



Australian Government

Australian Research Council

Funding Agreement

between the

Commonwealth of Australia

as represented by the

Australian Research Council

and

{Institution's Name}

regarding funding for
Federation Fellowships
to commence in
2004

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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 51 452 193 160]

and

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

WHEREAS:

- A. The ARC operates a Program, being the *Federation Fellowships* 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 Fellowships, 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 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 Agreement.

NOW IT IS HEREBY AGREED as follows:

1 Definitions

In this Agreement, unless the contrary intention appears:

'ABN' has the meaning as given in Section 41 of *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 under Section 51 of the Act approved by the Minister and, in this Agreement, includes all Projects funded at a particular Institution 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/>>

‘Asset’ includes personal, real or incorporeal property, but shall not mean intellectual property;

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

‘the Commonwealth’ means the Commonwealth of Australia;

‘DEST’ means the Commonwealth Department of Education, Science and Training or other Commonwealth department with responsibility from time to time for the administration of higher education;

‘End of Year Report’ means the report described in clause 28.1;

‘Fellow’ means an individual researcher named in Schedule A who has been awarded a Fellowship;

‘Fellowship’ means an individual Fellowship which has been awarded to an eligible researcher named in Schedule A.

‘Fellowship Application’ means the application for a Federation Fellowship which was lodged with the ARC and given the application number which appears in Schedule A;

‘Final Report’ means the report described in clause 28.3;

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

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

‘Institution’ means the higher education institution or administering organisation approved by the Minister under Section 51 of the Act as the institution responsible for administering the Funding;

‘Intellectual Property’ includes all copyright and neighboring 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;

‘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;

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

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

‘Progress Report’ means the report described in clause 28.2;

‘Project’ means the Project or Projects which form part of the Approved Proposal and which are set out in Schedule A;

‘Research Office’ means that part of the administering organisation or 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; and

‘Specified Personnel’ means the Fellow named for each Fellowship detailed in the Approved Proposal and Fellows named in Schedule A to perform the Fellowship.

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 to clauses in this Agreement;
- (f) all references to dollars are to Australian dollars and this Agreement 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 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 The Schedules and the *Federation Fellowships: Funding Rules for applicants for funding commencing in 2004* form part of this Agreement. 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 contained in the clauses of this Agreement;
 - (b) the Schedules;
 - (c) the *Federation Fellowships: Funding Rules for applicants for funding commencing in 2004*.
- 3.2 This Agreement, 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 Agreement.
- 3.3 The Institution and the Commonwealth can agree to vary this Agreement. To be legally binding any variation must be in writing and signed by both parties.

4 Funding Period

Subject to this Contract and the Act, the Funding is for the period set out in Schedule A, 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 *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 Federation Fellowships 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 Fellowship 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 ARC notional salary rates for Federation Fellowships as set out in Schedule A are applicable as at 1 January 2004.

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- 5.6 The Commonwealth shall have the right to unilaterally vary Schedules to reflect annual adjustments in the ARC Salary and Allowances Provisions.
- 5.7 Where the Commonwealth exercises its right under clause 5.4, 5.5 or 5.6 above, it shall inform the Institution of the variation within forty-five (45) days of that variation.

6 Accuracy of Information/Malpractice

The Funding is subject to the condition that the information contained in all Fellowship Applications is accurate and not misleading. The Commonwealth will regard 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 when it has only been submitted.

7 Use of the Funding: activities and facilities

- 7.1 The Institution will ensure that each Fellowship 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 Fellowship will be conducted in accordance with the aims and research plan contained in the Fellowship Application, or any approved revised budget, aims and research plan, submitted by the Institution.
- 7.2 The Institution shall ensure that expenditure on each Fellowship described in Schedule A is in accordance with the aims and research plan of the Fellowship and within the broad structure of the Fellowship budget contained in the Fellowship Application or any approved revised budget, aims and research plan.
- 7.3 The Institution shall not use the Funding:
 - (a) for purposes specifically excluded in the *Federation Fellowships: Funding Rules for applicants for funding commencing in 2004*; or
 - (b) for purposes specifically excluded in this Agreement.
- 7.4 The Institution must ensure that the researcher has adequate time to do the Fellowship and must provide the basic facilities required for each Fellowship described in Schedule A. Basic facilities include but are not limited to:
 - (a) suitably equipped and furnished office accommodation;
 - (b) for any laboratory-based Project, adequate access to workshop services ie. machine tools and qualified technicians available to each member of staff, according to need, for research;
 - (c) access to a basic library collection, standard references and funds for abstracting services;
 - (d) access to basic computer facilities, including word processing and access to the Internet;
 - (e) adequate computing time (excluding access to high performance computers unless specified in the Fellowship Application);

- (f) photocopying, telephone and microfilm reading facilities; and
- (g) time for the Specified Personnel to do the Project.

7.5 Funds may not be used for:

- (a) teaching materials;
- (b) data compilation or the development of research aids and tools;
- (c) Special Studies Programs;
- (d) computing facilities for molecular analysis (unless specified in Schedule A);
- (e) basic facilities;
- (f) publication costs.

8 Use of the Funding: Relocation Expenses

8.1 The Institution must make reimbursement payments from the Funding to Fellows for relocation costs (travel expenses (see clause 8.2 below) and removal of household items only) on provision of full particulars of mode and time of travel and the receipts for all other payments e.g. removal expenses of household items.

8.2 The Institution shall ensure that the total amount of travel expenses (excluding the cost of removal of household items) claimed does not exceed the cost of the cheapest direct airfare for the Fellow and their dependants. Where a Fellow elects to travel by car, the ARC will provide an allowance per kilometre up to the maximum equivalent of the cheapest direct airfare. On completion of the Fellowship, the Fellow will be entitled to the same return travel provisions provided that the Fellow has not obtained subsequent employment in Australia for a period exceeding twelve months.

8.3 Reimbursement of relocation costs will be provided to the Institution by the ARC on the basis of a claim submitted as part of the End of Year Report, as described in clause 28, on condition that:

- (a) all relevant receipts are provided to the ARC;
- (b) the claim is processed within the year the claim is made;
- (c) all claims are made in Australian dollars; and
- (d) the Institution makes such claims to the ARC within 12 months.

8.4 The Institution may reimburse Fellows and claim from the ARC up to the following amounts for travel expenses and removal of household items expenses to be paid from the Funding:

- (a) a maximum of \$15,000 for a Fellow who relocates from the USA;
- (b) a maximum of \$12,000 for a Fellow who relocates from UK / Europe / Asia (Northern Hemisphere);
- (c) a maximum of \$9,000 for a Fellow who relocates from NZ / Asia (Southern Hemisphere); and
- (d) a maximum of \$6,000 for a Fellow who relocates within Australia.

8.5 For the purposes of relocation entitlements, a dependant is defined as a person who moves residence with the Fellow. A spouse who transfers employment to the city of the Institution can be regarded as a dependant. A child continuing to study at the former city and not intending to live with the Fellow cannot be regarded as a dependant.

9 Conditions of Employment and Recognition of Fellows

9.1 Fellows may not hold another position either at the Institution or at another Institution. The Institution shall confirm that successful applicants have formally resigned from their positions before taking up Fellowships at the Institution.

9.2 Fellows may not accept additional appointments or remuneration without the prior agreement of the Institution and the Minister.

9.3 The Institution shall recognise Fellows as academic staff and incorporate them fully into the activities and academic life of the Institution.

9.4 Unless the Minister otherwise determines, the provision of recreation leave, sick leave and other conditions of employment for Fellows shall be those of the Institution.

9.5 The Commonwealth will not provide additional funds to cover accrued leave proposed to be taken after the Fellowship period has expired. Fellows should therefore take their recreation leave during the period of Fellowship tenure.

9.6 Fellows must reside predominantly in Australia for the full term of the grant. If the applicant does not have permanent resident status, he/she must obtain temporary resident status from the Department of Immigration and Multicultural Affairs before taking up the grant.

9.7 Fellows may seek approval to undertake periods of research overseas of up to two years duration in total during the period of the Fellowship. Fellows seeking approval to conduct research outside of Australia must demonstrate to the ARC that this is in the best interest of the research and its outcomes, and of national benefit to Australia.

9.8 The Institution shall provide Fellows with the same access to infrastructure funds as applies to academic staff at the same level within the Institution and afford them equal status with similar staff for the provision of accommodation, access to necessary laboratory and workshop facilities, adequate time on the Institution's computer and other equipment, stationery, photocopying and typing services. Institutions are also required to provide reasonable time on major equipment necessary for the conduct of the Fellow's research Program.

10 Commencement of Federation Fellowships

Subject to clause 11 below, all new Federation Fellowships must commence by 31 December 2004. Failure to do so will result in the withdrawal of Commonwealth funding and termination of any individual Fellowships that have not commenced.

11 Deferment of Commencement of Fellowship

- 11.1 If the Institution wishes to defer commencement of a Fellowship, a written request seeking permission to commence after 31 December 2004, justifying the requested deferral in terms of special circumstances, must be made to the Program Coordinator, through the Institution's Research Office prior to 30 November 2004.
- 11.2 The Institution must not defer commencement of the Fellowship unless the Institution has received written permission from the ARC, based on a decision made by the Minister.

12 Transfer of Fellowship

If the Federation Fellow is no longer able to continue the Fellowship, Funding will not be provided to another Fellow and the Fellowship will be terminated.

13 Relinquishment of Fellowship

The Institution shall require Fellows to give one month's notice to the Institution if they intend to relinquish the Fellowship. The Institution shall advise the Program Coordinator of the relinquishment of the Fellowship immediately. Relinquished Fellows must be reported in the End of Year Report.

14 Suspension of Fellowship

- 14.1 Fellows wishing to suspend for more than six (6) months, or during the first year, must apply through the Research Office to the Program Coordinator seeking the Minister's approval to suspend the Fellowship. Unless there are extenuating circumstances, a suspension will not normally be granted in the first year of the Fellowship.
- 14.2 A suspension for more than six (6) months that commences without the written permission of the Minister may result in the immediate termination of the relevant Fellowship.

15 Specified Personnel

The Institution shall ensure that the Fellow will conduct the Fellowship in a diligent and competent manner and will comply with this Agreement.

16 Over-expenditure by the Institution

Any expenditure incurred by the Institution for a Fellowship additional to the approved amount for that Fellowship 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.

17 Negation of Employment by the Commonwealth

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

18 Conduct of Research

- 18.1 The Fellowship shall be conducted in accordance with any special conditions specified in this Agreement.
- 18.2 The Institution shall ensure that a 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 B or prescribed by the Institution's research rules. Responsibility for ensuring such clearances have been obtained remains with the Institution.

19 Material produced under this Agreement

- 19.1 The Institution shall establish and comply with its own procedures and arrangements for the ownership of all material produced as a result of any Fellowship under this Agreement.
- 19.2 The Institution shall ensure that Fellows:
- (a) take reasonable care of, and safely store any data or specimens or samples collected during, or resulting from the conduct of their Fellowship;
 - (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 Fellowship; and
 - (c) include details of the lodgement or reasons for non-lodgement in the Final Report for the Fellowship.

20 ARC Assessments

- 20.1 The Institution must ensure that, for the duration of the Funding under the Federation Fellowship, Fellows, if requested, agree to assess up to twenty new applications for ARC funding each year.
- 20.2 If the ARC determines that a Fellow has failed to meet the obligation to assess applications assigned to him/her by the ARC, the ARC will notify the Institution in writing of that failure.
- 20.3 If a Fellow does not undertake assessment of the assigned applications within a period specified by the ARC, in the notice referred to in clause 20.2 above, the Institution will be considered to be in contravention of this Funding Agreement and the relevant Federation Fellowship may be terminated immediately.

21 Intellectual Property

- 21.1 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 projects for which Funding is provided.

- 21.2 The Institution must comply with the National Principles of Intellectual Property Management for Publicly Funded Research.
- 21.3 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 Recipient, its employees, agents or subcontractors in the course of, or incidental to, performing the Fellowship or the use by the Commonwealth of reports provided by the institution.
- 21.4 The indemnity referred to in clause 21.3 shall survive the expiration or termination of this Agreement.

22 Protection of Personal Information

The Institution agrees with respect to all activities related to or in connection with the performance of the Fellowship 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 concern 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 Recipient 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 Program Coordinator in relation to the management of personal information by the Recipient 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 Program Coordinator to observe any recommendation of the Federal Privacy Commissioner relating to any acts or practices of the Recipient 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 Program Coordinator to provide the Federal Privacy Commissioner access for the purpose of monitoring the Recipient’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 Recipient under this clause or any misuse of personal information by the Recipient or any disclosure by the Recipient 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 Recipient 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 Department or deleted or destroyed in the presence of a person duly authorised by the Department to oversee such deletion or destruction; and
- (j) to the naming or other identification of the Recipient in reports by the Federal Privacy Commissioner.

23 Compliance with Commonwealth Policies

- 23.1 The Institution shall, when using the Commonwealth’s premises or facilities, comply with all reasonable directions and Departmental 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.
- 23.2 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.
- 23.3 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.

24 Acknowledgments, Publications and Publicity

- 24.1 Subject to commercial sensitivities or Intellectual Property considerations, the activities and outcomes of the *Federation Fellowship* are expected to be communicated to the research community and, where appropriate and possible, to the community at large.
- 24.2 When, at any time during or after completion of a *Federation Fellowship*, the Institution publishes promotional material, books, articles, television or radio Programs, newsletters or other literary or artistic works that relate to the Fellowship, the Institution shall prominently acknowledge the support of the ARC.

25 Administration of the Funding

- 25.1 The Institution must maintain reasonable records relating to the Funding in general and the Fellowship conducted with the Funding, in particular to ensure its compliance with this Agreement.
- 25.2 The Institution shall provide the Fellow with a copy of this Agreement within a reasonable time after the beginning of the Funding period.

26 Audit and Monitoring

- 26.1 The Institution is responsible for monitoring the expenditure of Funding 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 Agreement, the Institution shall take all action necessary to minimise further expenditure in relation to the Funding and to inform the Commonwealth immediately.
- 26.2 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 Grant funds in general.
- 26.3 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 each year for which the Funding was awarded. The statement must comply with any guidelines that DEST may issue and are in force from time to time for the preparation of annual financial statements by Australian higher education institutions.
 - (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 Access to Premises & Records

- 27.1 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) unhindered access to:
 - (i) the Institution's employees;
 - (ii) premises occupied by the Institution; and
 - (iii) material; and/or
 - (b) reasonable assistance to
 - (i) inspect the performance of the Fellowship;

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- (ii) to locate and inspect Material;
 - (iii) make copies of Material relevant to the Fellowship and remove those copies.
- 27.2 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 purposes.
- 27.3 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 27.4(a) will not apply.
- 27.4 The access rights in clause 27.1 are subject to:
 - (a) the provision of reasonable prior notice by the ARC; and
 - (b) the Institution's reasonable security procedures.
- 27.5 Nothing in clause 27.1 to 27.4 inclusive affects the obligation of each party to continue to perform its obligations under this Agreement unless otherwise agreed between them.
- 27.6 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:
 - (e) require the Institution to provide records and information which are directly related to this Agreement;
 - (f) 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
 - (g) where relevant, inspect any Commonwealth assets and Commonwealth Material held on the premises of the Institution.

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

28 Reporting Requirements

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.

28.1 End of Year Report

- (a) The Institution shall submit an End of Year Report by 31 March in the year following each year for which the Funding was awarded. The ARC will provide the Institution with a proforma for this report. 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 financial assistance to be recovered by the Commonwealth;

- (ii) any unspent financial assistance that the Institution is seeking to have carried over into the next year; and
 - (iii) a statement of the reasons why the unspent financial assistance is required to be carried over.
- (b) 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. Where the carry over of 75% or more of the Funds is requested, written justification must be given.
- (c) Funds will be carried over more than twelve months only in exceptional circumstances. Separate written justification must be provided in this instance.

28.2 Progress Report

- (a) The Institution shall ensure that all Fellows provide an annual Progress Report in respect of each ongoing Fellowship by 31 January of each year, on a pro-forma available on the ARC's website. The ARC will review the outcomes against the objectives of the Fellowship as stated in the Fellowship Application, or any approved revised budget, aims and research plan. Any Fellow 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 Fellowship, further payment of funds will not be made until satisfactory progress has been made on the Fellowship. If satisfactory progress is still not achieved, the Funding will be terminated and all outstanding monies will be recovered by the ARC.
- (c) Unsatisfactory progress on the Fellowship will be noted against any further Applications under any ARC scheme submitted by, or on behalf of the Fellow and may be taken into account in assessing funding that application.

28.3 Final Report

- (a) The Institution shall ensure that Final Reports are provided for each Fellowship within six months of the completion of the Fellowship. The pro-forma for this report will be available on the ARC's website. The ARC will review the outcomes against the objective(s) of the Fellowship as stated in the Fellowship Application or any approved revised budget, aims and research plan.
- (b) If a Final Report is deemed inadequate, the Fellow 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 Fellow and may be taken into account in assessing funding that application.
- (c) If the Final Report is not submitted on time this will be noted against any further Project or Fellowship Applications under any ARC Program submitted by, or on behalf of the Fellow and may be taken into account in assessing funding that application.

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

29 Copyright in Reports

29.1 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 29.2 below.

29.2 The Commonwealth warrants that, for a period of three years from the date of submission of the Final Report for the Fellowship, it will seek the agreement of the Institution before any information which is contained in any reports related to the Fellowships, 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.

30 Recovery of Unspent Funds or Overpayments of Funds

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.

31 Indemnity

31.1 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.

31.2 The Institution’s liability to indemnify the Commonwealth under clause 31.1 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.

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

32 Insurance

The Institution shall effect and maintain adequate insurance or similar coverage to cover any liability arising as a result of its participation in the *Federation Fellowship* and, if requested, provide the Commonwealth with a copy of the relevant policies or when appropriate

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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.

33 Termination

33.1 If the Institution fails to comply with any of these conditions then the Commonwealth may, in accordance with Section 58 of the Act, require the Institution to return all or some of the Funds to the Commonwealth.

33.2 The Institution must terminate a Fellowship:

- (a) where progress is not, in the opinion of the Responsible Officer, satisfactory; or
- (b) on the death, incapacity, resignation or withdrawal 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.

33.3 Upon termination of the Funding under clause 33.2 above:

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

34 Compliance with Law

34.1 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.

34.2 The Institution acknowledges that:

- (a) the misappropriation of property of the Commonwealth, falsification of books or records, seeking or agreeing to receive a bribe in relation to the exercise of functions under this Agreement or providing false returns or certificates are offences under Part VI of the *Crimes Act 1914* which may attract a substantial penalty, including imprisonment;
- (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 Recipient 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.

34.3 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 sub-contractor 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*.

35 Liaison

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
Federation Fellowships
Australian Research Council

Postal address

PO Box 2702
CANBERRA ACT 2601

Address
cnr Jerrabomberra Ave and Hindmarsh Dr
SYMONSTON
ACT 2609

Phone: 02 6284 6600
Fax: 02 6284 6601
Email: ncgp@arc.gov.au

SCHEDULE A

Details of Fellowship to receive funding by the Commonwealth

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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 Fellowship, 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 Fellowship 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 Fellowship 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. *Recombinant DNA techniques:* If a Fellowship 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. *Recombinant DNA techniques on animals or humans:* If a Fellowship 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 Program Coordinator if required to do so.
- B7. *Ionising Radiation:* If a Fellowship 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 Program Coordinator 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.

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

SIGNED for and on behalf of)
THE COMMONWEALTH OF AUSTRALIA)

by)
insert name of signatory above)

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

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

.....
signatory to sign above

.....
witness to sign above

SIGNED for and on behalf of)
«Institution».....)

by)
insert name of signatory 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)

.....
signatory to sign above

.....
witness to sign above