

BIENNIAL GRANTS RESEARCH FUNDING AGREEMENT



Dated: DD/MM/YYYY

Parties:

(1) The EARTHQUAKE COMMISSION
a Crown entity continuing under the Earthquake Commission Act 1993 (Toka Tū Ake EQC)

(2) <insert organisation> (the *Host Institution*)

Principal Investigator/Supervising Researcher:

<Insert Name> (the Researcher)

Project for which funding is granted:

<Insert full project title> (Identified as Toka Tū Ake EQC Project No: <insert XXXX code here>) (the *Project*) as described in the attached research proposal dated <insert date of agreed Research Proposal> submitted by the Researcher, and which forms part of this Research Funding Agreement.

Background:

- Toka Tū Ake EQC provides research grants to facilitate research and education about matters relevant to natural disaster damage, methods of preventing and reducing natural disaster damage and the insurance provided under the Earthquake Commission Act 1993.
- Toka Tū Ake EQC has approved a research grant for the attached research proposal, provisional upon Toka Tū Ake EQC and the Host Institution executing this Agreement.
- The Host Institution has agreed to manage and administer the research grant provided by the Toka Tū Ake EQC.

Funding Agreement:

- This Agreement consists of this document, the attached Schedule One (setting out the further terms of this Agreement) and the attached research proposal entitled <Insert full project title>; <insert date of agreed Research Proposal> (together the Agreement). Any other documents that are also part of the Agreement must be specified here:
 - [Nil, or describe document]
- If there is any conflict between this document and any of the other documents making up this Agreement, this document has precedence.
- This Agreement shall commence upon the agreed commencement date and end on the agreed completion date.

Agreed commencement date: <Date Month Year>

Agreed completion date: <Date Month Year>

Amount of research grant: Up to \$XXX,XXX plus GST (if any)

Deliverables:

Toka Tū Ake EQC wishes to ensure that the research we fund is visible and accessible to a wide range of audiences.

To support this, for each year of funding, the Researcher (the *Host Institution*) is required to collaborate with Toka Tū Ake EQC on:

- **One communication/stakeholder engagement activity:** Toka Tū Ake EQC requires the Host Institution to collaborate with it on at least one communication/stakeholder engagement activity each year of funding (this is in addition to the social media posts).
- **Two social media posts** to be sent from Toka Tū Ake EQC social media account(s) each year of funding (to be agreed between Toka Tū Ake EQC and the research project team).

Examples of such activities are: media releases, video stories, presentations to a lay audience, presentations to Toka Tū Ake EQC, visits to research end-users or other agreed activities. Social media posts may be made through any app or channel relevant to the subject matter and from a user account owned by Toka Tū Ake EQC, a Host Institution, or the Researcher themselves (if public).

In addition to the above, the Research/Host Institution must provide the following reports to Toka Tū Ake EQC (via Research@eqc.govt.nz), which must be to the reasonable satisfaction of Toka Tū Ake EQC:

[List of deliverables (with brief description of each) in the order of when they are due]

Special Conditions: (e.g. Any variance to the attached research proposal and agreed to by the Parties and the Researcher should be set out in this section)

The Parties agree to comply with the terms set out in this Agreement, including the attached schedule (the Researcher signs in Schedule Two).

Signed for and on behalf of:

(Host Institution)

The EARTHQUAKE COMMISSION
(Toka Tū Ake EQC)

(Authorised Signatory)

(Authorised Signatory)

Name: _____

Name: _____

Position: _____

Position: _____

Date: _____

Date: _____

SCHEDULE ONE

The Parties agree to the following:

1. Term of Agreement

Unless terminated earlier in accordance with clause 8 below, this Agreement shall continue for the duration set out in this Agreement. Any extension to the duration of this Agreement shall be solely at Toka Tū Ake EQC discretion.

2. Research Grant

The Host Institution agrees to manage, administer and disburse the research grant payment/s received from Toka Tū Ake EQC under this Agreement.

The research grant is to be used for the benefit of the Host Institution and for the sole purpose of conducting the research described in the research proposal annexed to this Agreement. For the avoidance of doubt, the research grant does not include a component for attendance at or travel to conferences (unless this Agreement states otherwise). Unless this Agreement states otherwise, any expenditure in this regard is to be applied for separately.

The research grant can be used to pay overheads, however these overheads must be equivalent to no more than 30% of the cost of staff time allocated to the project.

Expenditure under the research grant may be made only on the authority of the Host Institution for costs directly incurred by the Host Institution in carrying out the Project. The Host Institution shall be responsible for monitoring expenditure throughout the period of the Project.

Toka Tū Ake EQC will not be responsible for budget overruns unless prior written approval for further funding has been granted by Toka Tū Ake EQC. For the avoidance of doubt, Toka Tū Ake EQC is under no obligation to approve or provide any further funding for the Project. Toka Tū Ake EQC is not otherwise liable or responsible to the Host Institution, the Researcher or any other person, in connection with the attached research proposal, the Project, the expenditure of the research grant or otherwise in connection with this Agreement.

The research grant will be paid to the Host Institution in the following manner:

- a) Payments will be made by Toka Tū Ake EQC to the Host Institution upon 1) approval of a satisfactory milestone report and 2) receipt of an accompanying tax invoice. Unless otherwise agreed between the Parties, it is expected that invoices and milestone reports will be received at six-monthly intervals after the commencement of the project for the duration of the Project.
- b) All requests for payment by the Host Institution must be supported by a tax invoice referencing the Toka Tū Ake EQC issued purchase order (PO) number. If any GST is payable on the relevant amount that invoice must be a valid GST invoice and the Host Institution will ensure that it is registered for the purposes of GST.
- c) In all cases, research grant payments will only be made by Toka Tū Ake EQC to the extent that it is satisfied that the relevant costs are reasonable, and have been legitimately and directly incurred by the Host Institution as a necessary expense of progressing the Project.
- d) Further, up to 10% of the research grant may, at Toka Tū Ake EQC discretion, be withheld until the

final report is received and has been approved by Toka Tū Ake EQC in accordance with clause 5 below.

- e) Any part of the research grant not justified or claimed in accordance with this clause 2 within six months of the completion date of the Project will lapse. Further, if a lapsed research grant (or part) has already been paid to either the Host Institution or the Researcher it is repayable to Toka Tū Ake EQC upon demand.
- f) If for any reason some of the deliverables are not completed the parties will reduce the amount of research grant payable to the Host Institution to reflect the incomplete deliverables. The parties can agree to vary this agreement in a way that does not reduce the research grant.

3. Materials and Apparatus

The Host Institution will ensure that, during the term of the Project, materials and apparatus purchased with research grant monies are used exclusively for the purposes of the Project, unless the impact of its use for other purposes is immaterial to the progress and quality of the Project

4. Progress Reports

The Host Institution shall ensure that the Project is carried out by, or under the direct supervision of, the Researcher. The Progress Reports include the following:

Insert a list of the deliverable here

Using the template provided by Toka Tū Ake EQC, the Host Institution shall provide Toka Tū Ake EQC with Progress reports and statements of costs incurred. Progress reports including any timetable changes, must be provided even when limited or no progress has been made.

Progress reports shall be submitted in accordance with a template provided by Toka Tū Ake EQC at approximately 6-monthly intervals from the start date, for the duration of the Project, unless otherwise agreed between the Parties.

Toka Tū Ake EQC may from time to time request a meeting between the Researcher and representatives of Toka Tū Ake EQC to review progress on the Project. These meetings may include, amongst other things, a review of the Researcher's approach to the Project and confirmation that the objectives of the Project are being met. The Host Institution will be notified prior to any such meeting and furnished with an agenda prepared by Toka Tū Ake EQC upon request.

5. Final Report

The Host Institution must provide a final report documenting the Project's methodology, results, and conclusions by the Agreement's agreed completion date. It must meet standards of peer review and public dissemination. If a peer reviewed paper has been published in an established journal and meets these criteria, it will be accepted in lieu of a separate final report provided it is accompanied by a brief summary report with a link or identifiable reference (such as a DOI) to the relevant publication/s.

Final reports and summary reports will be made available for dissemination from Toka Tū Ake EQC website. A technical abstract and a separate layperson's abstract must also be provided by the Host Institution to be loaded on Toka Tū Ake EQC website as an introduction to the Project. Guidelines for final reporting and abstracts will be made available by Toka Tū Ake EQC.

Papers relating to the Project intended for publication in peer reviewed journals should be submitted to the publisher and Toka Tū Ake EQC notified. The Host Institution must then provide to Toka Tū Ake EQC a reprint of

the final article(s) on publication. Toka Tū Ake EQC will consider any requests for financial assistance to enable appropriate journals etc. to be accessed (i.e. if there is an access fee).

6. Peer Review

If the Project has not been published in a reviewed journal and a separate final report is presented, Toka Tū Ake EQC shall decide whether to submit it to a peer review. If Toka Tū Ake EQC requires such peer review, this will be facilitated by Toka Tū Ake EQC in such manner as Toka Tū Ake EQC reasonably considers appropriate. The Host Institution will be notified if a peer review is to be sought. Details of the review will be kept confidential to Toka Tū Ake EQC and its advisers and any matters of concern arising out of the review will be communicated to the Host Institution.

7. Intellectual Property

7.1 All intellectual property rights arising from or developed during the course of the Project shall vest in the Researcher and/or Host Institution (depending on arrangements between those two parties). However, in consideration of receiving the research grant from Toka Tū Ake EQC, the Researcher and Host Institution:

- a) shall each grant Toka Tū Ake EQC an unrestricted, perpetual, non-exclusive, worldwide, royalty free, irrevocable licence to their respective intellectual property rights arising from or developed during the course of the Project to:
 - use the results of the Project (including but not restricted to the final report and any product developed in conjunction with the Project) as soon as they are created in material form;
 - publish and distribute the Project reports and findings and any other information relating to the Project but excluding raw data (being original, source data) (together, the “Project Materials”), without charge, in any form and through any medium (including Toka Tū Ake EQC website, internal networks and communications) subject only to
 - the approval of the Host Institution as to the accuracy of any summary, commentary or précis of, or changes or additions to, the Project Materials prepared by someone other than the Host Institution;
 - attaching a copyright statement that reserves copyright to the Host Institution (if applicable);
 - If publishing an extract from any report or results, ensuring that extract is a fair reflection of the report and results as a whole and is not misleading in any way; and
 - any appropriate disclaimer that may be agreed the Parties on a case-to-case basis.
 - sublicense and/or otherwise deal with any results of the Project (including but not restricted to the final report and any product developed in conjunction with the Project) in the event of the Researcher and/or Host Institution not performing the obligations set out in clause 7 (b) of this Agreement (as reasonably determined by Toka Tū Ake EQC).
- b) shall each make every reasonable endeavour to disseminate the results of the research facilitated by this grant by way of presentation or publication of papers on the topic. One copy of each such paper or papers shall be deposited with Toka Tū Ake EQC together with full details for bibliographic citation. The obligation to provide one copy to Toka Tū Ake EQC applies to all documentation including reports, conference presentations, guidance and any other papers.
- c) shall each acknowledge the research grant of Toka Tū Ake EQC in any report, article or any other publication arising directly from the Project, in the form “A study [part] funded by Toka Tū Ake, the Earthquake Commission”.

d) shall each advise Toka Tū Ake EQC in advance of any media activity or publicity regarding the Project (i.e. Toka Tū Ake EQC requires a “no surprises approach”).

e) shall each advise media or interested parties of Toka Tū Ake EQC funding for the Project.

7.2 For the avoidance of doubt, the licence provided to Toka Tū Ake EQC under clause 7.1 above shall continue to be valid and in effect beyond the completion date or beyond the termination of this Agreement (under clause 8 or clause 10).

7.3 The licence in this clause does not apply to any publication of the research (where contemplated by this Agreement) if copyright in that publication is required to be assigned to the publisher as a condition of publication.

8. Termination

Toka Tū Ake EQC may terminate this Agreement by giving fourteen (14) days’ written notice to the Host Institution if:

- a) the Host Institution breaches this Agreement and fails to remedy that breach within the 14 day notice period; or
- b) in the opinion of Toka Tū Ake EQC the objectives of the Project, as described in this Agreement including the attached research proposal, are not being met by the Host Institution, *provided that* after receiving Toka Tū Ake EQC notice of termination the Host Institution shall have seven (7) working days in which to object to Toka Tū Ake EQC decision to terminate and submit written reasons for the Host Institution’s objection. Toka Tū Ake EQC shall then reconsider its decision to terminate having regard to the reasons put forward by the Host Institution, and either withdraw its notice of termination or confirm termination to the Host Institution.

The Host Institution may terminate this Agreement by giving fourteen (14) days’ written notice to Toka Tū Ake EQC if Toka Tū Ake EQC breaches this Agreement and fails to remedy that breach within the 14 day notice period.

Termination under this clause 8 shall be without prejudice to any other right or remedy available to Toka Tū Ake EQC at law or to Toka Tū Ake EQC licence granted pursuant to clause 7 of this Agreement.

If the Agreement is terminated prior to the completion date, Toka Tū Ake EQC shall promptly pay any research grant payments that are payable to the Host Institution up to the date of termination. For the avoidance of doubt this refers to services or work already performed by the Host Institution which has not yet been paid for by Toka Tū Ake EQC.

If the Agreement is terminated prior to the completion date, the Host Institution will promptly repay to Toka Tū Ake EQC any and all components of the research grant that have not been expended for the purposes of this Agreement at the time of termination and provide to Toka Tū Ake EQC all results, Project reports, findings and any other information relating to the Project which have been produced prior to the Agreement being terminated.

To avoid doubt, upon expiry or termination of this Agreement for any reason, Toka Tū Ake EQC will not be required to pay any further part of the research grant other than provided for in this clause.

9. Dispute Resolution

If there is a dispute between the Parties in relation to this Agreement, or any matter arising from it, the Parties will in good faith in the first instance use their best endeavours to resolve the dispute themselves.

If the dispute cannot be resolved by the Parties themselves within a reasonable time, then they must explore whether the dispute can be resolved by use of mediation or other alternative resolution technique.

If the Parties cannot resolve the dispute by mediation within a reasonable time, and if the parties agree, the dispute shall be referred to arbitration under the Arbitration Act 1996 (if both Parties agree). Any Party may initiate arbitration by notifying the other Parties of its preferred arbitrator. If an arbitrator cannot be agreed between the Parties, one shall be appointed by the President of the New Zealand Law Society.

The award in any arbitration shall be final and binding on the Parties.

Once a dispute has been referred to arbitration, Toka Tū Ake EQC obligation to make any further research grant payments under this Agreement shall be suspended until the dispute is resolved.

If the Parties do not agree to arbitration, a party may pursue any other dispute resolution mechanism or remedy available to it.

10. Events beyond Control

Should any event occur which:

1. is beyond the control of any of the Parties; and
2. is neither directly nor indirectly caused by any of the Parties; and
3. prevents the Host Institution from carrying out the Project,

then the Host Institution will suspend work on the research project until such time that it becomes practicable to recommence work on the Project. This does not include events personal to any Party, such as lack of funding or resources.

In the event that the suspension continues for longer than 2 months, then this Agreement may be terminated by Toka Tū Ake EQC. In this case, in accordance with the provisions of Clause 8, the Host Institution must promptly repay to Toka Tū Ake EQC any and all components of the research grant that have not been expended for the purposes of this Agreement at the time of termination.

11. General

Address for service of Toka Tū Ake EQC – Research@eqc.govt.nz

[Address for service of the Host Institute – researchcontracts@canterbury.ac.nz](mailto:researchcontracts@canterbury.ac.nz)

[Address for service of the Researcher - santiago.pujol@canterbury.ac.nz](mailto:santiago.pujol@canterbury.ac.nz)

Delay - If at any time the Host Institution's performance falls behind the programme set out in this Agreement (as amended from time to time), then the Host Institution shall notify Toka Tū Ake EQC and, where due to matters within the control of the Researcher, shall take all practicable steps to remedy such delay.

Duty of Care – The Host Institution shall exercise reasonable skill, care and diligence in all matters relating to the Project.

Governing Law and Currency – This Agreement will be governed by, and construed in accordance with, the laws of New Zealand, and each Party submits to the exclusive jurisdiction of the Courts of New Zealand. Any references to dollars are references to New Zealand dollars unless otherwise stated.

Limitation of liability: To the extent permitted by law, the total aggregate liability of the Host Institution and the Researcher (combined) to Toka Tū Ake EQC, under or in connection with this Agreement, whether arising in contract (including under any indemnity), tort (including negligence), legislation (including under the Fair Trading Act 1986 for or any unintentional errors or omissions) or otherwise, shall not exceed a sum equivalent to twice the total amount of the grant payable by Toka Tū Ake EQC to the Host Institution under this Agreement.

No assignment – This Agreement is personal to the Host Institution. The Host Institution must not assign, transfer, or subcontract all or part of its rights or obligations under this Agreement without Toka Tū Ake EQC prior written approval.

Notices - All demands, notices, requirements and consents this Agreement authorises or requires, or that relate to this Agreement, must be in writing and will take effect from receipt at the recipient's address.

Official Information Act 1982 and similar obligations - Any information that any party considers to be should be marked and treated as such by that party. However, as a government entity, Toka Tū Ake EQC has

obligations under the Official Information Act 1982 (OIA), under other legislation and also under Government conventions to sometimes disclose information regarding its activities (including confidential information if appropriate).

The Parties will liaise, prior to releasing any confidential information, should any of them receive a request (or have an obligation) that includes the possible disclosure of information that another Party has identified as confidential.

Further, the Host Institution and the Researcher will both use reasonable endeavours to assist Toka Tū Ake EQC to comply with any such information request (or obligation) that Toka Tū Ake EQC has received (if required by Toka Tū Ake EQC to do so).

Relationship – Nothing in this Agreement shall give rise to an agency, partnership, or employment relationship between Toka Tū Ake EQC (on the one hand) and the Researcher or Host Institution (on the other).

Variation, modification or waiver – No variation, modification or waiver of this Agreement shall be valid unless in writing (see Variation Request Form available on Toka Tū Ake EQC website or upon request to Research@eqc.govt.nz) and agreed by all Parties prior to the Agreement's end date.

Warranty/Indemnity – The Host Institution warrants that all aspects of the Project will be carried out in a manner that does not infringe the intellectual property rights of any other person and agrees to indemnify Toka Tū Ake EQC against any liability or expense incurred as a result of any breach of this warranty, up to twice the total amount of the grant.

Researcher awareness and compliance: The Host Institution will ensure the Researcher is made aware of the obligations under this agreement so that the Researcher does not do or omit to do anything that would cause the Host Institution to be in breach of this Agreement.

12. Data

All data collected and/or managed using Toka Tū Ake EQC funding should adhere to NZ Government Data and Information Management Principles, FAIR and CARE principles, where appropriate. Where necessary, data access may be managed via registration but should be available to all users in some form without cost.

Toka Tū Ake EQC supports open data as it acknowledges that we work in the system that works most effectively when data is findable, accessible, interoperable, and reusable. This ensures effective decision making for risk management.

13. Health & Safety

The Parties must:

13.1 consult, cooperate and coordinate with each other regarding any overlapping obligations under, and what is required from each other to assist them to comply with, the HSW Act as it relates to, or affects, the Agreement;

13.2 comply, and ensure that its Personnel comply, with their obligations under the HSW Act as it relates to, or affects, the Agreement;

13.3 comply with all reasonable directions of Toka Tū Ake EQC relating to health, safety, and security, and

13.4 report any of the following that applies to the Parties or the Researcher, or relates to or affects the Agreement:

13.4.1 notifiable injury, illness, incident or event, or any notice issued under the HSW Act or any other health and safety legislation, and

13.4.2 Protective Security Incident.