

JAMES COOK UNIVERSITY
COMMERCIAL RESEARCH AND CONSULTANCY SERVICES
POLICIES AND PROCEDURES

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1. Introduction

Commercial Research and Consultancy Services generate benefits to the University because such activity contributes in an essential and positive way to the intellectual development of the staff and facilitates the University's interaction with the community in the widest sense. The benefits include:

- developing, broadening and strengthening the skills and experience of the staff member, and hence enriching the academic and intellectual capital of the University;
- making the specialised knowledge and talents of the staff member, and hence of the University, available to the community;
- enhancing the personal satisfaction that staff gain from their professional position;
- relating the pure and strategic research pursued in the University to the applied research and technology necessary for industry, government and other community sectors;
- widening the options available to the University for additional sources of funding for research and scholarship.

Staff are encouraged to undertake Commercial Research and Consultancy Services when the work undertaken is of a character likely to enhance the academic status of the individuals concerned, to improve the quality of teaching and research, and to promote good relationships between the University and the community.

Whilst recognising that Commercial Research and Consultancy Services generate financial and reputational benefits, the University community needs equally also to be aware of the requirements of the *Trade Practices Act* particularly in relation to competitive neutrality ("National Competition Policy"). University researchers when conducting Commercial Research and Consultancy Services need to ensure that their activities are fully costed and are not subsidised by way of free or discounted access to University facilities and infrastructure. It is a breach of National Competition

Policy for University researchers to knowingly undercut the price of competitors because of such free or discounted use of infrastructure and facilities.

All commercial research and consultancies must be negotiated through the University, unless formal written exemption is obtained (refer the [Statement on Staff External Activities](#)). The policies and procedures described here govern Commercial Research and Consultancy Services conducted through the University.

There are distinct advantages to both the University and the staff member in having commercial research and consultancy activities conducted through the University. These include:

- Government policy seeks to develop a research and research training system, thereby extending the contributions of universities to the national innovation system through closer links with industry. As part of this process, DEST has introduced new institutional funding schemes to support research (*Institutional Grants Scheme*) and research training (*Research Training Scheme*), which provide greater rewards in terms of Government funding for institutions that engage in commercial research. Commercial research conducted external to the University will not deliver these financial benefits to the University;
- the University's internal distribution formula for research funding (research component) includes as a measure, industry-funded collaborative and contract research;
- commercial research and consultancy activities managed within the University contribute to its overall strategic research direction, with consequent strengthening of areas of research focus and broadening of the research base;
- commercial research and consultancy activities managed within the University are covered by workers compensation, professional indemnity and public liability cover and supported by the University's administration (including with respect to obligations under the Goods and Services Tax (GST) legislation); and,
- the University offers financial benefits to staff members who undertake commercial research or consultancies, and to their School.

2. Definition

2.1 *Research and Consultancy Services*

Commercial Research and Consultancy Services are defined as research and consultancy services conducted at the request of, and paid for by, industry, government agencies or other organisations external to the University (External Parties) and are associated with well-defined objectives, usually in the form of a deliverable product or report.

Commercial Research and Consultancy Services are made up of the following:

- Collaborative Research and Development
- Contract Research
- Consultancy

2.2 *Collaborative Research and Development*

Collaborative research and development projects are research projects of a general or strategic nature jointly developed and carried out by the University and an External Party. As well as providing funding, the External Party may contribute to the research activity with actual participation in the research or by providing access to specialised facilities or infrastructure.

2.3 *Contract Research*

Contract research involves projects undertaken by the University for an External Party at commercial rates in order to study a specific issue or problem and that generally result in a

deliverable product or report of commercial importance, which addresses the outcomes. The project may be developed primarily by the External Party or jointly by the University and the External Party.

2.4 Consultancy

A consultancy is a service whereby the University provides pre-existing, professional skills and know-how to an External Party for a specified project that has an expected or assured outcome. Facilities and equipment may also be provided by the University.

2.5 Commercial Research

Where the University is contracted to develop intellectual property that is owned by an External Party or seeks to develop its own intellectual property either by itself or in collaboration with an External Party, with the intention of realising its commercial potential, the term “commercial research” is commonly used.

3. Distinguishing between Research and Consultancy

Distinguishing between research on the one hand, and consultancies and other non-research activities on the other, is often difficult. Accurate classification of externally funded projects is important for the University, industry and academic staff because:

- as part of its institutional funding from DEST the University receives a financial return via IGS and RTS for research but not for consultancies and other non-research activities;
- an industry partner may be eligible for tax concessions and other government support for funding research. There is currently no such support for consultancies and other non-research activities;
- the career progression of staff members is enhanced by the quantity of research funds they receive; and
- different pricing policies apply.

Note that when reporting its research income to DEST, the University must strictly apply the DEST criteria for research. In some cases income cannot be classified as research income despite its research basis. Such income is usually classified under the banner of “consultancy income”, even though the service provided is not a “consultancy” in the narrower sense as it is often more commonly understood by staff.

Research Services can assist in assessing whether a particular project is consultancy (or other non-research activity) or research. Where there is doubt, applicants should complete the form “Distinguishing Between Research and Consultancy”, available [online](#), and forward it to Research Services.

4. Aims

The University, through this policy and its strategic research directions, aims to:

- a. ensure that any Commercial Research and Consultancy Services undertaken are of high quality and benefit the University, the community and the individual undertaking the work;
- b. maximise the protection of the University and of the staff involved against litigation;
- c. achieve appropriate recompense for staff time, consumables, equipment costs, overheads and expertise contained within the University;
- d. ensure consistency and co-ordination of Commercial Research and Consultancy Services across the University;
- e. ensure the University’s compliance with all relevant legislation and standards; and

- f. ensure that the University competes on a fair basis in the market place.

5. Approval and Contract Procedures

5.1 Delegations

Delegations of authority for the approval and signing of tenders and contracts are detailed in the University Council's [Delegations Register](#). Staff must make themselves aware of the level of authority required for the execution of agreements. Formal contracts and letters of agreement, including variations to agreement, may be entered into only by the University and not by individual researchers conducting the work.

5.2 Tenders

Any staff member intending to bid for a Commercial Research or Consultancy Services contract:

- a. must advise their Head of School in the first instance;
- b. should consult with Research Services in regard to the content of any tender, but particularly in regard to ownership of intellectual property and pricing; and
- c. must submit a copy of any proposal to Research Services.

5.3 Contracts and Agreements

- a. A contract or letter of agreement defines and formalises the relationship between the External Party and the University and must be signed prior to commencement of each project or undertaking. Such agreements assist in achieving certainty and maximising protection against potential litigation. An exchange of letters can, depending on the content, constitute a legally enforceable contract. The following elements are generally included in any agreement:
 - statement of work or services to be performed;
 - cost of project and basis for payments;
 - deliverables and/or milestones to be achieved;
 - period of agreement;
 - intellectual property ownership;
 - confidentiality and publication rights; and
 - standard legal requirements relating to warranties, insurance, limitation of liability, cause for termination, surviving rights, resolution of disputes etc.
- b. Research Services will assist in the provision of appropriate contracts or letters of agreement and must review all contracts prior to authorisation.
- c. Staff members may enter into discussions or correspondence with External Parties prior to a contract being signed. However, unless specifically authorised, they have no authority to enter into arrangements or agreements that bind the University. Research Services must be kept informed of all relevant discussions.
- d. Any written communication (including emails) with a client made prior to formalising an agreement should include the following:

This document is not legally binding on James Cook University; no legal relationship is entered into until a contract (which may consist of an exchange of letters) is duly executed.

Researchers should be aware that an exchange of emails can constitute a binding agreement as can a verbal exchange. In any preliminary communication it is essential that the External Party

is aware that the any agreement is only binding on the University if it is between the University and the External Party.

- e. Staff of the University may enter into individual non-disclosure or confidentiality agreements required as a condition precedent to further discussions or negotiations, subject to (a) the obtaining of advice from Research Services and (b) counter-signing of the agreement by the staff-member's Head of School. However this does not extend to confidentiality agreements required as part of contract documentation.
- f. While it is in order for tenders and contract documentation to include the name of an individual or School, all contracts must be entered into in the name of the University.
- g. It is essential that the project be well defined to avoid misunderstandings with respect to scope, level of effort involved, methodology, duration and anticipated outcomes. Any requirement by the External Party for work over and above that which was initially agreed will require a variation to the agreement.

5.4 *Quality Assurance and Risk Management*

External Parties may require that the University implement and maintain an adequate quality assurance program for Commercial Research and Consultancy Services undertaken by the University. Quality assurance programs for particular projects are the responsibility of the staff carrying out the work. Advice on this matter is available from Research Services.

5.5 *Insurance and Professional Indemnity*

- a. All staff involved in the provision of Commercial Research and Consultancy Services on behalf of the University are covered by the University's insurance policies for professional indemnity, workers' compensation and public risk liability, subject to the terms and limitations of those policies.
- b. Staff of the University engaged in Commercial Research and Consultancy Services should take careful note of provisions in documents that specify the insurance obligations of the University. Any requirements for evidence of insurance cover should be referred to relevant staff in the [Resources Office](#).

6. Intellectual Property

6.1 *General Principles*

- a. In addition to the policy on [Intellectual Property](#) further information and advice on the subject of intellectual property is available from Research Services (including [online](#)). This section should be read as a guideline only. The Policy is the authoritative document.
- b. As a general principle, the University asserts ownership of all intellectual property associated with, or arising from, Commercial Research and Consultancy Services undertaken by the University. However, in practice intellectual property rights will be negotiated as part of the terms of contract. Every endeavour should be made to protect the interests of the University in the area of intellectual property and the following key areas should be specifically addressed (as appropriate) in contractual arrangements for Commercial Research and Consultancy Services:
 - ownership of intellectual property;
 - confidentiality and protection of intellectual property;
 - commercialisation of intellectual property; and
 - the rights of the University and researchers to use contract material and results for teaching, research and publication.

6.2 *Ownership and Use*

Ownership of, and the capacity to use, intellectual property arising from the University's undertaking Commercial Research and Consultancy Services ("project intellectual property") will depend on the conditions negotiated in the contract governing the work and will vary according to the type of project. The following comments are given as a guide in negotiating intellectual property rights in contracts:

a. Collaborative Research and Development

Rights to intellectual property arising from collaborative research and development projects is negotiated on a case by case basis and depends on:

- the equity contributions of the parties;
- the existing intellectual property brought to the project by each party;
- the capacity of the collaborator to commercialise project intellectual property and to otherwise utilise research outcomes.

Joint ownership of intellectual property is a typical outcome, especially where the collaborator is another research institution. However joint ownership must always be subject to terms that clearly set out the capacity of the joint owners to use and commercially exploit project intellectual property. Without such terms the University may be disadvantaged by the rights accorded joint owners under legislation.¹

b. Contract Research

Rights to intellectual property arising from contract research projects is negotiated between the parties and based upon the respective financial and intellectual contributions of the parties. There are a range of options that the University typically negotiates, with the External Party being granted:

- an exclusive option for a set period in which it can seek to negotiate a licence of the project intellectual property,
- a non-exclusive or exclusive licence of the project intellectual property (with a royalty return being paid to the University), or
- ownership (or joint ownership) of the project intellectual property.

Ownership may be warranted where the External Party has made a significant contribution to the project, or where the University is contracted to further develop intellectual property that is owned by the External Party.

c. Consultancies

The outcome of a consultancy is generally in the form of a report. The External Party can expect to own the intellectual property resulting from a consultancy. The underlying intellectual property or know-how remains the property of the University, however strict confidentiality conditions may be imposed.

6.3 *Student Involvement*

The involvement of students in externally funded research requires careful consideration in the light of the fact that, unless otherwise assigned, students have ownership of any intellectual property created in the course of their studies (refer the [Intellectual Property Policy](#)).

It is very important that if a student is to be involved in a project where the External Party has a claim to either own or restrict the use of project intellectual property, the student must sign

¹ For example, a joint owner of a patent in Australia may commercially exploit the patent without the consent of the other joint owner(s) and without accounting to the other joint owner(s) for the benefits it thereby gains, but it cannot license another party to do so on its behalf. In the United States a joint owner can also license the patent.

an agreement with the University that deals with those intellectual property issues before he or she begins work. It is in the best interest of the student, the University and the External Party that the student's rights and obligations with respect to intellectual property are formally resolved at the outset. (It would be inappropriate and unethical to advise a student after he or she had begun research work under a graduate degree program, that a condition of involvement in the project is the assignment of their intellectual property rights.)

6.4 Valuing and Protecting Intellectual Property

The rights and interests of the University in relation to intellectual property should be taken into account when pricing Commercial Research and Consultancy Services. For this reason, any negotiations on intellectual property must be undertaken in collaboration with, or on advice from, Research Services.

7. Publication and Confidentiality

[Note: reference should also be made to the [Intellectual Property Policy](#) and to the [Statement and Guidelines on Research Practice](#).]

7.1 Publication

- a. University policy is that wherever possible the University and its staff and students should retain the right to disseminate the results from Commercial Research and Consultancy Services and other research projects.
- b. The University would oppose the imposition of any unreasonable constraint on its right or the rights of its staff and students to publish results or information arising from projects. The University would not normally accept any condition that denies the right to publish or requires publication to be deferred for an unreasonably long period.
- c. In the case of project results or information of commercial value or information that is otherwise commercially sensitive however, the University accepts that it is reasonable that there should be some time restriction placed on the right to publish. Usually this should not exceed 18 months.
- d. Where an External Party has a right to publish project results the University will normally require that the moral rights of authors (as set out in the *Copyright Act*) are respected. Moral rights are:
 - the right of attribution of authorship,
 - the right not to have authorship falsely attributed, and
 - the right of integrity of authorship (the right not to have the work subjected to derogatory treatment).

Occasionally an External Party will seek to have moral rights waived (for example: for a work to be published or disseminated without the author's name). If it agrees to such terms, the University must arrange for the author's consent to be formally provided.

7.2 Confidentiality

[Note: the management of commercial research projects that include requirements for confidentiality is dealt with in the [Guidelines on Confidentiality in Commercial Projects](#).]

- a. Either the University or an External Party may have interests that necessitate the inclusion of confidentiality clauses or undertakings in project documentation.
- b. The University must endeavour not to enter into a contract that restricts the right of a postgraduate student of the University to include project results or information in a thesis, or restricts the publication of the thesis, unless the specific agreement of the Pro-Vice-Chancellor

(Research & International) has been obtained and the student has been duly advised of this limitation and has acknowledged it in writing.

8. Charging and Cost Recovery

8.1 Policy

In accordance with the Australian Vice-Chancellors Committee (AV-CC) policy, the University is committed to a general policy of full cost recovery for externally funded research. Accordingly the price to be charged for projects defined as Commercial Research and Consultancy Services must cover the full costs of the project (Full Cost Recovery) and in many cases should include a profit component. It is essential that the proper costing be done to ensure that:

- the University competes fairly in the market place and complies with the National Competition Policy;
- subsidisation of Commercial Research and Consultancy Services by other revenue sources of the University is avoided; and
- the University receives recompense and/or obtains fair profit for the use of its professional staff and facilities.

8.2 Charging

The amount to be charged should be based on knowledge of all relevant actual cost components and explicit consideration of the following factors:

- consistency of the project with the objectives of the University or the External Party;
- knowledge of market conditions, including the presence of competitors, any comparative advantage and what the market will bear;
- ownership of the results of the project, including intellectual property;
- costs of negotiations, preparation of submissions and like costs for the project in question and other projects over a one year period where negotiations, submissions or tenders have been unsuccessful;
- costs of managing the project;
- the value to the University of conducting the project, for example by establishing a market reputation, training University staff in the area or providing opportunities to work in areas of special interest;
- the degree of risk or uncertainty involved in the project taking into account anticipated results; and
- the degree to which the External Party may fully appropriate the benefits of the project.

Details of how projects should be priced are to be found in section 9 of this policy.

8.3 Full Cost Recovery

Cost components

External Parties, in particular, industry clients, should pay all the costs of each project that they support. The amount to be charged should be sufficient to cover the following three components:

- Direct Costs;
- Infrastructure charges; and

- Profit (as appropriate).

Full Cost Recovery occurs when Direct Costs and Infrastructure Charges are covered.

a. Direct Costs

Direct Costs include:

- Pro-rated salaries and salary on-costs (payroll tax, workers' compensation, leave loading, superannuation, long service leave etc.) for both academic and support staff directly engaged on the project),
- equipment and maintenance;
- consumable supplies;
- travel and accommodation costs;
- meetings and conferences;
- special computing support;
- third party consulting/testing/subcontracting;
- patenting costs;
- costs of special documentary or library material; and
- extra-ordinary communication, printing and publication expenses.

b. Infrastructure charges

Infrastructure charges (sometimes referred to as administrative overheads) are not an ad hoc levy, nor are they profit. They are charged to cover the real infrastructure costs that the University bears for every project such as:

- insurance;
- general technical support;
- accounting and administration services;
- legal services;
- building maintenance and running costs;
- telecommunications;
- library and information services;
- mainframe computing;
- workshops;
- use of existing equipment;
- office support and secretarial services;
- office and laboratory space; and
- amortisation of buildings and other capital costs.

The calculation of infrastructure charges varies according to the method of calculating the budget and must be included in all industry-funded projects and consultancies regardless of the dollar value of the project.

Higher than normal overhead charges should be included in the project cost where:

- the University provides particularly costly and specialist services and/or infrastructure in support of the project; or
- the project has significant commercial potential for the External Party.

c. Profit

The fixing of a profit component should take into account what is considered to be the market value of the Commercial Research and Consultancy Services. A higher than normal profit component may be justified where:

- the University supplies unique expertise and/or specialist facilities;

- the University is asked to concede valuable intellectual property, or restrictive conditions on intellectual property or publication are imposed;
- the project has significant commercial potential for the External Party; or
- the project must be conducted within a very short time frame.

The profit component should be set in accordance with relevant industry conditions. As a guide the profit component should be at least 10% of full costs (direct + infrastructure costs) or higher where the market permits.

8.4 Pricing at less than Full Cost Recovery

a. Justification

Pricing at less than Full Cost Recovery may be justified for projects that benefit either the University or the School in a special way and that also help to meet the goals of the University such as:

- training of postgraduate students;
- advancing a project in a national priority area or advancing a project in an area of strategic research importance to the University;
- provision of equipment that would remain the property of the University at the end of the project; or
- where the University is in receipt of alternative sources of funding clearly intended to cover part of the costs of the project.

b. Approval

Any proposal to price a project at less than Full Cost Recovery must be approved by the Pro-Vice-Chancellor (Research & International) and be accompanied by:

- full details of the true costing of the project with a breakdown of the Direct Costs, Infrastructure Charges and the proposed price; and,
- reasons for the proposed price.

Approval will not be granted if the proposed price structure would be in breach of National Competition Policy.

Proposals where the proposed price does not at least equal direct costs are unlikely to be approved except in exceptional circumstances. Under no circumstances will a waiver of the requirement to price for Full Cost Recovery be granted retrospectively.

8.5 Waiver of Infrastructure Charges

- a. While some sponsored research grants are exempt from infrastructure charges, the waiver of infrastructure charges for Commercial Research and Consultancy Services is not encouraged as it creates a drain on University resources and can result in a breach of National Competition Policy.
- b. Infrastructure charges cannot be reduced or waived without the approval of the Pro-Vice-Chancellor (Research and International) and variations or exemptions will only be granted under special circumstances. Under no circumstances will any element of the infrastructure charge be waived for consultancies.

Under no circumstances will infrastructure charges be waived retrospectively.

8.6 Special considerations for Commercial Research and Consultancy Services

a. Collaborative Research and Development

Normally Collaborative Research and Development will be priced to ensure that there is at least Full Cost Recovery. In addition to the factors referred to in 8.4 above, pricing at less than Full Cost Recovery may be considered in certain circumstances taking into account the following:

- the relative equity of contributions of each party including both the intellectual, financial and in-kind contributions;
- where there is potential benefit to the University in the form of royalties or profit-sharing agreements, patents or other intellectual property rights; and
- where the University gains access to expertise or facilities provided by an External Party that is not otherwise available to the University.

In cases where the University receives separate financial assistance from a granting body for project-related research the funds received from that body should be regarded as a contribution by the University to the project, and should not affect the pricing or costing of the project by the University.

b. Contract Research

Contract Research should be priced to achieve Full Cost Recovery and may often include a profit component.

For commercial projects where the University is contracted to develop intellectual property owned or controlled by an External Party, higher than standard overheads charges should be used when calculating the price. Budgets for such projects must be approved by the Pro-Vice-Chancellor (Research and International).

c. Consultancies

Consultancies should be priced to achieve Full Cost Recovery and should include a profit component

9. Establishing Project Costs

9.1 *Methods*

The University employs two different methods of establishing a budget: direct project costs and charge out rates, both of which include an infrastructure component. On rare occasions a combination of both methods may be used.

- a. The direct project cost method should be employed when significant use of both facilities and labour are involved. This is generally the case for contract or collaborative research activities but can also be applicable to Consultancies.
- b. Charge out rates are utilised on projects where a staff member's time is the primary commodity and the only deliverable may be a written opinion or report. This method assumes that costs for the use of university facilities are minimal and that the activities undertaken would rarely require the use of any equipment or specific University facilities other than those covered by overheads charges (see section 8.3(b) above). Consultancies generally fall into this category, but a consulting project can also involve significant use of University facilities, particularly when testing or measurement services are being provided. In such cases, the direct project costing method should be considered.

9.2 *Direct Project Costs*

The direct project cost method involves identifying and estimating all anticipated costs for the project and applying the University's standard infrastructure charge of 25% (or multiplier of 1.25) to the salary component (which includes salary on-costs) to determine the total project costs. The salary costs of all personnel working directly on the project should be included in the salary costing even though such salaries may be paid from other University funds.

In cases where the salary component is minimal, it may be necessary to apply an infrastructure charge to the total direct costs of the project to ensure that infrastructure costs are recovered. Advice should be sought from Research Services in such instances.

The 25% infrastructure charge should be regarded as a minimum charge. In some cases it may be appropriate or necessary to charge at a higher rate (refer sections 8.3(b) and 8.6(b) above).

Working Example – direct cost method

Item	Cost	
1 st CI – 2 weeks @ \$1,325 /week	2,650	
plus salary on-costs 30.1%	<u>798</u>	3,448
Research Officer 100 hours @ \$19.80/hour	1,980	
plus salary on-costs 20.6%	<u>408</u>	<u>2,388</u>
Total salary items		5,836
Travel	1,500	
Accommodation	500	
Consumables	<u>2,500</u>	
Total non-salary items		4,500
Administrative overheads (25% of salary items)		<u>1,459</u>
TOTAL PROJECT COSTS (exclusive of GST)		\$11,795
10% GST		<u>1,180</u>
Total Amount for Invoicing		<u>\$12,975</u>

Disbursement of Overheads

Total Overheads (25% of \$5,836) =	\$1,459	
School [8.33%]	\$486	<i>refer 10.3</i>
Central Administration [16.67%]	\$973	" "

9.3 Charge Out Rate Method

Charge out rates differ from direct project costs in that they comprise a daily charge that is inclusive of all costs for the project.

The total project cost is calculating by estimating the number of days it will take to complete the scope of work and multiplying it by the appropriate charge out rate/s.

Recommended minimum daily rates are as follows:

Position	Level	Daily Rate
Professor/Associate Professor	Level D/E	\$1,350
Senior Lecturer	Level C	\$1,100
Lecturer	Level B	\$950
Associate Lecturer	Level A	\$800
Technical/Support Staff		<i>(determined by Head of School)</i>

NOTE: These rates are inclusive of all on-costs and infrastructure charges.

Rates for periods less than a day should be calculated on a pro rata basis. The daily rates are based on an approximate 3-times multiplier of actual base salary costs. Recommended minimum daily rates will be reviewed from time to time and Heads of School notified accordingly. In the case of long term consultancies daily rates may not be appropriate and pricing may be calculated on the basis of three times pro rata annual salary.

The above rates are recommended minimum charge out rates for academic staff in general. In some disciplines it will be appropriate to charge more, or less, based on going rates in the professional market place. In all cases it is important that the expertise provided is not undervalued.

Working Example – charge out rate method

Items	Cost
1 st CI – Professor – 1/2 day @ \$1,350/day	675
2 nd CI – Assoc Lecturer – 4 days @ \$800/day	<u>3,200</u>
TOTAL PROJECT COSTS	<u>\$3,875</u>
10% GST	<u>388</u>
Total Amount for Invoicing	\$4,263

NOTE: 10% GST must be added to the total project costs

Disbursement of Overheads

Total Overheads (20% of \$3,875) =	\$775	
School [6.67%]	\$258	<i>refer 10.3</i>
Central Administration [13.33%]	\$517	" "

9.4 Flat Fee

In the event that a flat fee is agreed with an External Party for a project then the infrastructure charge deducted will be 20% of the flat fee.

10. Distribution of Income

10.1 Income from Consultancies and Contract Research

- a. Where the University is satisfied that all direct costs and infrastructure costs have been met and that all conditions of contract are satisfied; then subject to the approval and at the discretion of an Authorised Person, and subject to the conditions applying to distribution of income as set out in (b) to (f) below, the balance of any project income remaining may be distributed:
 - i. to the general services fund of the School concerned or to another fund nominated by the Head of School; or
 - ii. to project staff as a payment into a general services fund for the staff concerned to support research and related activities such as travel or conferences; or
 - iii. to appropriate project staff as ex-gratia salary payments with normal payroll deductions applying; or
 - iv. partly to each of the purposes referred to in (i), (ii) and (iii) above.
- b. When the distribution is made in accordance with (i) and (ii) above, some or all salary costs relating to project staff need not be reimbursed from project income so long as the salary is paid from alternative funding sources within the School eg. Operating funds.

The University believes that the greatest benefit is delivered to the University if the payment is used to support research-related activities. To act as an incentive for this to occur, Schools are given the option of choosing not to recoup all, or part of, the salary costs associated with project staff provided that the salary costs have been covered by other funding sources within the School. Under these circumstances, some or all of the project income derived from the salary component of the budget can be directed to the staff member's general services fund. This arrangement is designed to be an incentive for staff to undertake Consultancies or Contract Research and to use income earned to support other research-related activities.

- c. When the distribution is made in accordance with (iii) above, all salary (including salary on-costs) directly related to project staff must be recouped by the School from the project income prior to any *ex gratia* payments being made.
- d. Income credited to a School account must only be used for work-related activities.
- e. Any equipment purchased using the distributed income remains the property of the University.
- f. Authorised Persons may not authorise any *ex gratia* salary payments to themselves but must seek authorisation from a higher authority.

[Note: *Authorised Person* means the Executive Dean of the relevant Faculty, the Pro-Vice-Chancellor (Research & International), Deputy Vice-Chancellor or Vice-Chancellor, as per the [Delegations Register](#).]

10.2 Income from Collaborative Research and Development

- a. Where any project income remains after the University is satisfied that all direct costs and indirect costs have been met, and all conditions of contract have been satisfied, then, subject to further negotiation with the collaborative partner, the balance of project income may be distributed at the discretion of the Head of School to:
 - i. a School services fund; or
 - ii. another fund nominated by the Head of School; or
 - iii. partly for each of the purposes referred to in (i) and (ii).
- b. Income credited to a School account must only be used for work-related activities;
- c. Any equipment purchased using the distributed income remains the property of the University.

10.3 Distribution of Infrastructure Charges

It is University policy that any infrastructure revenue received is distributed between the University's central administration and the School in the proportion 2:1 to cover infrastructure costs. Examples are set out in section 9, above.

11. Proceeds from Commercialisation

University policy on the distribution of profits from commercialisation of intellectual property arising from Commercial Research and Consultancy Services is dealt with in the [Intellectual Property Policy](#).

12. Project Management

The University's and an individual staff member's reputation and continued success as a provider of research and other professional services depends on the satisfaction of External Parties with the conduct of projects and the quality of work performed.

12.1 Project Implementation

- a. Appropriate discrete University accounts should be established for all projects where the contract value is greater than \$3,000 (Science, Engineering & Information Technology);

Medicine, Health & Molecular Sciences) or \$2,000 (other Faculties) through the Grants Finance Section, Resources Office.

- b. The Grants Finance Section will only process account requests when:
- i. the contract has been appropriately signed by both parties;
 - ii. an application cover sheet has been completed and processed through Research Services;
 - iii. Ethics approvals have been granted, where necessary; and
 - iv. approval to open the account has been given by Research Services.

12.2 Awareness of Contractual Obligations

All staff and students involved in an externally funded project should be familiar and comply with all relevant aspects of the agreement such as scope of work, intellectual property ownership, confidentiality, restrictions on publishing etc. If there is any uncertainty about the intent or implication of a contract provision then advice should be sought from Research Services.

12.3 Best Practices

The University's [Statement and Guidelines on Research Practice](#) dictate that professional standards be upheld when conducting work on behalf of the University. Some key elements with respect to best practice include:

i. Confidentiality

The value of intellectual property must not be jeopardised by inappropriate disclosure. Appropriate confidentiality procedures must be established and followed.

In particular, commercially sensitive projects must be managed in accordance with the [Guidelines on Confidentiality in Commercial Projects](#).

ii. Publishing

Many Commercial Research and Consultancy Services agreements contain publication restrictions. External parties must be consulted and have the opportunity to review manuscripts before publication if so required by the agreement.

Discipline policy should be followed with regard to co-authorship, credit and acknowledgement of the External Party support, unless otherwise prohibited by the terms of the agreement.

iii. Record Keeping

Accurate and detailed records of research methods and results and should be kept to comply with responsible practices in research and [US patent law requirements](#).

iv. Reporting

Progress and final reports should be submitted in the appropriate format at the appropriate time. In the event of unavoidable delays the External Party must be informed. The Grants Finance section will assist by providing reminders on reporting milestones.

iv. Timeliness

Project staff must be aware of timetables and milestones to assist in the management of the project and to avoid overruns that may result in additional costs to the University and/or the External Party.

v. Financial Awareness

Budgets should be adhered to and time commitments associated with specific project staff must be fulfilled. Overruns which are the result of poor project management may result in

excessive costs to the University. If overruns are anticipated as a result of unforeseen circumstances at the time of finalisation of the agreement then compensation should be sought from the External Party if possible.

12.4 Invoicing and Financial Reporting

- a. For consultancies it is the responsibility of the School to ensure that invoices are raised in accordance with the terms of the agreement. The Chief Investigator or School administrator should liaise with the Grants Finance Section as required.

For research projects the Grants Finance Section manages invoicing.

- b. The Grants Finance Section will prepare financial reports as required under the agreement and forward them to the External Party.

12.5 Project Modifications

In the event that there are any modifications to the scope of work that require additional funds or time, then a formal variation to the agreement must be obtained. No new or additional work should be undertaken until the External Party has formally agreed to the change and a variation signed. Any variation to an agreement must be processed through Research Services.

12.6 Subcontracting

In the event that a portion of the project is to be subcontracted then the subcontractors must enter into a formal agreement with the University that ensures that, as a condition of engagement, the obligations of the primary agreement are met and the university's intellectual property rights are protected.

Such subcontracting must have the permission of the External Party. In no circumstances is a subcontractor regarded as an employee of the University.