	
ABN	
Company address	
Sites	
Research and development locations	
Company directors	
Managing director / CEO	
Related bodies corporate	

Is the company still an Eligible Investee Company, as defined by the BTF licence?	Yes/No
---	--------

Fund's role in the investment (lead / co-lead)	
Fund's representative (on executive / board)	
Type of holding / percentage ownership	
Current fair value	
Valuation methodology	

Amount invested	Date invested	Total additional commitments	Reserved for follow-on investment

--	--	--	--

Company's capital structure (including top 5 shareholders, outstanding options/warrants and ESOP)

Trading record	2xxx-xx financial year	Previous financial year
Export Sales		
Domestic Sales		
Total Sales (export and domestic sales)		
Other Revenue		
Earnings Before Interest and Tax (EBIT)		
Net profit (loss)		
Net assets		
R&D expenditure		

Commercialisation of R&D activities

Number of products/services ⁵ in pipeline	
Number of products/services ⁵ sold	
Number of products/services ⁵ benefited by patients	
Number of patent applications submitted ⁶	
Number of patents granted ⁶	

5. Refers to product lines or types, rather than individual items.

6. Patents granted in different jurisdictions for essentially the same product should not be counted more than once.

Changes in employment (split by STEM and non-STEM)	30 June 2xxx	Previous 30 June
Full time employees		
Part time employees		
Contractors		
Total headcount		
<i>Graduate</i>		
<i>Post Graduate</i>		
<i>Doctorate</i>		
<i>Commentary: (Please include proportion of employees by geographic locations; number of interns or non-ongoing staff employed for specific technical tasks)</i>		

Other government funding and assistance received by the company during the period

(Please identify grants or business services received from Commonwealth/State/Territory Governments)

Services provided by fund manager, including fees charged for the services

(Please identify specific examples of the types of services provided)

3 Additional reporting requirements to the Commonwealth

The information collected below is used to measure the performance of the BTF Programme against its key performance indicators.

3.1 Fund Manager

Significant changes to the business plan for the fund (compared to the original plan submitted with the BTF licence application)

--

Details of manager's staff training activities undertaken

--

Key personnel level of involvement

Key person name	% of FTE spent on:		Main activities/responsibilities
	fund	investees	

Deal flow this financial year

Number of initial inquiries received	Industry sectors and additional comments on source of deal flow
Number of inquiries progressed to interview	Industry sectors and additional comments on reasons for not progressing to term sheet
Number of inquiries progressed to term sheet negotiation	Industry sectors and additional comments on reasons for not progressing to investment

Does the manager have any intentions of raising another fund within the next 12 months?

--

3.2 Compliance certificates

Please attach a certificate from the general partner of the fund manager:

- (a) stating that so far as it is aware (and that it has made all reasonable and prudent enquiries in that regard) the provisions of the partnership deed and the BTF management licence have been complied with during the period of 12 months (or shorter period commencing on the date of the BTF management licence) ending on the preceding 30 June; or
- (b) if it is aware that the provisions of the partnership deed or the BTF management licence have not been complied with during that period, the provisions which it is aware have not been complied with, stating when they ceased to be complied with and when compliance recommenced or, if compliance has not recommenced, setting

out the fund manager's proposals to remedy the non-compliance and the time for doing so.

The certificate must also state:

- (c) whether or not, in the opinion of the general partner of the fund manager, the fund manager will continue in compliance with the BTF management licence and the partnership deed (subject to any non-compliances referred to in (b) above); and
- (d) whether or not the fund manager has all necessary insurance policies in place, as required by the partnership deed.

[Name of Fund]
Statement Date: [Date] [Month] [2xxx] Monthly Report

1. Partnership interest pricing (noting any draw downs and distributions this month).

Total committed capital	A\$
Call activities for the month ended:	
Date called issued:	DD/MM/YYYY
Date call due:	DD/MM/YYYY
Total amount of call:	\$
Distribution activities for the month ended:	
Date notice issued:	DD/MM/YYYY
Date payable:	DD/MM/YYYY
Total amount payable	\$
Total called to date:	\$
Total paid-up to date:	\$
Net paid-up capital [Net of Capital return]:	\$
Current Investment Valuation:	\$

2. Key material events (including changes to the fund manager and number of biomedical start-ups investments)

--

3. Carrying value of investments.

--

4. Estimated drawdowns over the next three months.

Purpose	Estimated Date	Estimated Amount
Investment		\$
Management Fee		\$
		Total \$

Signing page

SIGNED, SEALED AND DELIVERED by

a person duly authorised by the
COMMONWEALTH OF AUSTRALIA in the
presence of:

s47F

Signature of witness

s47F

Name of witness (block letters)

s47F

s47F

Signature of authorised signatory

Address of witness

s47F

s47F

Full name of authorised signatory

Occupation of witness

s47F

Executed by Manager in accordance with
section 127 of the Corporations Act 2001 (Cth):

s47F

Signature of director

s47F

Full name of director

Executed by Trustee in accordance with
section 127 of the Corporations Act 2001 (Cth):

s47F

s47F

Signature of director

Signature of company secretary/director

s47F

s47F

Full name of director

Full name of company secretary/director

Department of Industry, Science, Energy and Resources

Deed of Variation to the Licence for BioScience Managers
under the BTF Program

Commonwealth of Australia (**Commonwealth**)

BioScience Managers Pty Ltd (**Manager**)

Details

s47(1)(b)

Date

Parties

Name	The Commonwealth of Australia as represented by the Department of Industry, Science, Energy and Resources
ABN	74 599 608 295
Short form name	Commonwealth
Address details	Manager, Venture Capital, AusIndustry – Industry Capability and Research, Department of Industry, Science, Energy and Resources 10 Binara Street Canberra City, ACT 2600 PO Box 2013 Venturecapital@industry.gov.au

Name	BioScience Managers Pty Ltd
ABN	60 124 669 192
Short form name	Manager
Address details	s47F Level 10, 330 Collins Street, Melbourne, Victoria s47F

Background

s47(1)(b)

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4. Costs and GST	4
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Agreed terms

1. Defined terms and interpretation

1.1 Defined terms

In this Deed, unless the contrary intention appears:

- (a) a word or expression defined or referred to in the Licence has the meaning given to it in the Licence;
- (b) **Deed** means this deed, including all annexures and schedules to it;
- (c) **Effective Date** means s47(1)(b)
- (d) **Licence** means the licence described in paragraph A and B of the Background.

2. Variation to Licence

2.1 Amendment to Licence

On and with effect from the Effective Date, the Licence is varied as set out in Schedule 1 to this Deed.

2.2 Amendments not to affect validity, rights and obligations

- (a) The amendments to the Licence in clause 2.1 of this Deed do not affect the validity or enforceability of the Licence.
- (b) Nothing in this Deed:
 - (i) prejudices or adversely affects the right, power, authority, discretion or remedy arising under the Licence before the Effective Date; or
 - (ii) discharges, releases or otherwise affects any liability or obligation arising under the Licence before the Effective Date.

3. Affirmation of Licence

- (a) The parties affirm in all other respects the covenants and conditions in the Licence as varied by this Deed.
- (b) The Licence, as varied by this Deed, comprises the entire agreement between the parties.
- (c) The parties acknowledge and agree that the Licence as varied by this Deed is and continues to be in full force and effect.

4. Costs and GST

- (a) Each party must meet or pay its own costs and expenses in respect of the preparation, negotiation, execution and completion of this Deed.
- (b) If GST is payable on any supply made under or in connection with this Deed, the recipient of the supply must pay to the supplier an additional amount equal to the GST payable on the supply provided that the supplier has given the recipient a tax invoice for the supply.

- (c) The Manager must pay any stamp duties and registration or other fees (including fines, penalties and interest relating to such duties and fees) which are payable or are assessed by a relevant government body or other person to be payable in relation to this document or any transaction contemplated by it.

5. Miscellaneous

5.1 Counterparts

This Deed may be executed in counterparts. All executed counterparts constitute one document.

5.2 Further Action

The parties must do all things and execute all further documents necessary to give full effect to this Deed.

5.3 Governing law and jurisdiction

This Deed is governed by the law of the Australian Capital Territory and each party irrevocably submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

Signing page

EXECUTED as a deed.

Signed, Sealed and Delivered for and on behalf of the **Commonwealth of Australia as represented by the Department of Industry, Science, Energy and Resources** by its duly authorised delegate in the presence of

s22

s47F



Signature of witness

s47F

s22

Name of witness (print)

Name of delegate (print)

Position of delegate (print)

Signed, Sealed and Delivered by **BioScience Managers Pty Ltd** in accordance with Section 127 of the *Corporations Act 2001* in the presence of

s47F

s47F



Signature of director

Signature of director

s47F

s47F

Name of director (print)

Name of director (print)

Schedule 1 – Variation to Licence

s47(1)(b)

Department of Industry, Innovation and Science

Deed of Variation to the Licence for BioScience Managers
under the BTF Program

Commonwealth of Australia (**Commonwealth**)

BioScience Managers Pty Ltd (**Manager**)

Details

s47(1)(b)

Date

Parties

Name	The Commonwealth of Australia as represented by the Department of Industry, Innovation and Science
ABN	74 599 608 295
Short form name	Commonwealth
Address details	Manager, Venture Capital, AusIndustry – Industry Capability and Research, Department of Industry Innovation and Science 10 Binara Street Canberra City, ACT 2600 PO Box 2013 Venturecapital@industry.gov.au

Name	BioScience Managers Pty Ltd
ABN	60 124 669 192
Short form name	Manager
Address details	s47F Level 10, 330 Collins Street, Melbourne, Victoria [insert postal address] s47F

Background

s47(1)(b)

A

B

C

D

E

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Agreed terms

1. Defined terms and interpretation

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In this Deed, unless the contrary intention appears:

- (a) a word or expression defined or referred to in the Licence has the meaning given to it in the Licence;
- (b) **Deed** means this deed, including all annexures and schedules to it;
- (c) **Effective Date** means the ^{s47(1)(b)}
- (d) **Licence** means the licence described in paragraph A and B of the Background.

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On and with effect from the Effective Date, the Licence is varied as set out in Schedule 1 to this Deed.

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- (a) The amendments to the Licence in clause 2.1 of this Deed do not affect the validity or enforceability of the Licence.
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 - (i) prejudices or adversely affects the right, power, authority, discretion or remedy arising under the Licence before the Effective Date; or
 - (ii) discharges, releases or otherwise affects any liability or obligation arising under the Licence before the Effective Date.

3. Affirmation of Licence

- (a) The parties affirm in all other respects the covenants and conditions in the Licence as varied by this Deed.
- (b) The Licence, as varied by this Deed, comprises the entire agreement between the parties.
- (c) The parties acknowledge and agree that the Licence as varied by this Deed is and continues to be in full force and effect.

4. Costs and GST

- (a) Each party must meet or pay its own costs and expenses in respect of the preparation, negotiation, execution and completion of this Deed.
- (b) If GST is payable on any supply made under or in connection with this Deed, the recipient of the supply must pay to the supplier an additional amount equal to the GST payable on the supply provided that the supplier has given the recipient a tax invoice for the supply.

- (c) The Manager must pay any stamp duties and registration or other fees (including fines, penalties and interest relating to such duties and fees) which are payable or are assessed by a relevant government body or other person to be payable in relation to this document or any transaction contemplated by it.

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This Deed may be executed in counterparts. All executed counterparts constitute one document.

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The parties must do all things and execute all further documents necessary to give full effect to this Deed.

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This Deed is governed by the law of the Australian Capital Territory and each party irrevocably submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

Schedule 1 – Variation to Licence

1.1 ^{s47(1)(b)}

CERTIFICATE OF INVESTMENT

As at the date of this Certificate, Phillip Asset Management Limited as trustee for BioScience Managers Translation Fund I hereby confirm an investment of ^{s47(1)(b)} was made into Rex Bionics Pty Ltd, L10, 330 Collins Street, Melbourne 3000 Australia ABN 40 169 410 646

s47F

<http://www.rexbionics.com/>

Rex is a medical device robot for rehabilitation; exercising, walking and standing.

The **Rex Bionics Pty Ltd** investment:

- Is an Eligible Investment Company,
 - The investment will be used for commercialising biomedical discoveries,
- The investment is an Eligible Investment and it complies with the Governing Documents,
- As far as the manager is aware, the company will remain an Eligible Investee Company throughout the likely period of the investment, and
- The investment otherwise complies with the Licence and the Investment Documents.

Dated *this 26th day of June, 2017*

1/

2nd June 2021

General Manager of the Commercialisation Branch
 The Programme Delegate,
 Biomedical Translation Fund
 Commonwealth of Australia, Department of Industry, Innovation and Science
 10 Binara Street
 Canberra ACT 2600

Dear Sir/Madam,

The fund manager, on behalf of the General Partner of the OneVentures Healthcare Fund III would like to report to the Programme Delegate the following new investment of the Fund.

<i>Date of Investment</i>	26 th May 2021
<i>Name</i>	Blade Therapeutics Pty Ltd
<i>Investment amount</i>	s47(1)(b)
<i>Address</i>	58 Gipps St, Collingwood VIC 3066
<i>ABN</i>	88 621 853 361
<i>Website Address</i>	www.blademed.com
<i>Chief Executive Officer</i>	s47F
<i>Investment Sector</i>	Pharmaceuticals
<i>Brief Description of the Investee Company</i>	s47(1)(b)
<i>Intended use of the proceeds and that the investment will be used</i>	

OneVentures Pty Ltd
 Suite 13.02, 179 Elizabeth St
 Sydney NSW 200

+61 2-8205 7379
 one-ventures.com

1/

*for commercialising
Biomedical Discoveries*

s47(1)(b)

As far as the general partner of the Fund is aware, and in the opinion of the Fund Manager on behalf of the General Partner of the Fund making reasonable and prudent enquiries:

1. The company in which the investment has been made is an Eligible Investee Company;
2. The intended use of the proceeds and the investment will be used for commercialising Biomedical Discoveries;
3. The Nature and Structure of the investment is an Eligible Investment that complies with the Governing Documents;
4. The Company will remain an Eligible Investee Company throughout the likely period of the investment; and
5. The Investment otherwise complies with the BTF licence and the Investment Documents of the Fund.

Signed for on behalf of OneVentures Healthcare Fund III, LP by OneVentures Funds Management Pty Ltd (the general partner of OneVentures Innovation Fund Management Partnership, LP, being the general partner of OneVentures Healthcare Fund III, LP)

s47F

Director

OneVentures Pty Ltd
Suite 13.02, 179 Elizabeth St
Sydney NSW 200.

+61 2 8205 7379
one-ventures.com

Biomedical Translation Fund Certification for a New Investment

About this form
This form is to be completed for each new BTF investment to provide assurance to the Programme Delegate that the proposed new investment is in an Eligible Investee Company and complies with the terms of the Licensed Fund's Governing Documents. The completed form needs to be provided to AusIndustry before, or at the time that, a capital call notice is issued to finance the new investment.
Instructions
Please complete all four parts of the form: Part A – Company Details, Part B – Eligible Investee Company, Part C – Compliance with other investment conditions and Part D – Declarations. For Parts B and C, in the confirmation column please answer "Yes" to confirm that the condition is satisfied or "No" if not.

Part A – Company Details		
A1.	Name of the company	Blade Therapeutics Pty Ltd
A2.	Date of incorporation	22 September 2017
A3.	Place of incorporation	Victoria
A4.	Registered office address	58 Gipps Street, Collingwood, VIC 3066
A5.	Office address <i>(if different to registered office)</i>	As above
A6.	Australian Business Number	88621853361
A7.	Name of Chief Executive Officer	s47F
A8.	CEO's contact details <i>(email and telephone)</i>	
A9.	Web site address	www.blademed.com

A10.	<u>Corporate Structure</u> Is the company part of a corporate group? If yes, please provide a group structure chart with details of all parent and subsidiary entities	Yes. It is a 100% subsidiary of Blade Therapeutics Inc.
A11.	<u>Employees</u> What is the company's total number of employees? How many employees are based in Australia? How many employees are based outside of Australia?	s47(1)(b)
A12.	<u>Assets</u> What is the total value of the company's assets? What is the total value of the assets held in Australia? What is the total value of the assets held outside of Australia?	s47(1)(b)
A13.	<u>Revenue</u> What was the annual revenue of the company (and the group, if applicable) over the past two years?	s47(1)(b)
A14.	<u>Biomedical Discoveries</u> Please provide a brief description of the Biomedical Discoveries that the company is commercialising	s47(1)(b)
A15.	<u>Intellectual Property</u> Does the company own the intellectual property for the Biomedical Discoveries that it is commercialising? If not, who owns the intellectual property?	s47(1)(b)

A16.	<u>Investment amount</u> What is the total amount of capital proposed for investment in this company? Will the total amount of capital be invested at inception or in tranches? s47(1)(b) (expected dates and amounts)	s47(1)(b)
Part B – Eligible Investee Company <i>(BTF Terms clause 1.1)</i>		
		Confirmation Yes
At the time the Fund first makes an investment in this company:		
B1.	The company has a majority of its employees (by number) and assets (by value) inside Australia, or will use the whole of the initial investment within Australia	Yes
B2.	Neither the company, nor the corporate group of which it is a member (if applicable) has an average annual revenue over the previous two years in excess of \$25 million per year (the calculation of revenue for a year of income will exclude any abnormal items)	Yes
B3.	The company is incorporated under the Corporations Act and has an Australian Business Number (ABN)	Yes
At the time the Fund first makes an investment in this company and at all times thereafter while the Fund holds an interest in the company:		
B4.	The company is commercialising Biomedical Discoveries or will, under the investment arrangement with the Fund, be required to commercialise Biomedical Discoveries	Yes
B5.	The company is providing all of the goods and services it produces through commercialising Biomedical Discoveries to persons who are not Associates	Yes
B6.	The company is not a body that is an Ineligible Investment	Yes

<p><i>Ineligible Investment means a company:</i></p> <p>a) whose primary business activity involves, directly or indirectly, providing capital to others, purchasing debt obligations or factoring;</p> <p>b) whose business is not substantially that of developing and/or commercialising biomedical discoveries;</p> <p>c) which is, or is the manager of, another fund licensed under the BTF Programme, the Innovation Investment Fund programme, the PreSeed Fund, the Renewable Energy Venture Capital Fund or any other Government supported venture capital programme in operation from time to time;</p> <p>d) which carries on business in the capacity of trustee of a trust or in any nominee or representative capacity;</p> <p>e) which proposes to use all or any part of an investment made by the Fund to finance the acquisition of land used or intended to be used for agricultural, horticultural or forestry purposes;</p> <p>f) which is a non-profit health and medical research centre, or</p> <p>g) which is, or is in a class of companies, determined by the Programme Delegate from time to time to be ineligible.</p>		
<p>Part C – Compliance with other investment conditions</p>		
		Confirmation (Yes/No)
C1.	<p>Investment Freeze (BTF Terms clause 11.10) The Fund is not in an Investment Freeze Period</p>	Yes
C2.	<p>No new investments after seventh anniversary (BTF Terms clause 14.3) The investment in this company will be completed before the Investment Deadline (the date 7 years after the date of the BTF Licence)</p>	Yes
C3.	<p>Required terms for investments (BTF Terms clause 15) The investment in this company includes all the required terms specified in the BTF terms (Investment to be used for commercialising Biomedical Discoveries, Securities to be issued pro-rata, Access to records, Dispute resolution, No Borrowing)</p>	Yes
C4.	<p>Maximum level of investment – proportion of Fund’s Committed Capital (BTF Terms clause 16.1) The investment in this company is no more than 20% of the Fund’s Committed Capital</p>	Yes

C5.	Maximum level of investment – Commonwealth Programme Capital <i>(BTF Terms clause 16.1)</i> The investment in this company, together with amounts invested by other Licensed Funds (Commonwealth Programme Capital) in this company, will not exceed \$25,000,000	Yes
C6.	Investment Plan <i>(BTF Terms clause 16.2)</i> The investment in this company is in accordance with the Fund's Investment Plan and Governing Documents	Yes
C7.	No investments with liability attached <i>(BTF Terms clause 16.4)</i> The investment in this company is in accordance with provisions in the Governing Documents regarding liability attached to investments	Yes
C8.	Cap on investments in Eligible Investee Companies that are Associates of the Trustee, the Manager or an Investor <i>(BTF Terms clause 16.5)</i> The investment in this company is in accordance with provisions in the Governing Documents regarding investments in Eligible Investee Companies that are Associates of the Trustee, the Manager or an Investor	Yes
		Confirmation (Yes/No)
C9.	Investments involving a conflict <i>(BTF Terms clause 16.6)</i> The investment in this company does not involve a conflict of interest; or if it does involve a conflict of interest, the process set out in the Conflict of Interest Policy has been followed	Yes
C10.	Prohibited investments <i>(BTF Terms clauses 16.7, 16.8)</i> The investment in this company is not a prohibited investment as specified in the BTF terms (Trustee's or Manager's Associates, major investors, other prohibited investments)	Yes

Part D – Declarations
The Trustee and the Manager represent and expressly warrant that: <ul style="list-style-type: none"> ▪ The information provided in this form is accurate; and ▪ The proposed new investment complies with the terms of the Governing Documents

Trustee	Manager
	s47F
Signature of Authorised Officer	Signature of Authorised Officer
	s47F
Name of Authorised Officer	Name of Authorised Officer
Date	Date 22 nd August 2018