



# Funding Contract

between the

Commonwealth of Australia  
as represented by the  
Australian Research Council

and

(title of institution)

regarding funding for  
**ARC Centres of Excellence**  
to commence in  
2003

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**Parties and recitals**

THIS CONTRACT is made on the ..... day of ..... 200....  
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  
(title of university) ('the **Institution**)

WHEREAS:

- A. The ARC operates a Program, being the ARC Centres of Excellence 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 Research Programs of the Centre of Excellence, being that 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 Contract.
- 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 Contract.

NOW IT IS HEREBY AGREED as follows:

**1. Definitions**

1.1. In this Contract, unless the contrary intention appears:

'**ABN**' has the meaning 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;

'**Annual Report**' means the report to be submitted by the Centre, through the Research Office of the Administering Institution, in accordance with clause 19.2;

'**Approved Proposal**' means the proposal for expenditure by the Institution that will assist the research program of the Centre of Excellence set out in Schedule A, approved by the Minister under Section 51 of the Act;

'**ARC**' means the Australian Research Council, as established under section 5 of 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 to administer certain regimes of Commonwealth financial assistance, and includes the members of its Board and Committees;

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

'**Asset**' includes personal, real or incorporeal property, but shall not mean intellectual property;

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**‘Audited Financial Statement’** means the statement to be submitted by the Institution by 30 June each year in accordance with Section 58(b) of the Act;

**‘Centre’** means the program of research set out in the Centre Application, and the ARC Centre of Excellence established to conduct this program;

**‘Centre Application’** means the application for an ARC Centre of Excellence which was lodged with the ARC and given the application number which appears in Schedule A;

**‘Chief Executive Officer’** 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 Schedule A as Chief Investigator for the Centre;

**‘Chief Operations Officer’** means the person appointed to administer the Centre;

**‘Collaborating Organisation’** means the organisation(s) named in Schedule A;

**‘Commonwealth’** means the Commonwealth of Australia;

**‘End of Year Report’** means the report described in clause 19.3;

**‘Executive Director’** means the ARC officer designated by the ARC to manage the Centres of Excellence Program;

**‘Funding’** or **‘Funds’** means the amount or amounts payable under this Contract for the Centre specified in Schedule A;

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

**‘Institution’** means the higher education institution responsible for administering the Funding;

**‘Intellectual Property’** includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets and know how) and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

**‘Interim Director’** means the person named in the Centre Application as the Interim Director;

**‘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;

**‘Participant’** means a person who is a Director, Research Director, Chief Operations Officer, Chief Investigator or Partner Investigator or employee of the Centre or who is associated formally with the Centre;

**‘Partner Investigator’** means the person or persons named in the Centre Application as Partner Investigator for the Centre;

**‘Personnel’** means those persons involved in the conduct of the Centre;

**‘Research Director’** means the person or persons appointed to lead the research programs of the Centre;

**‘Research Office’** means that part of the Institution responsible for liaison on Funding matters;

**‘Responsible Officer’** of the Institution means the Vice-Chancellor or Chief Executive Officer or an officer nominated by him/her;

**‘Specified Personnel’** means the Director, Research Director, Chief Operations Officer, Chief Investigators and Partner Investigators named in Schedule A.

## **2. Interpretation**

2.1. In this Contract, 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; and
- (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 Contract ; and
- (f) all references to dollars are to Australian dollars and this Contract uses Australian currency;
- (g) a 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 Contract is subject to the Act. If there is any conflict between this Contract and the Act, then the Act prevails.

## **3. Entire Agreement and Variation**

3.1. The Schedules, the *Funding Rules for ARC Centres of Excellence for funding commencing in 2003* and the Centre Application form part of this Contract. If any part of this Contract conflicts with any other part, that part higher in the following list shall take precedence:

- (a) the terms and conditions contained in the clauses of this Contract;
- (b) the Schedules;
- (c) the *Funding Rules for ARC Centres of Excellence for funding commencing in 2003*.
- (d) the Centre Application

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3.2 This Contract, including Schedules, will constitute the entire agreement between the parties and supersede all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Contract.

3.3 The Institution and the Commonwealth can agree to vary this Contract. To be legally binding any variation must be in writing and signed by both parties.

#### **4. Funding Period**

4.1 Subject to this Contract and the Act, the Funding period is from 1 January to 31 December of the year(s) set out in Schedule A, unless the Funding is terminated earlier.

#### **5. Payment of Funding**

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

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.

5.3 The duration of the Funding for the ARC Centre of Excellence is indicative only of the intent of the Minister at the time of making the offer of Funding and is 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 Contract will continue to apply to the Centre granted financial assistance under such determination.

5.4 The Commonwealth shall have the right to unilaterally vary the amounts set out in the Schedule A.

5.5 Where the Commonwealth exercises its rights under clause 5.4 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 Funding is subject to the condition that the information contained in the Centre Application from the Institution is accurate and not misleading. The Commonwealth will regard inaccurate and misleading information as including, but not being limited to, claiming fictitious track records, erroneously inflating or deflating funds obtained from other sources and false claims in the publication record, e.g. describing a paper as being published when it has only been submitted.

#### **7. Use of the Funding: activities and facilities**

7.1 The Institution and all Collaborating Organisations must enter into a written agreement or agreements covering the role of each organisation in the project including:

- contributions by the organisations as set out in the Centre Application and any additional certification provided by the Institution;
- payment of salaries for ARC Centre Fellows and Centre employees;
- intellectual property arrangements; and
- an undertaking by all organisations to abide by this Funding Contract.

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The administering institution must retain the agreement(s) for the lifetime of the Centre, and forward a copy to the ARC on request.

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

7.3 The Institution shall ensure that expenditure on the Centre described in Schedule A is in accordance with the aims of the Centre and within the broad structure of the Centre budget contained in the Centre Application or any approved revised budget.

7.4 The Institution must provide the basic facilities required for the Centre. Basic facilities include (but are not limited to):

- suitably equipped and furnished office accommodation;
- for any laboratory-based Centre, adequate access to workshop services ie, machine tools and qualified technicians available to each Participant, according to need, for research;
- access to a basic library collection;
- access to basic computer facilities including access to the Internet;
- adequate computer time;
- photocopying, telephone and microfilm reading facilities; and
- time to undertake the Project.

7.5 The Institution shall not use the Funding:

- (a) for purposes specifically excluded in the *Funding Rules for ARC Centres of Excellence for funding commencing in 2003*; or
- (b) for purposes specifically excluded in this Contract .

## **8. Over-expenditure by the Institution**

8.1 Any Centre expenditure incurred by the Institution for the Centre additional to the approved amount for that Centre specified in Schedule A in the columns headed 'Indicative Funds' is the responsibility of the Institution. The Commonwealth will not reimburse the Institution for such costs under any circumstances.

## **9. Negation of Employment by the Commonwealth**

9.1 Personnel, including Specified Personnel, shall not, by virtue of the Funding or this Contract, be deemed to be in the service or employment of the Commonwealth.

## **10. Conduct of Research**

10.1 Research Projects shall be conducted in accordance with the special conditions specified in Schedule B and Schedule C.

10.2 The Institution shall ensure that no research under this Contract will be permitted to proceed without appropriate ethical clearances having been obtained from the relevant committees and/or

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authorities referred to in Schedule C or prescribed by the Institution's research rules. Responsibility for ensuring such clearances have been obtained remains with the Institution.

## **11. Material produced under this Contract**

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

## **12. Intellectual Property**

12.1 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 Intellectual Property brought into being as a result of the Centre research program for which Funding is provided.

12.2 The Institution must comply with the *National Principles of Intellectual Property Management for Publicly Funded Research* ([http://www.arc.gov.au/publications/arc\\_pubs/01.pdf](http://www.arc.gov.au/publications/arc_pubs/01.pdf)).

12.3 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.

12.4 The indemnity referred to in clause 12.3 shall survive the expiration or termination of this funding.

## **13. Protection of Personal Information**

13.1 The Institution agrees with respect to all activities related to or in connection with the performance of the Centre or in connection with this Contract:

- (a) to comply with the Information Privacy Principles when doing any act or engaging in any practice in relation to Personal Information for the purposes of this Contract, as if it were an agency as defined in the *Privacy Act 1988* ;
- (b) to use Personal Information received, created or held by the Institution for the purposes of this Contract only for the purposes of fulfilling its obligations under this Contract;
- (c) not to disclose Personal Information received, created or held by the Institution for the purposes of this Contract without the prior written approval of the Executive Director;
- (d) not to use or disclose Personal Information received, created or held by the Institution for the purposes of this Contract to engage in a practice that would breach section 16F of the Privacy Act, unless the use or disclosure is necessary to meet (directly or indirectly) an obligation under this Contract;
- (e) not to transfer Personal Information received, created or held by the Institution for the purposes of this Contract outside Australia, or to allow parties outside Australia to have access to it, without the prior written approval of the Executive Director;

- (f) to co-operate with reasonable demands or inquiries made by the Federal Privacy Commissioner or the Executive Director in relation to the management of Personal Information by the Institution in connection with this Contract;
- (g) to ensure that any person whom the Institution allows to access Personal Information which is received, created or held by the Institution for the purposes of this Contract is made aware of, and undertakes in writing, to observe the Information Privacy Principles;
- (h) to comply with 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;
- (i) to ensure that records (as defined in the Privacy Act) containing Personal Information received, created or held by the Institution for the purposes of this Contract are, at the expiration or earlier termination of the Contract, 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;
- (j) to the naming or other identification of the Institution in reports by the Federal Privacy Commissioner;
- (k) to ensure that any subcontract made in connection with this Contract contains enforceable obligations requiring the subcontractor to comply with the obligations in this clause 14, as if the subcontractor were the Institution;
- (l) to enforce the obligations referred to in paragraph (k), in accordance with such directions as the Executive Director may give; and
- (m) to indemnify the Commonwealth in respect of loss, liability or expense suffered or incurred or assumed by the Commonwealth arising out of, or in connection with:
  - (i) a breach of the obligations of the Institution under this clause 13; or
  - (ii) a breach of a subcontractor's obligations under a subcontract as contemplated by clause 13.1(k); or
  - (iii) the misuse of Personal Information held in connection with this Contract by the Institution or a subcontractor; or
  - (iv) the disclosure of Personal Information held in connection with this Contract by the Institution or a subcontractor in breach of an obligation of confidence whether arising under the Privacy Act or otherwise.

13.2 The Institution shall immediately notify the Executive Director if the Institution:

- (a) becomes aware of a breach of its obligations under clause 14.1;
- (b) becomes aware of a breach of a subcontractor's obligations under a subcontract as contemplated by clause 13.1(k);
- (c) becomes aware that a disclosure of Personal Information may be required by law; or
- (d) is approached or contacted by, or becomes aware that a subcontractor has been approached or contacted by, the Federal Privacy Commissioner or by a person claiming that their privacy has been interfered with.

13.3 An act done or a practice engaged in by the Institution or a subcontractor for the purposes of meeting (directly or indirectly) an obligation under this Contract:

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(a) is authorised by this clause for the purposes of sub-sections 6A(2) and 6B(2) of the Privacy Act even if the act or practice is inconsistent with a National Privacy Principle or an approved privacy code that applies to the Institution or the subcontractor; but

(b) is subject to the other obligations in this Contract including this clause 14.

13.4 For the purposes of this clause 13, “received” includes “collected”.

13.5 This clause survives the expiration or earlier termination of this Contract.

Note: more information about the Privacy Act and the Information Privacy Principles is available at <http://www.privacy.gov.au/act/index.html>.

## **14. Compliance with Commonwealth Policies**

14.1 The Institution shall, when using the Commonwealth’s premises or facilities, comply with all reasonable directions and 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.

14.2 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 subcontract with a subcontractor named by the Equal Opportunity for Women in the Workplace Agency as an employer currently not complying with that Act.

14.3 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.

## **15. Acknowledgments, Publications and Publicity**

15.1. The Institution must determine whether to communicate the results of research projects to the research community and the general public. In making a determination under this subclause, the Institution must act in accordance with the principle that it is desirable that the results be communicated to the research community and the general public unless there are specific reasons that make this inappropriate, having regard to the confidentiality of the Centre’s Intellectual Property or the Intellectual Property of any third party.

15.2 When, at any time during or after completion of a research program in the Centre, the Institution publishes scholarly books or articles, or promotional material, books, articles, television or radio programmes, newsletters or other literary or artistic works which relate to the Centre, the Institution shall acknowledge, at a prominent place in the publication, the support of the ARC, for example by using the words “this work was produced with the assistance of the Australian Research Council under the ARC Centres of Excellence program”.

15.3 Equipment and facilities funded under the ARC Centres of Excellence program must have clear signage, indicating the support of the ARC.

15.4 The Centre shall establish a website to communicate with the research community and the community at large. The website will acknowledge on its homepage the support of the ARC for the Centre.

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15.5 The Commonwealth reserves the right to publicise the awarding of the Funds to the Institution for the Centre. The Commonwealth may include in media releases, in general announcements about the funding and in annual reports, the:

- (a) Institution's name;
- (b) amount of the Funds;
- (c) title and a brief description of the Project; and
- (d) any material published in the Centre Annual Report, with due regard to subsection 19.4.

## **16. Administration of the Funding**

16.1 The Institution must maintain proper records relating to the Funding in general and the program of research conducted in the Centre with the Funding, in particular to ensure its compliance with this Contract

16.2 The Institution shall provide all Specified Personnel with a copy of this Contract within a reasonable time after the beginning of the Funding period.

## **17. Audit and Monitoring**

17.1 The Institution is responsible for monitoring the expenditure of the Centre and certifying to the ARC that progress is satisfactory in the End of Year Report. If at any time, in the opinion of the Responsible Officer, the expenditure is not being carried out with competence and diligence, or in accordance with this Contract, the Institution shall take all action necessary to minimise further expenditure in relation to the Funding and to inform the Commonwealth immediately.

17.2 The ARC may conduct reviews at any time to ensure that the terms of this Contract are being, or have been 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 Funding in general.

### **17.3 Audited Financial Statement**

(a) In accordance with section 58 of the Act, the Institution shall submit an Audited Financial Statement by 30 June of the year following the calendar year for which the Funding was awarded. The Statement must be prepared in the format specified in Schedule D.

(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 for which approval was given to carry over in the End of Year Report.

## **18. Access to Premises & Records**

18.1 The Institution shall give, at all reasonable times, to the Chief Executive Officer of the ARC or any person authorised in writing by the CEO:

- (a) reasonable access to:
  - (i) the Institution's employees;
  - (ii) premises occupied by the Institution; and
  - (iii) material; and/or
- (b) reasonable assistance to

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- (i) inspect the performance of the Centre;
- (ii) locate and inspect Material;
- (iii) make copies of Material relevant to the Centre and remove those copies.

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

18.3 If a matter is being investigated which, in the opinion of the CEO of the ARC, or any person authorised in writing by the CEO, may involve an actual or apprehended breach of the law, clause 18.4 will not apply.

18.4 The access rights in clause 18.1 are subject to:

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

18.5 Nothing in clause 18.1 to 18.4 inclusive affects the obligation of each party to continue to perform its obligation under this Contract unless otherwise agreed between them.

18.6 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 Contract;
- (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 Contract; and
- (c) where relevant, inspect any Commonwealth assets and Commonwealth Material held on the premises of the Institution.

18.7 This clause shall survive the expiration or earlier termination of this Contract.

## **19. Reporting Requirements**

19.1 The Institution must submit the following reports and statement, in accordance with this Contract and the Act, in the format required by the ARC.

### **19.2 Annual Report**

The Institution shall submit, by 31 March in the year following each calendar year for which the funding was awarded, an Annual Report. The Annual Report will include details regarding the following matters:

- (a) the extent to which the objectives of the ARC Centres of Excellence Program and the Approved Proposal have been met;
- (b) the achievements in research and other outputs achieved resulting from the use of the funds, including any advances in knowledge, relevant publications or international collaboration;
- (c) the performance of the Centre against the performance measures in the key result areas listed in Schedule E;
- (d) all expenditure under the Approved Proposal by the Centre of Excellence, including any specific Assets or Intellectual Property;

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- (e) funding and/or other resources provided by any other Institution or Participant towards meeting the aims of the Approved Proposal;

### 19.3 End of Year Report – Carry forward Request

- a) The Institution shall submit an End of Year Report by 31 March in the year following each calendar 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, 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; and
  - iii) the reasons why the unspent funds are required to be carried over.
- c) Under paragraph 58(1)(e) of the Act, Funding provided by the Commonwealth to the Institution which is not spent during the year of the Funding period to which those funds were allocated may be carried over where the Minister approves the carrying over of unspent funds. The usual mechanism for the Institution to seek this approval is through the End of Year Report.
- d) Approval for Funds to be carried over for more than twelve months will be given only in exceptional circumstances.

### 19.4 Copyright in Reports

- (a) Copyright in all reports required by this Contract 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 19.4(b)
- (b) The Commonwealth warrants that, for a period of three years from the date of submission of the final Annual Report for the Centre, it will seek the agreement of the Institution before any information which is contained in any reports related to the Centre, 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.

## 20. Recovery of Unspent Funds or Overpayments of Funds

20.1 Any unspent Funds may be recovered by the Commonwealth under subsection 58(c) of the Act. Any overpayment of Funds made to an Institution may be recovered under subsection 58(d) of the Act. The Commonwealth may offset the unspent or overpaid Funds against the total of any further Funds paid to the Institution.

## 21. Indemnity

21.1 Subject to this Contract, 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

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liability was caused by any wilful, unlawful or negligent act or omission of the Institution, its employees, agents or subcontractors in connection with this Contract.

21.2 The Institution's liability to indemnify the Commonwealth under clause 21.1 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.

21.3 The indemnity referred to in clause 21.1 shall survive the expiration or termination of this Contract.

## **22. Insurance**

22.1 The Institution shall effect and maintain adequate insurance or similar coverage to cover any liability arising as a result of its participation in an ARC Centre of Excellence and, if requested, provide the Commonwealth with a copy of the relevant policies or when appropriate a Certificate of Currency. The Institution shall be responsible for maintaining workers' compensation insurance for an amount required by the relevant State or Territory legislation.

## **23. Failure to comply with conditions of Funding**

23.1 In accordance with subsection 58(1) of the Act, if the Minister informs the Institution that the Minister is satisfied that the Institution has failed to fulfil a condition applicable to the Funding, the Institution will pay to the Commonwealth the amount (if any) specified by the Minister, not exceeding the amount of the Funding.

23.2 If the Institution fails to comply with clause 7.1, the ARC may withhold payment of funding until it has been provided with copies of the agreement or agreements with Collaborating Organisations.

## **24. Termination**

24.1 The Institution must cease to operate the Centre:

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

24.2 Upon the Institution ceasing to fund the Centre under clause 24.2:

- (a) the Institution shall take all action necessary to minimise further expenditure of the Funding ; and
- (b) the Commonwealth may recover any Funds that have not been expended. .

## **25. Compliance with Law**

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

25.2 The Institution acknowledges that:

- (a) 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;
- (b) it is aware that giving false or misleading information is a serious offence under the *Criminal Code*;
- (c) 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 Contract (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;
- (d) in respect of data, including personal information, held in connection with this Contract, 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 Contract is an offence under Part 10.7 of the *Criminal Code* which may attract a substantial penalty, including imprisonment;
- (e) it is aware of the provisions of Section 79 of the *Crimes Act 1914* relating to official secrets; and
- (f) the Recipient acknowledges that it is aware of its obligations under the *Charter of United Nations (Anti-Terrorism Measures) Regulations 2001*.

Note: more information about the *Charter of United Nations (Anti-Terrorism Measures) Regulations 2001* is available at [www.dfat.gov.au](http://www.dfat.gov.au).

25.3 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.

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

## 26. Liaison

26.1 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 Executive Director at the following address:

Executive Director  
ARC Centres of Excellence Program  
Australian Research Council  
PO Box 2702

*Courier Address*  
cnr Jerrabomberra Ave and Hindmarsh Dr  
SYMONSTON ACT 2609

Phone: 02 6284 6600  
Fax: 02 6284 6601  
Email: [ncgp@arc.gov.au](mailto:ncgp@arc.gov.au)

# Schedule A – ARC Centres of Excellence

**Administering Institution:** (insert name of the Administering Institution)

**Name of the Centre (ARC Centre of Excellence for xxx)**

Project ID	Personnel	Collaborating Organisation(s)	Indicative Funds (\$ GST Free)					Special Conditions	Year of Centre Review
			2003	2004	2005	2006	2007		
CE03xxx	Names of all Centre Personnel*	Names of Centre Personnel's Institution	\$	\$	\$	\$	\$		2005

This list of Centre Personnel must include and explicitly identify:

1. Chief Operations Officer.
2. Research Director.
3. Centre Director (if applicable; see definition in Schedule B).
4. Chief Investigator(s).
5. Partner Investigator(s).

# **SCHEDULE B**

## **Special Conditions for the Centre of Excellence**

### **B1. Participants**

- B1.1 The Institution shall ensure that any Participant has such access to the ARC Centre of Excellence at all reasonable times and in such appropriate manner as accords with the purposes of the Centre.
- B1.2 The Institution shall use best endeavours to ensure that no Participant causes the Institution to breach this Contract.

### **B2. Senior Centre Management**

- B2.1 The Institution shall appoint with the prior approval of the ARC a person with the title Research Director or a similar description, to be responsible for the conduct of the research programs of the Centre.
- B2.2 The Institution shall appoint with the prior approval of the ARC a person with the title Chief Operations Officer or a similar description, to be responsible for the management of the Centre.
- B2.3 It is permissible for a single person to perform the functions of the Research Director and the Chief Operations Officer. This person may be known as the Centre Director.
- B2.4 The Research Director is expected to work exclusively on the business of the Centre, and must hold no other executive position either at the Institution or at another Institution.
- B2.5 If the Research Director is unable to perform duties through death, incapacity, resignation, withdrawal, or by being granted leave of absence in excess of two months, the Institution must advise the Executive Director, in writing, within five days of the Institution becoming aware of the circumstance.
- B2.6 If the Executive Director receives notice of an event occurring under condition B2.5, the Executive Director will undertake a review to examine the future program and management arrangements at the Centre. The Institution shall provide any reasonable assistance requested by the Executive Director to undertake the review.
- B2.7 Failure to comply with the requirements of condition B2 may result in the termination of the funding.

### **B3. Staff of the ARC Centre of Excellence - terms and conditions of employment**

- B3.1 The Institution shall pay the staff at the ARC Centre of Excellence, at or above the prevailing salary levels for other academic staff at a similar level, so that staff at the ARC Centre of Excellence are no worse off financially than their academic peers of similar seniority at the Institution.
- B3.2 Unless the Minister otherwise determines, the provision of recreation leave, sick leave and other conditions of employment for staff of the ARC Centre of Excellence, shall be those of the Institution.

#### **B4. ARC Centres of Excellence Titles**

- B4.1 Unless otherwise agreed in writing by the ARC, the Institution shall ensure that the Centre uses the words “ARC Centre of Excellence” in its title.
- B4.2 The Institution shall not allow the words “national”, “Commonwealth” or “Australia” to be used in the title of the Centre. A Centre may use the word “Commonwealth” in its sub-title, for example, “Cultural Media Policy, a Commonwealth ARC Centre of Excellence”.
- B4.3 Subject to conditions B4.4, an ARC Centre of Excellence may continue to designate itself as an “ARC Centre of Excellence” after the funding period.
- B4.4 The Institution shall ensure that the ARC Centre of Excellence complies with any direction from the Executive Director concerning the continued use of the title “ARC Centre of Excellence”.

#### **B5 Advisory Board**

- B5.1 The Institution shall ensure that an Advisory Board is established.
- B5.2 While the final composition of the Advisory Board is a matter for the Institution, it is expected that it will comprise some of the following: senior staff of the ARC Centre of Excellence, industry or end-user community groups, academic expertise from at least one other higher education institution, visiting senior international fellows and senior university staff such as the Pro Vice-Chancellor (Research).
- B5.3 The purposes of the Advisory Board are to assist the Centre management by contributing to the development of strategies and vision for the future relative to the proposed goals of the ARC Centre of Excellence and by serving as a vehicle for creating better linkages between academia, industry and government.
- B5.4 The Advisory Board must meet at least once a year.

#### **B6. Assets**

- B6.1 No expenditure of the funding shall be made on:
- (a) equipment items estimated to cost in excess of \$133,000; or
  - (b) building works;
- without the prior approval of the Executive Director. Approval for expenditure on equipment items costing in excess of \$133,000 will normally be granted only when ARC funding is less than 75% of the total cost of the equipment.
- B6.2 The Collaborating Organisations shall establish and comply with their own procedures and arrangements for purchasing, installing, recording, maintaining and insuring an item of equipment purchased with funding money.
- B6.3 The Collaborating Organisations shall ensure that the ARC Centre of Excellence has first priority in the use and operation of the equipment purchased for the Centre and the Collaborating Organisations shall, so far as is practicable, permit persons authorised by the Minister’s delegate to have reasonable access to that equipment in priority to other persons.

B6.4 Assets purchased with funding money shall vest in one of the Collaborating Organisations and be listed in its assets register unless:

- (a) otherwise specified in the Centre Application; or
- (b) the Centre is terminated, in which case the Minister may, by notice in writing, require the transfer of any such item of equipment to the Commonwealth.

**B7. Evaluation**

- (a) B7.1 During the year listed in under the heading ‘year for Centre Review’ in Schedule A, a review of the Centre’s performance against the objectives outlined in the Centre Application, the specific performance targets or milestones identified in the Centre Application and the objectives of the ARC Centres of Excellence Program will be undertaken by the ARC. Funding for the subsequent period is dependent on a successful result of the review.

# SCHEDULE C

## Special Conditions

1. *Importation of Experimental Organisms:* The Institution must ensure that, before experimental organisms are imported into Australia for the purposes of a Centre research project, they or the Chief Investigator of the Centre must obtain agreement in principle for the importation from the appropriate Commonwealth and State authorities.
2. *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 Centre 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.
3. *Deposition of Biological Materials:* Any biological material accumulated during the course of a Centre 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.
4. *Genetic Manipulation:* If a Centre 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.
5. If a Centre 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.
6. If a Centre 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.
7. *Ionising Radiation:* If a Centre 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.
8. *Social Science Data Sets:* Any machine-readable data arising from a Centre involving research relating to the social sciences should be lodged with the Australian Consortium for Social and Political Research Inc. (ACSPRI) or any other appropriate archive for secondary use by other investigators. This should normally be done within two years of the conclusion of any fieldwork relating to the research. If a Chief Investigator is not intending to do so within the two-year period, s/he must inform the ARC in writing before the the expiry of the two- year period.

# **SCHEDULE D**

## **Format of Audited Statements**

The Audited Financial Statement (required under Clause 17.3 and the Act) is to be prepared using the Guidelines for the Preparation of Annual Financial Statements for the relevant reporting period, as published by the Department of Education, Science and Training

# SCHEDULE E

## Key Result Areas and Performance Measures

Key Result Area	Performance Measure	Target	Outcome
<i>Research findings</i>			
	Quality of publications		
	Number of publications		
	Number of patents		
	Invitations to address and participate in international conferences		
	Invitations to visit leading international laboratories		
	Number and nature of commentaries about the Centre's achievements		
<i>Research training and professional education</i>			
	Number of postgraduates recruited		
	Number of postgraduate completions		
	Number of Honours students		
	Number of professional courses		
	Participation in professional courses		
	Number and level of undergraduate and high school courses in the priority area(s)		
<i>International, national and regional links and networks</i>			
	Number of international visitors		
	Number of national and international workshops		
	Number of visits to overseas laboratories		
	Examples of relevant Social Science & Humanities research supported by the Centre		
<i>End-user links</i>			
	Number & nature of commercialisation activities		
	Number of government, industry and business briefings		
	Number of Centre associates trained/ing in technology transfer and commercialisation		
	Number and nature of Public Awareness programs		

<i>Organisational support</i>			
	Annual cash contributions from Collaborating Organisations		
	Annual in-kind contributions from Collaborating Organisations		
	Number of new Organisations recruited to or involved in the Centre		
	Level and quality of infrastructure provided to the Centre		
<i>Governance</i>			
	Breadth and experience of the members of the Advisory Board		
	Frequency and effectiveness of Advisory Board meetings		
	Quality of the Centre strategic plan		
	Effectiveness of arrangements to manage Centre nodes		
	The adequacy of the Centre's Key Performance Measures		
<i>National benefit</i>			
	Measures of expansion of Australia's capability in the priority area(s)		
	Case studies of economic, social, cultural or environmental benefits		

The ARC recommends that that a sum of money at least as much as 10% of the annual ARC Centre funding should be spent each year on Centre community awareness programs, possibly including:

- professional and technical training;
- primary and secondary school awareness;
- “front-office” service for, and interaction with, Australians end-users; and
- workshops, international visitor programs and other networking activities that engage cognate Australian researchers who might not be formally associated with the Centre.

