



Australian Government

Australian Research Council

Funding Agreement

between the

Commonwealth of Australia

as represented by the

Australian Research Council

and

(Institution)

regarding funding for
Linkage–International Projects
to commence in
2004 and 2005

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Parties & Recitals

THIS AGREEMENT is made on the day of
between the

COMMONWEALTH OF AUSTRALIA ('the Commonwealth'), as represented by and acting through the Australian Research Council ('the ARC') [ABN 35 201 451 156]

And

{*name the Institution fully#} ('the Institution')

WHEREAS:

- A The ARC operates a Program, being the *Linkage-International Projects* Program.
- B The Commonwealth accepts that the Institution is an eligible body for the purposes of the Program, and the Commonwealth may provide financial assistance to enable the Institution to conduct the Projects, being those described in Schedule A.
- C The Commonwealth is required by law to ensure the accountability of Funding and, accordingly, the Institution is required to be accountable for all Commonwealth Funding it receives under this agreement.
- D The Commonwealth wishes to provide Funding under the Program to the Institution for the purposes, and subject to the terms and conditions, set out in this Agreement.

NOW IT IS HEREBY AGREED as follows:

1 Definitions

1.1 In this Agreement, unless the contrary intention appears:

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

'the Act' means the *Australian Research Council Act 2001* or subsequent relevant legislation as amended from time to time;

'Approved Proposal' means a proposal for expenditure for purposes that will assist programs of research undertaken by Institutions/Organisations under section 51 of the Act approved by the Minister and, in this Agreement, includes all Projects funded at the Institution/Organisation and set out in Schedule A;

'ARC' means the Australian Research Council, as established under the *Australian Research Council Act 2001* or subsequent relevant legislation, as amended from time to time, to make recommendations to the Minister on the allocation of research funds, and includes the members of its Board and Committees;

'ARC's website' is <http://www.arc.gov.au/>

‘Audited Financial Statement’ means the statement to be submitted by the Institution/Organisation by 30 June each year in accordance with subsection 58 1 (b) of the Act for funded projects;

‘Chief Executive Officer’ or ‘CEO’ means the occupant of the position from time to time of the Chief Executive Officer of the Australian Research Council;

‘Chief Investigator’ means the person or persons named in the Project Application as Chief Investigator for a particular Project;

‘the Commonwealth’ means the Commonwealth of Australia;

‘End of Year Report’ means the report described in clause 26.2;

‘Final Report’ means the report described in clause 26.4;

‘Funding’ or ‘Funds’ means the amount or amounts payable under this Agreement for each project as specified in Schedule A;

‘Funding Rules’ means the Funding Rules for *Linkage International* for funding commencing in 2005 and includes the Instructions to Applicants that form part of the Funding Rules;

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

‘Institution’ means the higher education institution, museum or herbarium approved by the Minister under section 51 of the Act as the body responsible for administering the Funding;

‘Material’ includes documents, equipment, software, goods, information and data stored by any means;

‘the Minister’ means the Minister from time to time responsible for the administration of the Act, or the Minister’s delegate;

‘Overseas Investigator’ for a Project means the person or persons named in the Project Application as an Overseas Investigator for a particular Project

‘Partner Investigator’ for a Project means the person or persons named in the Project Application as a Partner Investigator for a particular Project;

‘Personnel’ means those persons involved in the conduct of a project;

‘Program Coordinator’ means the occupant from time to time of the position of Program Coordinator (*Linkage International*) in the Australian Research Council, or any other person to whom the administration of the *Linkage International* Program may be allocated;

‘Progress Report’ means the report described in clause 26.3;

‘Project’ or ‘Projects’ means the Project or Projects (including Fellowships) described in Schedule A;

‘Project Application’ or ‘Project Applications’ means the application or applications for a Project or Projects lodged with the ARC and given the application number or numbers specified in Schedule A;

‘Project Budget’ means the budget specified in Schedule A;

‘Research Office’ means that part of the Institution/Organisation responsible for liaison with the ARC on Funding matters;

‘Responsible Officer’ means the Vice-Chancellor or other corporate head of the Institution/Organisation or an officer nominated by him/her;

‘Special Conditions’ means the conditions specified in Schedule A that govern the use of the Project Budget; and

‘Specified Personnel’ means the Chief Investigators, Partner Investigators and Fellows named for each Project detailed in the Approved Proposal and named in Schedule A to perform the Project.

2 Interpretation

2.1 In this Agreement, unless the contrary intention appears:

- (a) words in the singular number include the plural and words in the plural number include the singular;
- (b) words importing a gender include any other gender;
- (c) words importing persons include a partnership and a body whether corporate or otherwise;
- (d) clause headings, words capitalised or in bold format and notes in square brackets (“[]”) are inserted for convenience only, and have no effect in limiting or extending the language of provisions, except for the purpose of rectifying any erroneous cross-reference;
- (e) all references to clauses are clauses in this Agreement;
- (f) all references to dollars are to Australian dollars and this Agreement uses Australian currency;
- (g) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, is a reference to that statute or other legislation as amended;
- (h) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

2.2 This Agreement is subject to the Act. If there is any conflict between this Agreement and the Act, then the Act prevails.

3 Entire Agreement and Variation

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

3.2 If any part of this Agreement conflicts with any other part, that part higher in the following list shall take precedence:

- (a) the terms and conditions of this Agreement;
- (b) the Schedules;
- (c) the Funding Rules; and
- (d) the Project Application.

3.3 The Institution/Organisation and the Commonwealth may agree to vary this Agreement. A variation to this Agreement must be in writing and signed by both parties.

4 Funding Period

4.1 Subject to this Agreement and the Act, the funding is for the period set out in Schedule A for each project, unless the Funding is terminated earlier.

5 Payment of Funding

5.1 Subject to parliamentary appropriation, the Commonwealth shall pay the Funds, in accordance with the Act, to the Institution in the manner specified in the Schedules.

5.2 The Commonwealth will pay to the Institution, by way of financial assistance in accordance with the Act, the amount set out in Schedule A, which is exclusive of GST, where 'GST' has the meaning as given in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*. For government-related entities (such as a government funded university or research institute) there will be no GST payable on the funding transaction between the entity and the ARC. Non-government-related entities, which are liable to pay GST on this transaction with the ARC, will receive a base-funding amount and an additional amount to cover the GST.

5.3 The durations of the funding for Linkage-International Projects are indicative only of the intent of the Minister at the time of making the offer of Funding and are not binding on the Commonwealth. In the event that the Minister subsequently makes a determination under section 51 of the Act to continue the Funding, this Agreement will continue to apply to any Project granted financial assistance under such determination.

5.4 The Commonwealth shall have the right to unilaterally vary the amounts set out in the Approved Proposal.

5.5 The Commonwealth shall have the right to unilaterally vary Schedules to reflect annual adjustments in the ARC Salary and Allowances Provisions.

5.6 Where the Commonwealth exercises its right under clause 5.4 or 5.5 above, it shall inform the Institution of the variation within forty-five (45) days of that variation.

6 Accuracy of Information/Malpractice

6.1 The Institution warrants that the information contained in all Project Applications is accurate and not misleading. The Commonwealth regards inaccurate and misleading information as including, but not being limited to, claiming fictitious track records, inflating funds obtained from other sources and false claims in the publication record, e.g. describing a paper as being published even if it has only been submitted.

7 Use of the Funding: activities and facilities

7.1 The Institution will ensure that each Project described in Schedule A is carried out in accordance with this Agreement, in a diligent and competent manner, subject to the provision of indicative funds. In addition, each Project will be conducted in accordance with the aims and research plan contained in the Project Application, or any revised budget, aims and research plan, submitted by the Institution and approved by the ARC.

7.2 The Institution shall ensure that expenditure on each Project described in Schedule A is in accordance with the aims and research plan of the Project and within the broad structure of the Project budget contained in the Project Application or any revised budget, aims and research plan submitted by the Institution and approved by the ARC.

7.3 The Institution shall not use the Funding:

- (a) for purposes specifically excluded in the Funding Rules under which the application was submitted;
- (b) for purposes specifically excluded in this Agreement; or
- (c) for purposes specifically excluded in the Special Conditions.

7.4 The Institution must ensure that the researcher(s) has adequate time to do the Project and must provide the basic facilities required for each Project described in Schedule A. Basic facilities include but are not limited to:

- (a) accommodation (eg., laboratory and office, suitably equipped in standard ways);
- (b) Access to workshop services (eg., machine tools and qualified technicians available to each member of staff, to enable them to carry out their research;
- (c) access to a basic library collection;
- (d) Standard reference materials or funds for abstracting services;
- (e) Adequate access to computers (excluding access to high performance computers unless specified in the Project Application);
- (f) Adequate access to basic computing, word processing and microfilm reading facilities;
- (g) Use of photocopiers, telephones, mail, facsimile, email and internet services.

8 Use of the Funding: provision of salaries and entitlements

8.1 *Linkage-International Projects* does not provide salary support for Chief Investigators.

8.2 Entitlements for Fellows are detailed in Schedule C.

8.3 In respect of Specified Personnel other than Chief Investigators, unless the Minister otherwise determines:

- (a) in recruiting Specified Personnel, the Institution shall follow its normal recruitment procedures;
- (b) provision of salaries, recreation leave, sick leave and other conditions of employment for Specified Personnel shall be those of the Institution.

9 Over-expenditure by the Institution

9.1 Any Project expenditure incurred by the Institution for a Project additional to the approved amount for that Project specified in Schedule A, is the responsibility of the

Institution. The Commonwealth will not reimburse the Institution for such costs under any circumstances.

10 Commencement of Projects

10.1 Subject to clause 11 below, all new Projects must commence in the first year of the Funding. Failure to do so will result in the withdrawal of the Funding and termination of any individual Projects which have not commenced.

11 Deferral of Commencement of Project

11.1 If the Institution wishes to defer commencement of a Project, a written request seeking permission to do so, justifying the requested deferral in terms of special circumstances, must be made to the Program Coordinator, through the Institution's Research Office within six months of the date of execution of this Funding Agreement.

12 Specified Personnel

12.1 The Institution shall ensure that the Specified Personnel will conduct the Project in a diligent and competent manner and will comply with this Agreement.

12.2 The Institution must provide each Chief Investigator with a copy of this Funding Agreement within a reasonable time after the beginning of the funding.

13 Change of Specified Personnel

13.1 If a Chief Investigator, Overseas Investigator or Partner Investigator is at any time during the term of a Project no longer able to continue the Project, the Project may be continued under another Chief Investigator, Overseas Investigator or Partner Investigator provided that:

- (a) he/she meets the eligibility criteria, as specified in the *Linkage International Funding Rules for ARC International Fellowships commencing in 2005 and Awards submitted in 2004*;
- (b) approval is sought from the Program Coordinator for the change in Specified Personnel:
 - i. in writing (including the proposed Personnel's Curriculum Vitae); and
 - ii. within three months of the date that the Specified Personnel ceased working on the Project; and
- (c) the change has approval, in writing, by the Minister.

13.2 Failure to fulfill the requirements set out in clause 13.1 will result in immediate termination of the Project. If a Fellow is no longer able to continue the Project, the Fellowship component will be terminated, as it cannot be transferred to another person.

13.3 If the ARC does not consider the Project viable without the Fellow's contribution to the Project, the Project as a whole will be terminated.

14 Transfer of Project or Fellowship

14.1 Under Section 54 of the Act, Ministerial approval for transfers of Projects and Fellowships is required.

14.2 The Institution must notify the ARC of any Specified Personnel on the Project who change Institutions.

14.3 If the Specified Personnel that change Institutions is a first-name Chief Investigator or Fellow the Institution must provide, for the Minister's approval, a written proposal outlining arrangements for the continuation of the Project and the continued administration of the Funding.

14.4 Where the proposed arrangements include a transfer of the Funding from one Institution ('the relinquishing Institution) to another Institution ('the recipient Institution), the Minister shall have regard to the circumstances surrounding the proposed transfer and

may approve the transfer subject to such conditions as the Minister considers appropriate. The written request must include evidence that the following parties agree to the transfer:

- (a) the relinquishing Institution;
- (b) all Specified Personnel on the Project; and
- (c) the recipient Institution.

14.5 When the ARC receives a proposal requesting the transfer of Funding it will:

- (a) seek the Minister's approval for the transfer of unspent Funds and indicative Funding for the Project to the recipient Institution; and
- (b) vary the Funding Agreement for the relevant Institutions once Ministerial approval is granted.

14.6 Once approval has been granted to transfer the Funding:

- (a) the relinquishing Institution must:
 - i. Provide to the ARC, in writing, the amount of unspent Funds for the Project and pay the ARC such unspent Funds. The ARC will then provide the unspent Funds to the recipient Institution; and
 - ii. report expenditure of Funding for the Project prior to the transfer in its End of Year Report and identify the transfer in the 'Notes' column; and
- (b) the recipient Institution must:
 - i. report expenditure of Funding for the Project subsequent to the transfer in its End of Year Report and identify the transfer in the 'Notes' column.

14.7 If the Chief Investigator or Fellow changes Institution and the Minister's approval is not given for arrangements for the continuation of the Project and the continued administration of the Funding, the Project may be terminated.

14.8 Relocation expenses will not be paid on the transfer of any Specified Personnel from the relinquishing Institution to the recipient Institution. Relocation costs will not be paid on the transfer of a Fellow from the relinquishing Institution to the recipient Institution after the final date for commencement in Clause 10, or after the deferred commencement date approved in accordance with Clause 11.

14.9 The Project or any equipment purchased with the Funding must not be transferred to the recipient Institution unless Ministerial approval for the transfer of the Funding is granted.

15 Negation of Employment by the Commonwealth

15.1 Specified Personnel and/or Institutions, shall not represent themselves as being employees, partners or agents of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.

15.2 Specified Personnel and/or Institutions shall not by virtue of this Agreement or for any purpose be deemed to be employees, partners, or agents of the Commonwealth, or as having any power or authority to bind or represent the Commonwealth.

16 Conduct of Research

16.1 Projects and Fellowships shall be conducted in accordance with any special conditions specified in this Agreement.

16.2 The Institution shall ensure that a Project and/or Fellowship under this Agreement will not be permitted to proceed without appropriate ethical clearances having been obtained from the relevant committees and/or authorities referred to in Schedule A or prescribed by the Institution's research rules. Responsibility for ensuring such clearances have been obtained remains with the Institution.

17 Material produced under this Agreement

17.1 The Institution shall establish and comply with its own procedures and arrangements for the ownership of all material produced as a result of any Project under this Agreement.

17.2 For any Material produced under this Agreement, the Institution shall ensure that all Specified Personnel:

- (a) take reasonable care of, and safely store any data or specimens or samples collected during, or resulting from the conduct of the Project;
- (b) make arrangements acceptable to the ARC for lodgement with an appropriate museum or archive in Australia of data or specimens or samples collected during, or resulting from their Project; and
- (c) include details of the lodgement or reasons for non-lodgement in the Final Report for the Project.

18 ARC Assessments

18.1 The Institution must ensure that, for the duration of the Funding under *Linkage International*, if requested by the ARC, Chief Investigators and/or Fellows agree to assess up to 20 new applications for ARC funding.

18.2 If the ARC determines that a Chief Investigator and/or Fellow has failed to meet the obligation to assess applications assigned by the ARC for assessment, the ARC will notify the Institution/Organisation in writing of that failure.

18.3 If a Chief Investigator and/or Fellow does not undertake assessment of the assigned applications within a period specified by the ARC, in the notice referred to in Clause 18.2 above, the Institution will be considered to be in breach of this Funding Agreement and the relevant Project may be terminated, in which case any unspent funds will be recovered by the ARC.

19 Intellectual Property

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

19.2 The Institution must comply with the *National Principles of Intellectual Property Management for Publicly Funded Research* as amended from time to time and currently located at the following URL: http://www.arc.gov.au/pdf/01_01.pdf

19.3 The Institution shall at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause referred to as 'those indemnified') from and against any loss (including legal costs and expenses on a solicitor/own client basis) or liability incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person in respect of any infringement of Intellectual Property rights by the Institution, its employees, agents or subcontractors in the course of, or incidental to, performing the Project or the use by the Commonwealth of reports provided by the Institution.

19.4 The indemnity referred to in clause 19.3 shall survive the expiration or termination of this Agreement.

20 Protection of Personal Information

20.1 The Institution agrees with respect to all activities related to or in connection with the performance of the Project or in connection with this Agreement:

- (a) to comply with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988* which concerns the collection, security, access, data quality, relevance, use and disclosure of personal information to the extent that the content of those principles apply to the types of activities the Institution is undertaking under this Agreement, as if it were a record-keeper as defined in the *Privacy Act 1988*;
- (b) not to transfer personal information held in connection with this Agreement outside Australia, or to allow parties outside Australia to have access to it, without the prior approval of the Commonwealth;
- (c) to co-operate with any reasonable demands or inquiries made by the Federal Privacy Commissioner or the CEO in relation to the management of personal information by the Institution or breaches or alleged breaches of privacy;
- (d) to ensure that any person who has an access level which would enable that person to obtain access to any personal information (as defined in the *Privacy Act 1988*) is made aware of, and undertakes in writing, to observe the Information Privacy Principles referred to in paragraph (a) above;
- (e) to comply with any policy guidelines laid down by the Commonwealth or issued by the Federal Privacy Commissioner from time to time relating to the handling of personal information;
- (f) to comply with any reasonable direction of the CEO to observe any recommendation of the Federal Privacy Commissioner relating to any acts or

- practices of the Institution that the Federal Privacy Commissioner considers to be a breach of the obligations in paragraph (a) above;
- (g) to comply with any reasonable direction of the CEO to provide the Federal Privacy Commissioner access for the purpose of monitoring the Institution's compliance with this clause;
 - (h) to indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth arising out of or in connection with a breach of the obligations of the Institution under this clause or any misuse of personal information by the Institution or any disclosure by the Institution in breach of an obligation of confidence whether arising under the *Privacy Act 1988* or otherwise;
 - (i) to ensure that any record (as defined in the *Privacy Act 1988*) containing personal information provided to the Institution by the Commonwealth or any other person pursuant to this Agreement is, at the expiration or earlier termination of this Agreement, either returned to the ARC or deleted or destroyed in the presence of a person duly authorised by the ARC to oversee such deletion or destruction; and
 - (j) to the naming or other identification of the Institution in reports by the Federal Privacy Commissioner.

20.2 The Institution shall immediately notify the ARC if the Institution becomes aware of a breach of its obligations under clause 20.1.

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

21 Compliance with Commonwealth Policies

21.1 The Institution shall, when using the Commonwealth's premises or facilities, comply with all reasonable directions and ARC procedures relating to occupational health (including the Commonwealth's smoke free work place policy), safety and security in effect at those premises or in regard to those facilities, as notified by the Commonwealth or as might reasonably be inferred from the use to which the premises or facilities are being put.

21.2 The Institution shall comply with its obligations, if any, under the *Equal Opportunity for Women in the Workplace Act 1999* and shall not enter into a sub Agreement with a subcontractor named by the Equal Opportunity for Women in the Workplace Agency as an employer currently not complying with that *Equal Opportunity for Women in the Workplace Act 1999*.

21.3 The Institution shall, in its dealings with its employees, have due regard to Commonwealth policies on employment, including the *Workplace Relations Act 1996*, and obligations under relevant occupational health and safety laws.

22 Acknowledgments, Publications and Publicity

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

22.2 When, at any time during or after completion of a Project, the Institution publishes promotional material, books, articles, television or radio programs, newsletters or other literary or artistic works which relate to the Project and/or Fellowship, the Institution shall acknowledge, at a prominent place in the publication, the support of the ARC in a form acceptable to the ARC.

22.3 Advice on acceptable forms of acknowledgement and use of the logo is provided on the ARC website at www.arc.gov.au

23 Administration of the Funding

23.1 The Institution must maintain reasonable records relating to the Funding in general and the Projects conducted with the Funding, in particular to ensure its compliance with this Agreement.

24 Audit and Monitoring

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

24.2 The ARC may conduct ad hoc on-site reviews in relation to financial and other reports to ensure that the terms of this Agreement are being, or were, met and that reports submitted to the ARC are an accurate statement of compliance by the Institution. Persons nominated by the ARC to conduct these reviews are to be given full access by the Institution, if required, to all accounts, records, documents and premises in relation to the Funding and the administration of the Funds in general.

25 Access to Premises & Records

25.1 The Institution shall, at all reasonable times, give to the CEO or any person authorised in writing by the CEO:

- (a) unhindered access to:
 - i. the Institution's employees;
 - ii. premises occupied by the Institution; and
 - ii. Material;
- (b) reasonable assistance to:
 - i. inspect the performance of the Project;
 - ii. to locate and inspect Material; and
 - iii. make copies of Material and remove those copies, relevant to the Project.

25.2 The access rights referred to in clause 25.1 are subject to:

- (a) the provision of reasonable prior notice by the ARC;
- (b) the Institutions' reasonable security procedures.

25.3 If a matter is being investigated which, in the opinion of the CEO, or any person authorised in writing by the CEO, may involve an actual or apprehended breach of the law, clause 25.2 will not apply.

25.4 Upon receipt of reasonable written notice from the CEO, the Institution shall provide any information required by the Commonwealth for monitoring and evaluation purposes.

25.5 Nothing in clause 25.1 to 25.4 inclusive affects the obligation of each party to continue to perform its obligations under this Agreement unless otherwise agreed between them.

25.6 The Auditor-General, or a delegate of the Auditor-General for the purpose of performing the Auditor-General's statutory functions, at reasonable times and on giving reasonable notice to the Institution, may:

- (a) require the Institution/ to provide records and information which are directly related to this Agreement;
- (b) have access to the premises of the Institution for the purposes of inspecting and copying documentation and records, however stored, in the custody or under the control of the Institution which are directly related to this Agreement; and
- (c) where relevant, inspect any Commonwealth Assets and Commonwealth Material held on the premises of the Institution.

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

26 Reporting Requirements

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

26.2 End of Year Report

- (a) The Institution shall submit an End of Year Report by 31 March in the year following each calendar year or part year for which the Funding was awarded. The ARC will provide the Institution with a proforma for this report.
- (b) The End of Year Report will contain information on all expenditure under the Approved Proposal, on a Project by Project basis, including.
 - i. any unspent funds to be recovered by the Commonwealth;
 - ii. any unspent funds that the Institution is seeking to have carried over into the next year;
 - iii. the reasons why the unspent funds are required to be carried over; and
 - iv. Any additional Fellowships expenses incurred, eg relocation or maternity leave (see Schedule D).
- (c) Under subsection 58(e) of the Act, Funds provided by the Commonwealth to the Institution which are not spent during the year of the Funding period to which those funds were allocated may be carried

over where approved by the Minister. The Institution must request this approval in the End of Year Report.

- (d) Where a carry over of 75% or more of the Funding provided is requested, separate written justification must be provided.
- (e) Funds will be carried over for more than 12 months only in exceptional circumstances. Separate written justification must be provided in this instance.

26.3 Progress Report

- (a) The Institution shall ensure that the first named Chief Investigator provide an annual Progress Report in respect of each ongoing Project by 31 January of each year, except in the first year of funding, on a proforma available on the ARC's website. The ARC will review the outcomes against the objectives of the Project as stated in the Project Application, or any approved revised budget, aims and research plan. Any Chief Investigator whose Progress Report is deemed inadequate or unsatisfactory will be contacted for further information.
- (b) If the ARC is not satisfied with the progress of the Project, further payment of funds will not be made until satisfactory progress has been made on the Project. If satisfactory progress is still not achieved, the Funding will be terminated and all outstanding monies recovered by the ARC.
- (c) Unsatisfactory progress on the Project will be noted against any further applications under any ARC scheme submitted by, or on behalf of, the Chief Investigator and will be taken into account in the assessment of those applications.

26.4 Final Report

- (a) The Institution shall ensure that Final Reports are provided for each Project within six months of the final payment for the Project (including any approved carry forward). The proforma for this report is available on the ARC's website via GAMS. The ARC will review the outcomes against the objective(s) of the Project as stated in the Project Application or any approved revised budget, aims and research plan.
- (b) If a Final Report is deemed inadequate, the Chief Investigator will be contacted for further information. If the ARC is not satisfied with the outcomes of the Project, this will be noted against any further Project Applications under any ARC scheme submitted by, or on behalf of, the Chief Investigator and will be taken into account in the assessment of those applications.
- (c) If the Final Report is not submitted on time this will be noted against any further Project Applications under any ARC program submitted by, or on behalf of the Chief Investigator and will be taken into account in the assessment of those applications.

- (d) Applications under any ARC program submitted by, or on behalf of a Chief Investigator on a Project for which the Final Report is outstanding will be deemed ineligible.

26.5 Audited Financial Statement

- (a) In accordance with section 58 of the Act, the Institution shall submit an Audited Financial Statement by 30 June for each year following the calendar year for which the Funding was awarded.
- (b) In completing the Audited Financial Statement, the Institution must ensure that the amount shown in that statement as 'approved carry forward funds' is the same as the amount (if any) that the Institution sought and approval was given to carry over in the End of Year Report.

27 Copyright in Reports

27.1 Copyright in all reports required by this Agreement will vest in the Institution at the time of creation but the Institution grants to the Commonwealth a permanent, irrevocable, royalty-free, non-exclusive licence to use and reproduce these reports and publish them on a non-profit basis. The Commonwealth's licence is subject to the requirements of clause 27.2 below.

27.2 The Commonwealth warrants that, for a period of three years from the date of submission of the Final Report for the Project, it will seek the agreement of the Institution before any information which is contained in any reports related to the Project, and which the Institution indicates is confidential and should not be disclosed, is disclosed to any person other than an officer or a member of the ARC or the Minister.

28 Recovery of Unspent Funds or Overpayments of Funds

28.1 Any unspent Funds may be recovered by the Commonwealth under subsection 58(1) of the Act. Any overpayment of Funds made to an Institution/Organisation may be recovered under subsection 58(1) of the Act.

28.2 The Commonwealth may offset the unspent or overpaid Funds against the total of any further Funds payable to the Institution.

29 Indemnity

29.1 Subject to this Agreement, the Institution shall at all times indemnify and hold harmless the Commonwealth, its officers, employees and agents (in this clause referred to as 'those indemnified') from and against any loss (including legal costs and expenses on a solicitor/own client basis) or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by a willful,

unlawful or negligent act or omission of the Institution, its employees, agents or subcontractors in connection with this Agreement.

29.2 The Institution's liability to indemnify the Commonwealth under clause 29.1 shall be reduced proportionally to the extent that any act or omission of the Commonwealth or its employees or agents contributed to the loss or liability.

29.3 The indemnity clause referred to above shall survive the expiration or termination of this Agreement.

30 Insurance

30.1 The Institution shall effect and maintain adequate insurance or similar coverage to cover any liability arising as a result of its participation in *Linkage International Projects* and, if requested, provide the Commonwealth with a copy of the relevant policies or when appropriate Certificate of Currency. The Institution shall be responsible for effecting all insurances required under Worker's Compensation legislation and for taking all other action required as an employer.

31 Termination

31.1 If the Institution fails to comply with any of the obligations contained in this Agreement then the ARC may, in accordance with Section 58 of the Act, terminate any or all of the projects and require the Institution/Organisation to return all or some of the Funds to the ARC.

31.2 The Institution must terminate a Project:

- (a) where progress is not, in the opinion of the Responsible Officer, satisfactory; or
- (b) on the death, incapacity, resignation or withdrawal of any Specified Personnel unless suitable alternative arrangements, satisfactory to the participating researchers and approved by the Minister, can be made by the Institution for the continuance of the Funding; or
- (c) where all parties have agreed to the termination of the Funding.

31.3 Upon termination of the Funding under clause 31.2 above:

- (a) the Institution shall take all action necessary to minimise further expenditure under the Funding; and
- (b) the Minister may, under section 58 of the Act, recover monies that have not been expended under the Funding.

32 Compliance with Law

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

32.2 The Institution acknowledges that:

Chapter 7 of the *Criminal Code* provides for offences which attract substantial penalties, including theft of Commonwealth property and other property offences, obtaining property or financial advantage by deception, offences involving fraudulent conduct, bribery, forgery and falsification of documents;

- (a) it is aware that giving false or misleading information is a serious offence under the *Criminal Code*;
- (b) the publication or communication of any fact or document by a person which has come to their knowledge or into their possession or custody by virtue of the performance of this Agreement (other than a person to whom the Institution is authorised to publish or disclose that fact or document) may be an offence under section 70 of the *Crimes Act 1914*, punishment for which may be a maximum of two years imprisonment;
- (c) in respect of data, including personal information, held in connection with this Agreement, any unauthorised and intentional access, destruction, alteration, addition or impediment to access or usefulness of the data stored in any computer in the course of performing this Agreement is an offence under Part VIA of the *Crimes Act 1914* which may attract a substantial penalty, including imprisonment;
- (d) it is aware of the provisions of section 79 of the *Crimes Act 1914* relating to official secrets.

32.3 The Institution undertakes with respect to any officer, employee, agent or subcontractor who will have access to documents, materials or information within the meaning of section 79 of the *Crimes Act 1914* that prior to having access the officer, employee, agent and subcontractor will first be required by the Institution to provide the Institution with an acknowledgment that the officer, employee, agent or subcontractor is aware of the provisions of the section.

Note: Institutions should note also that they may be subject to the provisions and applications of the Trade Practices Act 1974 and the Archives Act 1983.

33 Liaison

33.1 All communications from the Institution to the ARC, or the Minister, relating to the Funding shall be made through the Responsible Officer of the Institution and shall be directed to the Program Coordinator at the following address:

Program Coordinator (*Linkage International Projects*)
Australian Research Council

Postal address
PO Box 2702
CANBERRA ACT 2601

Courier Address
cnr Jerrabomberra Avenue and Hindmarsh Drive
SYMONSTON ACT 2609

Phone: 02 6284 6600
Fax: 02 6284 6638
Email: ncgp@arc.gov.au

34 Applicable Law

34.1 This Agreement shall be governed by and construed in accordance with the laws in the Australian Capital Territory and the parties agree, subject to the Agreement that the Courts of the Australian Capital Territory shall have jurisdiction to entertain any action in respect of, or arising out of, this Agreement.

SCHEDULE A

Details of Projects to receive funding by the Commonwealth

SCHEDULE B

Research Special Conditions

- B1 *Importation of Experimental Organisms:* The Institution must ensure that, before experimental organisms are imported into Australia for the purposes of a Project, they or the Chief Investigator of the Project must obtain agreement in principle for the importation from the appropriate Commonwealth and State authorities.
- B2 *Research Involving Humans or Animals:* If any Project conducted by the Institution involves research on or involving humans or animals, the Institution shall ensure that the codes adopted for these purposes by the National Health and Medical Research Council are complied with and that the Project may not commence without clearance from the Institution's Ethics or Biosafety Committee (or equivalent) and from any other relevant authority outside of the Institution.
- B3 *Deposition of Biological Materials:* Any biological material accumulated during the course of a Project shall be transferred to an Australian body with statutory responsibility for control of such material. If no such body is available to take control of the biological material then the Institution shall dispose of the material in accordance with the Institution's established safeguards.
- B4 *Genetic Manipulation:* If a Project involves the preparation and/or use of recombinant nucleic acids constructed *in vitro* from sources that do not ordinarily recombine genetic information, approval in writing by the Institution's Biosafety Committee (or equivalent) or the Genetic Manipulation Advisory Committee (GMAC) must be obtained.
- B5 If a Project involves, or is concerned with the use of, recombinant DNA techniques, the Institution shall ensure that the principles and guidelines established and approved from time to time by the Australian Government's Recombinant DNA Monitoring Committee are observed.
- B6 If a Project involves or concerns the use of recombinant DNA techniques on animals or humans then, before the proposed research commences, the Institution shall ensure that the research has been approved by the relevant Ethics or Biosafety Committee (or equivalent) of the Institution. The Institution shall retain all Certificates relating to the above and will provide such evidence to the Director if required to do so.
- B7 *Ionising Radiation:* If a Project involves the use of ionising radiation, the Institution shall ensure that any personnel performing procedures involving ionising radiation are appropriately trained and hold a relevant current licence from the appropriate State authority. The Institution shall retain all such licences and shall provide them to the Director if required to do so.
- B8 *Social Science Data Sets:* Any digital data arising from a Project involving research relating to the social sciences should be lodged with the Australian Social Science Data Archive (ASSDA) for secondary use by other investigators. This should normally be done within two years of the conclusion of any fieldwork relating to the Project research. If a Chief Investigator is not intending to do so within the two-year period, s/he should include the reasons in the Project's Final Report..

SCHEDULE C

Special Conditions Applicable for Linkage-International Fellowships

C1 Commencement and Duration of Fellowship

- C1.1 Fellowship Grants must commence before **30 June 2005** except in special circumstances approved by the Minister.
- C1.2 Where the Grant is commenced after 30 June 2005, the duration of the Grant may be reduced by the amount of time which elapses between 30 June 2005 and the commencement date.
- C1.3 The Institution must inform the ARC of any proposed changes to the dates of the Grant.
- C1.4 The duration of a Grant must be for a minimum period of 4 months and a maximum period of 12 months. The Grant may be for either a continuous period or for more than one period within these time limits.
- C1.5 Linkage-International Fellowships must be completed by **30 June 2005**.

C2 Transfers between Institutions

- C2.1 Where the Chief Investigator transfers to another Institution (in this clause referred to as the "new Institution"), the Minister may approve the transfer of the Grant to the new Institution provided all parties (Institutions/Linkage-International Fellow) agree to the transfer of the Grant.
- C2.2 In considering a request for a transfer under clause C2.1 of these Special Conditions or a change of Chief Investigator under clause C3.1 of these Special Conditions, the Minister shall have regard to the circumstances of each case and may attach conditions as he considers appropriate.

C3 Change of Chief Investigator

- C3.1 Where the Chief Investigator is no longer able to continue the Grant at the Institution, the Minister may vary the Grant by specifying another person at that Institution as the Chief Investigator provided:
 - C3.1.1 approval for the change is sought in writing within 3 months of the proposed change in Specified Personnel;
 - C3.1.2 a Curriculum Vitae for the proposed replacement is provided; and
 - C3.1.3 all parties agree to the variation of the Grant.

C4 Leave, Insurance and Visas

- C4.1 The Linkage-International Fellow shall be entitled to recreation leave, sick leave and other conditions of employment on the same terms and conditions applying to similar appointees at the Institution or, failing that, the same terms and conditions as generally apply to similar appointees in the Australian university sector.
- C4.2 The Institution shall be responsible for all arrangements, including costs, necessary for the Linkage-International Fellow to take up the Grant, for example, obtaining entry visas to Australia.
- C4.3 The Institution shall provide the Linkage-International Fellow with appropriate medical insurance cover for the term of the Grant except in the case of Fellows from the United Kingdom.

C5 Salary

- C5.1 The salary for a Linkage-International Fellow is specified in the Approved Proposal.
- C5.2 The Institution will not change the level of the ARC Research Fellowships Salary Scale designated in the Approved Proposal as payable to the Linkage-International Fellow without the approval of the Minister. However, host institutions may increase the salary from their own resources to match local salaries under enterprise agreements.
- C5.3 In addition to the salary, the Institution is paid an amount equal to 26% of the salary to meet salary-related on-costs such as leave loadings, superannuation and insurance (including airfares or medical insurance, where appropriate) under the particular reciprocal agreement.

C6 Consumable Items of Expenditure

- C6.1 In addition to the salary and 26% on-costs specified in clauses C5.1 to C5.3 of these Special Conditions above, the Grant may include an additional amount to meet the cost of consumable items necessary to implement the Grant. Where such an amount is paid, it will be identified in the Approved Proposal.

C7 Overseas Travel Costs incurred by the International Research Fellow

- C7.1 Linkage-International Fellows from the Republic of Korea and France are entitled to one economy class return airfare from their residence overseas to the Australian base for their Grant.
- C7.2 Linkage-International Fellows from Germany are entitled to one business class return airfare from their residence overseas to the Australian base for their Grant. Where accompanied, economy class return airfares for partners and dependent children will be met and, in such cases, the Linkage-International Fellow should be encouraged to travel economy class.
- C7.3 Economy class return airfares for partners and dependent children of Linkage-International Fellows from the Republic of Korea and Germany will also be met provided they reside with the Linkage-International Fellow in Australia for a minimum of six months during the period of the Grant.
- C7.4 Where an amount has been approved for overseas travel costs, it is specified in the Approved Proposal.

C8 Major Conference Costs

- C8.1 The ARC encourages Linkage-International Fellows to attend one major conference or similar gathering in Australia during their Fellowship. The amount specified in the Approved Proposal is to be used for the costs of attendance at such a conference (for example, registration, travel, accommodation) provided such costs are incurred in accordance with the rules of the Institution which apply to Research Staff of similar standing attending major conferences in Australia.

C9 Fellowships: maximum relocation allowances

USA	\$15,000
UK, Europe, Asia (Northern Hemisphere)	\$12,000

Asia (Southern Hemisphere/New Zealand	\$ 9,000
Australia	\$ 6,000

IN WITNESS WHEREOF the parties have agreed to this Funding Agreement on the date first above written.

SIGNED for and on behalf of)
THE COMMONWEALTH OF AUSTRALIA)
)
by.....))
.....)
insert name of signatory) signatory to sign above

the.....)
insert signatory's title above)
of the Australian Research Council)

In the Presence of:)
.....)
.....)
insert name of witness above) witness to sign above

SIGNED for and on behalf of)
)
)

by)
.....)
insert name of signatory above) signatory to sign above

the)
insert signatory's title above)
of the said Institution who, by signing, certifies that)
they have the authority so to sign)

In the Presence of:)
.....)
.....)
insert name of witness above) witness to sign above