



Australian Government

Australian Research Council

Funding Agreement

between the

Commonwealth of Australia

as represented by the

Australian Research Council

and

<<Administering Organisation>>

regarding funding for

ARC Future Fellowships

to commence in

2009

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Parties & Recitals

THIS AGREEMENT is made on the _____ day of _____ 20__

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

<< Administering Organisation >> ('the Administering Organisation').

WHEREAS:

- A. The Commonwealth through the ARC operates the ARC *Future Fellowships* Scheme ('the Scheme');
- B. The Commonwealth accepts that the Administering Organisation is an eligible body for the purposes of the Scheme, and the Commonwealth may provide financial assistance to support the Administering Organisation to conduct the Projects, including the approved Funding elements, being those described in Schedule A.
- C. The Commonwealth is required by law to ensure the accountability of Funding and, accordingly, the Administering Organisation is required to be accountable for all Commonwealth Funding it receives under this Agreement; and
- D. The Commonwealth wishes to provide Funding under the Scheme to the Administering Organisation for the purposes, and subject to the terms and conditions, set out in this Agreement.

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 the *A New Tax System (Australian Business Number) Act 1999*.

Administering Organisation means an Eligible Organisation which submits a Proposal for funding under ARC *Future Fellowships* scheme and which will be responsible for the administration of the funding if the proposed Project is approved for funding. The Administering Organisation may also be the Host Organisation.

ARC means the Australian Research Council, as established under the ARC Act.

ARC Act means the *Australian Research Council Act 2001* or the Act.

ARC Centre means a research centre wholly or partly funded by the ARC and includes ARC *Centres of Excellence*, ARC *Centres*, ARC *Special Research Centres* and co-funded Centres of Excellence such as the Australian Centre for Plant Functional Genomics (ACPFG), the Australian Stem Cell Centre (ASCC) and National ICT Australia (NICTA).

ARC Fellowship means a position held by a researcher where the salary is funded wholly or partly by the ARC and where the researcher has been nominated in a Proposal to hold an ARC Fellowship. An ARC Fellowship may be awarded at a number of levels and in various ARC schemes. ARC Fellowship includes Australian Postdoctoral Fellowship (APD), Australian Research Fellowship (ARF), Queen Elizabeth II Fellowship (QEII),

Australian Professorial Fellowship (APF), Australian Postdoctoral Fellowship (Industry) (APDI), Linkage Industry Fellowship (LIF), Australian Postdoctoral Fellowship (CSIRO) (under the former APD CSIRO scheme); ARC Centre Fellowship, ARC International Fellowship (ARCIF), ARC Federation Fellowship, ARC Future Fellowship, Australian Laureate Fellowship and ARC Indigenous Research Fellowship (IRF).

ARC Web site is <http://www.arc.gov.au>

Asset includes personal, real or incorporeal property, but shall not include intellectual property.

Audited Financial Statement means the statement to be submitted by the Administering Organisation by 30 June each year in accordance with paragraph 58(1)(b) of the ARC Act.

Chief Executive Officer or **CEO** means the occupant of the position from time to time of the Chief Executive Officer of the ARC, or delegate, as established under the ARC Act.

Commonwealth means the Commonwealth of Australia.

Confidential Information means any information which the parties agree is confidential or that is by its nature confidential.

Conflict of Interest means an actual or perceived conflict between a person's public duty and their private or personal interest.

Department means the Commonwealth Department of Innovation, Industry, Science and Research.

Eligible Organisation means an organisation which is eligible to apply for and receive funding under the ARC *Future Fellowships* Funding Rules.

End of Year Report means the report described in clause 31.2.

Final Report means the report described in clause 31.4.

FTE means Full-time equivalent.

Funding or **Funds** means the amount or amounts payable under this Agreement for each Project as specified in Schedule A and includes amounts for salary and, where appropriate, Infrastructure Funding.

Funding Agreement means this document.

Funding Period means the approved period set out in Schedule A for that Project, or as otherwise approved in writing by the Minister.

Funding Rules means the ARC *Future Fellowships* Funding Rules for funding commencing in 2009 and includes the *Instructions to Applicants* document that form part of the Funding Rules.

Future Fellow means an individual researcher, named in Schedule A, who has been awarded a Future Fellowship.

Future Fellowship means an individual fellowship which has been awarded under the ARC *Future Fellowships* scheme to an eligible researcher named in Schedule A, and includes a component of Infrastructure Funding.

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

Host Organisation means an organisation at which a Future Fellow undertakes her/his research while holding a Future Fellowship. A Host Organisation may be the Administering Organisation but may also be the research organisation where the Future

Fellow spends a period or periods of up to 12 months over the life of the Future Fellowship.

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.

Material includes documents, equipment, software, goods, information and data stored by any means.

Minister means the Minister from time to time responsible for the administration of the ARC Act or the Minister's delegate.

NHMRC means the National Health and Medical Research Council.

Privacy Commissioner means the person occupying the position of Privacy Commissioner from time to time pursuant to the *Privacy Act 1988*.

Progress Report means the report described in clause 31.3.

Project means any project as described in Schedule A, including individual Future Fellowships and Infrastructure Funding; or as otherwise approved by the Minister for Funding under this Agreement.

Proposal means a request to the ARC for the provision of financial assistance for a research project which is submitted in accordance with Funding Rules approved by the Minister.

Recipient Created Tax Invoice means a tax invoice that is issued by the recipient of the goods and/or services rather than the supplier.

Research Office means a business unit within an organisation that is responsible for administrative contact with the ARC regarding Proposals and research projects.

Responsible Officer means the Vice-Chancellor or other corporate head of the Administering Organisation or an officer nominated by her/him.

Scheme has the meaning given in Parties and Recitals.

Scheme Coordinator means the occupant from time to time of the position of Scheme Coordinator (ARC *Future Fellowships*) in the ARC, or any other person to whom the administration of the ARC *Future Fellowships* scheme may be allocated.

Special Conditions means the conditions specified in Schedule A of a Funding Agreement which govern the use of the Funding provided by the ARC.

UA means Universities Australia.

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 or italic 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 and all references to a schedule refer to a schedule in this Agreement;
 - (f) all references to dollars are to Australian dollars and this Agreement uses Australian currency;
 - (g) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, replaced or supplemented, is a reference to that statute or other legislation as amended, replaced or supplemented;
 - (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 ARC Act. If there is any conflict between this Agreement and the ARC Act, then the ARC Act prevails to the extent of any inconsistency.
- 3. Entire Agreement and Variation**
- 3.1 This Agreement, including Schedules, the Proposal for each Future Fellowship and the Funding Rules constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Agreement.
- 3.2 Notwithstanding clause 3.1, the Minister may at any time impose other requirements or conditions in connection with any Funding covered by this Agreement as provided for under the ARC Act. The Administering Organisation must as soon as possible or as otherwise agreed in writing with the ARC, comply (or procure compliance) with any other Ministerial conditions or requirements notified by the ARC from time to time. In the event of any inconsistency between this Agreement and any such further requirements or conditions, the Administering Organisation will not be taken to have breached this Agreement where it has acted consistently with any further requirements or conditions notified under this clause.
- 3.3 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 the Agreement;
 - (b) the Schedules;
 - (c) the Funding Rules; and
 - (d) the Proposal.
- 3.4 The Administering Organisation and the Commonwealth may agree to vary this Agreement. Other than as expressly provided for in this Agreement, any variation to this Agreement must be in writing and signed by both parties.
- 3.5 The Administering Organisation is required to do all things incidental or reasonably necessary to give effect to this Agreement, including procuring any third parties to do such incidental or reasonably necessary things. This includes, but is not limited to, the Administering Organisation's securing the agreement of all parties involved in the Project to abide by the terms and conditions of this Agreement.

4. Term of Agreement and Funding Period

- 4.1 This Agreement takes effect on the date it has been executed by the Administering Organisation and the ARC and continues to operate until all parties have fulfilled their obligations under this Agreement.
- 4.2 Subject to clauses 4.3 and 5 of this Agreement, the period of Funding is the Funding Period unless the Funding is terminated earlier in accordance with this Agreement.
- 4.3 The Funding Period for any Project 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 54 of the ARC Act to vary the Funding, this Agreement will continue to apply to any Project, including any Future Fellowship or granted financial assistance under such a determination.

5. Payment of Funding

- 5.1 Subject to the provisions of the ARC Act, the terms of this Agreement and sufficient program funding being available for the Scheme, the Commonwealth shall pay the Funds to the Administering Organisation for each Project in progressive monthly instalments in accordance with Schedule A.
- 5.2 All Funding for a Project is subject to the following conditions:
- (a) that the Project commence in accordance with clause 12, or by any later date approved by the ARC under clause 13;
 - (b) that the Future Fellow(s) listed in Schedule A lead and co-ordinate the Project at all times during the Funding Period, including by having direct responsibility for the strategic decisions and the communication of results for the Project;
 - (c) that the Administering Organisation conduct the Project substantially in accordance with the 'Proposal Description' contained in the Proposal, or in the event of any variation to the Project, in accordance with the description, aims and research plan as otherwise approved by the Minister;
 - (d) that the Administering Organisation spend all Funds paid under this Agreement for each Future Fellowship substantially in accordance with the 'Project Cost' detailed in the Proposal for that Project and any Special Conditions, or the budget as otherwise approved by the ARC and any conditions otherwise imposed by the Minister in accordance with the ARC Act, and in accordance with the requirements of this Agreement and the Funding Rules;
 - (e) that the Administering Organisation not receive for the Project any amount of Funding from the ARC in excess of that to which it is properly entitled, or which the Commonwealth is not required to pay, either under this Agreement or the ARC Act;
 - (f) that the Administering Organisation submits on time all reports required under this Agreement, in the form and with content satisfactory to the ARC.
 - (g) that progress of the Project is, in the opinion of the Chief Executive Officer, satisfactory;
 - (h) that each Future Fellow listed in Schedule A, at all times during her/his participation in a Project, meet the criteria specified in section 6 of the Funding Rules, including by having direct responsibility for the strategic decisions and the communication of results for the Project;

- (i) that the ARC is advised in a timely manner of any and all actual and potential Conflicts of Interest of parties involved in the Project which have the potential to influence or appear to influence the research and/or activities related to the Project;
 - (j) that the ARC is advised in a timely manner of any and all other Commonwealth funding which has been, is being, or is intended to be provided for the research and/or activities funded under this Agreement;
 - (k) that there is no duplication of Commonwealth funding for the research and/or activities funded for the Project under this Agreement;
 - (l) that the Administering Organisation's funding contribution for each Project satisfies the requirements set out in the Funding Rules, unless otherwise approved by the Minister; and
 - (m) that the Administering Organisation comply with any other requirements or conditions imposed by the Minister in connection with any Funding covered by this Agreement.
- 5.3 If the Administering Organisation does not meet any one or more of the conditions listed in clause 5.2 in respect of a Project, the Commonwealth may, by notice in writing to the Administering Organisation, do any or all of the following:
- (a) not pay the Administering Organisation any further Funds for that Project;
 - (b) recover all or some of the Funds paid under this Agreement for that Project, including all unspent Funds and any Funds not spent in accordance with this Agreement;
 - (c) vary the amount of Funding approved for that Project.
- 5.4 The Administering Organisation must pay to the Commonwealth the amount specified in any notice received under clause 5.3(b), within 30 days of the date of that notice.
- 5.5 The Commonwealth will pay to the Administering Organisation, by way of financial assistance in accordance with the ARC Act, the approved amounts set out in Schedule A, which is net of any GST which may be imposed on the supply.
- 5.6 Unless otherwise indicated or required by Law, all consideration for any supply made under this Agreement is exclusive of any GST imposed on the supply. If the Administering Organisation makes a taxable supply to the Commonwealth under this Agreement, the Commonwealth, on receipt of a tax invoice from the Administering Organisation or the issuing of a Recipient Created Tax Invoice by the Commonwealth, will pay without setoff an additional amount to the Administering Organisation equal to the GST imposed on the supply in question. No party may claim or retain from the other any amount under this Agreement for which the first party can obtain an input tax credit.
- 5.7 The Commonwealth shall have the right to unilaterally vary the amounts for any or all Projects.
- 5.8 The ARC notional Future Fellowship salary and other allowances, as set out in Schedule B, are applicable as at 1 July 2009. In the event that the Minister makes a determination under section 54 of the ARC Act, the Commonwealth shall have the right to unilaterally vary the salary set out in Schedule B of this Agreement to reflect annual adjustments.
- 5.9 Where the Commonwealth exercises its right under clauses 5.7 or 5.8 above, it shall inform the Administering Organisation in writing of the variation within 30 days of that variation having been made.

6. Accuracy of Information/Malpractice

- 6.1 The provision of any Funding for a Project is conditional on all information contained in the Proposal for that Project and all reports required by this Agreement from the Administering Organisation being complete, accurate and not misleading. The Commonwealth regards inaccurate and misleading information as including, but not being limited to, claiming fictitious track records, inflating funds obtained from other sources and false claims in the publication record, e.g. describing a paper as being 'in press' or accepted even if it has only been submitted.
- 6.2 If the Commonwealth considers that a Proposal for a Project or any report provided under this Agreement contains incomplete, inaccurate or misleading information, the Commonwealth may by notice in writing to the Administering Organisation do any or all of the following:
- (a) not pay the Administering Organisation any further Funds for that Project;
 - (b) recover all or some of the Funds paid under this Agreement for that Project, including all unspent Funds and any Funds not spent in accordance with this Agreement;
 - (c) vary the amount of Funding approved for that Project.

7. Use of the Funding: Activities, Facilities and Types of Work

- 7.1 The Administering Organisation will ensure that each Project is carried out in accordance with this Agreement in a diligent and competent manner. In addition, each Project will be conducted in accordance with the 'Description of Project/Program of Research' contained in the Proposal, or any revised description, budget, aims and research plan, which have been submitted by the Administering Organisation and approved by the Minister.
- 7.2 The Administering Organisation must ensure that expenditure on each Project described in Schedule A is in accordance with the 'Description of Project/Program of Research' contained in the Proposal and within the broad structure of the proposed 'Project Cost' detailed in the Proposal or any revised budget, aims and research plan submitted by the Administering Organisation which has been approved by the Minister.
- 7.3 The Administering Organisation must not use the Funding:
- (a) for purposes specifically excluded in the Funding Rules; or
 - (b) for purposes specifically excluded in this Agreement, for example clauses 7.6 and 7.7 of the Agreement.
- 7.4 The Administering Organisation must ensure that the Future Fellow(s) listed in Schedule A have adequate time to carry out each Project and must provide the basic facilities required for each Project. Basic facilities include but are not limited to:
- (a) rental of accommodation (e.g. laboratory and office, suitably equipped and furnished in standard ways);
 - (b) access to workshop services (e.g. machine tools and qualified technicians available to each member of staff, according to need, for research);
 - (c) access to film or music editing facilities;
 - (d) access to a basic library collection;
 - (e) standard reference materials or funds for abstracting services;

- (f) provision of computers, including laptops (excluding access to high-performance computers or other specialised applications) and basic computing facilities such as printers, word processing and other standard software; and
 - (g) use of photocopiers, telephones, mail, fax, email and internet services.
- 7.5 The Administering Organisation must ensure that the Future Fellow(s) listed in Schedule A have access to basic facilities (including, but not limited to, those items specified in clause 7.4) during their time at the Host Organisation(s).
- 7.6 As set out in the Funding Rules, Funds may not be used for:
- (a) construction and refurbishment of general purpose buildings;
 - (b) salary costs other than that of the named Future Fellow;
 - (c) stipends for postgraduate students
 - (d) teaching and teaching relief (apart from those approved in clause 10.6);
 - (e) special studies (study leave) programs;
 - (f) research support for Investigators other than the Future Fellow;
 - (g) international students' fees, Higher Education Contribution Scheme (HECS) and Higher Education Loan Programme (HELP) liabilities;
 - (h) basic facilities (including, but not limited to, those items specified in clause 7.4);
 - (i) publication costs;
 - (j) costs not directly related to the Future Fellowship; and/or
 - (k) travel costs not directly approved by the ARC.
- 7.7 Unless otherwise approved by the Minister, the Funding must not be used to fund any research and/or activities for which other financial assistance from the Commonwealth has been, is being, or is intended to be provided.
- 7.8 Unless otherwise approved by the Minister, the Administering Organisation must provide the resources to undertake each Project as specified in the Proposal.
- 7.9 The Administering Organisation must obtain the agreement of all parties necessary to allow each Project to proceed. These agreements must be attested to by hand-written signatures and certifications from all relevant persons and organisations involved in the Project and are to be retained by the Administering Organisation which must provide them if requested by the ARC.
- 7.10 If any other Commonwealth funding is approved for any research and/or activity which is similar to research or activities being conducted for any Project, the ARC must be notified immediately and the ARC may consider whether or not to terminate or recover funding to the extent that it is duplicated by another Commonwealth source.

8. Use of the Funding: Provision of Salaries

- 8.1 The Funding specified in Schedule A for Future Fellowship salary must only be used for the provision of salary and on-costs for the Future Fellow.
- 8.2 The Future Fellowship salary must be paid according to the Future Fellows FTE status:

- (a) Full-time Future Fellowships must be paid 100 per cent salary plus on-costs for four years.
 - (b) Part-time Future Fellowships are paid pro-rata plus on-costs over a period of up to six years, subject to conditions outlined in clause 10.
- 8.3 Project payments can only commence once the Future Fellowship Funding Agreement has been executed by both parties. Retrospective salary payments will not be paid for employment prior to the date the Funding Agreement is executed.
- 8.4 Funds specified in Schedule A for Infrastructure Funding, if any, may not be used by the Administering Organisation to employ personnel or supplement the Future Fellows salary or on-costs.
- 8.5 ARC notional salaries for Future Fellows are set out in Schedule B.

9. Use of the Funding: Relocation Expenses

- 9.1 Subject to the provision of this clause 9, the Administering Organisation may make pre-approved reimbursement payments up to the maximum amount specified in Schedule B, for relocation costs (for relocation travel expenses and removal of household items only) for the Future Fellow and their dependants, based on the approved amount requested in the original Proposal. Relocation costs must have been requested in the original Proposal submitted to the ARC and will not be paid post award. The Administering Organisation must provide full particulars of mode and time of travel and the provision of receipts for all other payments, e.g. removal expenses of household items, within 12 months of the date of relocation of the Future Fellow. A summary including a description of each receipt must be presented with all figures converted to Australian dollars as at the time of the relevant receipt. All receipts must be attached.
- 9.2 The Administering Organisation must ensure that travel expenses, where payable from the Funding, do not exceed the cost of the cheapest direct economy airfare (or concession rate if applicable) for the Future Fellow and their dependants. If a Future Fellow elects to travel by car, the Administering Organisation will provide reimbursement based on the mileage allowance as specified in Schedule B, up to the maximum equivalent of the cheapest direct economy airfare. On completion of the Future Fellowship, the Future Fellow will be entitled to the same return travel provisions provided that the Future Fellow has not obtained subsequent employment in Australia for a period exceeding 12 months, and the total amount of relocation expenses requested does not exceed the maximum amount specified in Schedule B.
- 9.3 The ARC does not approve reimbursement for items it considers are not appropriate or reasonable including, but not limited to: temporary or longer-term accommodation, costs for locating accommodation, rental bonds, school fees, purchase or hire of household furniture, telephone and other utility connections, pet housing, and other items considered typical household expenses. The ARC may recover any Funds spent on items it considers are not appropriate.
- 9.4 For the purposes of relocation entitlements, a dependant is defined as a person who moves residence with the Future Fellow. A spouse who transfers employment and residence to the city where a Future Fellow is to be based can be regarded as a dependant. A child continuing to study elsewhere and not intending to live predominantly with the Future Fellow is not regarded as a dependant.

10. Conditions of Employment of Future Fellows

- 10.1 Future Fellowships are funded for up to four years full-time or six years part-time, subject to Parliamentary appropriations and the receipt of satisfactory annual Progress Reports as required by clause 31.3.
- 10.2 Requests to convert Future Fellowships to part-time may be submitted by the Administering Organisation completing and submitting a *Variation of Funding Agreement* request to the ARC.
- 10.3 Part-time conditions are available to enable Future Fellows to continue to fulfil family and/or carer responsibilities. Future Fellows may alternate between full-time or part-time status for one or more periods of time during the Project provided that the duration of the Future Fellowship does not exceed six years from the date of commencement (excluding any approved periods of suspension and/or maternity and/or parental leave). The Future Fellow would not be permitted to engage in other professional activities for the duration of the Project. Any request to change to or from part-time hours would need to be made in writing to the ARC through the Research Office of the Administering Organisation. Part-time fellowships must be between 0.5 and 1.0 FTE.
- 10.4 Future Fellows cannot hold another fellowship either at the Administering Organisation or at another organisation. Before a Future Fellow commences the Future Fellowship, the Administering Organisation must confirm that the Future Fellow has completed or relinquished any current fellowships. This applies to all ARC Fellowships and any other fellowship held with another funding body.
- 10.5 Future Fellows must relinquish the duties of any existing appointment/positions (continuing or non-continuing) prior to commencement of the Project. Future Fellows in University and Australian Public Service sectors do not have to give up tenure but must be transferred out of their existing positions into the Future Fellowship and operate as if they are on Leave Without Pay from their tenured position.
- 10.6 Unless otherwise approved by the Minister, Future Fellows cannot hold another appointment/position (continuing or non-continuing) either at the Administering Organisation or at another organisation. Future Fellows cannot carry out duties other than those permitted under the Funding Rules. For example, the Future Fellow must spend no more than 0.05 FTE of their time on approved teaching activities (that closely relate to their research project); and must give up all pre-existing administrative and management responsibilities and focus on research associated with the Future Fellowship.
- 10.7 The Administering Organisation shall recognise Future Fellows as academic staff and incorporate them fully into the activities and academic life of the Administering Organisation, but should note that limits do apply (refer to clause 10.8). The provision of salaries, recreation leave, sick leave and other conditions of employment for Future Fellows shall be those of the Administering Organisation.
- 10.8 Notwithstanding clauses 10.2 and 10.6, a Future Fellow may undertake research supervision in addition to performing the Future Fellowship but only where it enhances, rather than detracts from, the Project. However, a Future Fellow may not accept additional appointment(s) without the prior agreement of the Administering Organisation and the ARC.
- 10.9 The Administering Organisation must ensure that, during the Future Fellowship period, a Future Fellow shall be entitled to leave of absence for recreation at the rate of four weeks per annum, to be taken at any time during the Future Fellowship period by arrangement between the Future Fellow and the Administering Organisation. However, the Commonwealth will not provide additional funds to cover accrued leave proposed to be

taken after the Future Fellowship period has expired or has been terminated. If a Future Fellow's salary entitlements for recreation leave accrued during the Future Fellowship are to be Funded from the Funding, the Future Fellow must take her/his recreation leave during the period of Future Fellowship.

- 10.10 The Administering Organisation must ensure that eligible Future Fellows are entitled to up to 14 weeks' paid maternity leave during the duration of their Future Fellowship. The Commonwealth will provide up to 14 weeks' additional funding for this purpose and the Future Fellowship period will be extended for a period equivalent to the duration of the paid maternity leave. The additional Funding for this purpose is to be claimed through the End of Year Report submitted to the ARC or by means of submission of a *Variation of Funding Agreement* request.
- 10.11 The Administering Organisation must ensure that eligible Future Fellows are entitled to take up to two weeks' paid partner/parental leave at the time of birth or adoption to the parent who is not identified as the primary caregiver. The Commonwealth will provide up to two weeks' additional funding for this purpose and the Future Fellowship period will be extended for a period equivalent to the duration of the paid partner/parental leave. The additional Funding for this purpose is to be claimed through the End of Year Report submitted to the ARC or by means of submission of a *Variation of Funding Agreement* request.
- 10.12 In addition to recreation leave, as provided for in clause 10.9 and maternity and paid partner/parental leave as provided for in clause 10.10 and 10.11 above respectively, the Future Fellow may take additional leave of up to 12 months in total during the duration of the Future Fellowship using accrued leave or leave without pay providing it is in accordance with the Administering Organisation's normal practice and written approval has been obtained from the ARC. If approved by the Minister, the Future Fellowship period will be extended for a period equivalent to the length of (full-time equivalent) additional leave taken. In exceptional circumstances, or where warranted on compassionate grounds, the ARC may approve further additional leave and the Future Fellowship period may be extended accordingly. The Funds for the Future Fellowship which would otherwise have been payable during the period when additional leave is taken will continue to be paid to the Administering Organisation during the leave period and are to be held on trust by the Administering Organisation during the leave period. Other than in clauses 10.10 and 10.11 above, the ARC will not supplement the Funds to cover any additional costs incurred as a result of the leave being taken or delay in finalisation of the Project/Future Fellowship.
- 10.13 Subject to clause 10.14, Future Fellows must reside predominantly in Australia for the full duration of the Project. If the Future Fellow does not have permanent resident status, she/he must obtain temporary resident status from the Department of Immigration and Citizenship before taking up the Future Fellowship.
- 10.14 Future Fellows may undertake research overseas for periods of up to 12 months in total over the life of the Future Fellowship, providing that the Administering Organisation clearly demonstrates this is in the best interests of the research and its outcomes, and of national benefit to Australia. The Overseas Organisation must be listed as a Host Organisation in the Proposal otherwise the Minister must approve the addition of the Overseas Organisation as a Host Organisation by submission of a *Variation of Funding Agreement* by the Administering Organisation.
- 10.15 Future Fellows may undertake research at an Eligible Organisation other than the Administering Organisation for periods of up to 24 months in total over the life of the Future Fellowship or at a non eligible organisation for up to 12 months in total over the life of the Future Fellowship, providing that the Administering Organisation clearly

demonstrates this is in the best interests of the research and its outcomes, and of national benefit to Australia. The organisation must be listed as a Host Organisation in the Proposal otherwise the Minister must approve the addition of the organisation as a Host Organisation by submission of a *Variation of Funding Agreement* to the ARC.

- 10.16 Funding for the Future Fellow includes a 28 per cent loading to cover salary-related on-costs, including payroll tax, workers' compensation, leave loading, long-service leave, non-contributory and contributory superannuation, but it excludes items such as extended leave and severance pay. On-costs that exceed 28 per cent and other costs (such as costs associated with or incurred as a result of extended leave and severance pay) must be met by the Administering Organisation.

11. Over-expenditure by the Administering Organisation

- 11.1 Any Project expenditure incurred by the Administering Organisation for a Project additional to the approved amount for that Project specified in Schedule A, or as otherwise varied by the Minister, is the responsibility of the Administering Organisation. The Commonwealth will not reimburse the Administering Organisation for such costs under any circumstances.

12. Commencement of the Project

- 12.1 Subject to clause 13, the Project, including the Future Fellowship, must commence by no later than 31 March 2010, unless the commencement has been deferred to a later date approved by the Minister.

13. Deferral of Commencement of the Project

- 13.1 If the Administering Organisation wishes to defer commencement of a Project, including the Fellowship, beyond 31 March 2010, a written request justifying the requested deferral in terms of special circumstances must be made to the Scheme Coordinator, through the Administering Organisation's Research Office, by submitting a *Variation of Funding Agreement* request, prior to 31 March 2010.
- 13.2 The Administering Organisation must not defer commencement of the Project, including the Fellow, beyond 31 March 2010 unless the Administering Organisation has received written approval from the ARC.
- 13.3 Other than in exceptional circumstances, the Minister will not approve the commencement of a Project, including the Fellow, beyond 30 September 2010. The ARC may recover Funding for any Project which has not commenced by 30 September 2010.

14. Suspension of a Project

- 14.1 The request for the suspension of a Project will be considered only if the circumstances are exceptional. Future Fellows wishing to suspend must apply through the Administering Organisation's Research Office, by submitting a *Variation of Funding Agreement* request, to the Scheme Coordinator seeking the Minister's approval to suspend the Project.
- 14.2 Suspensions without written approval will be a breach of this Agreement and may result in the immediate termination of the Project.

15. Future Fellows

- 15.1 The Administering Organisation must ensure that a Future Fellow conducts the Project in a diligent and competent manner and complies with this Agreement.
- 15.2 The Administering Organisation must provide each Future Fellow with a copy of this Funding Agreement within a reasonable time after the commencement of the Funding.

- 15.3 The Administering Organisation warrants that it has made proper inquiries of a Future Fellow in relation to her/his eligibility to perform the Project.
- 15.4 The Administering Organisation must ensure that, unless otherwise approved by the Minister, each Future Fellow meets the criteria specified in section 6 of the Funding Rules for the full term of the Project.

16. Relinquishment of Project

- 16.1 A Future Fellowship cannot be transferred to another person. If, at any time during the term of the Project, a Future Fellow relinquishes, or is no longer able to continue her/his Future Fellowship, Funding for the Project will be terminated. In such cases, any unspent Funding for the Project will be recovered by the ARC.
- 16.2 The Administering Organisation must require Future Fellows to give one month's notice to the Administering Organisation if they intend to relinquish the Future Fellowship. The Administering Organisation shall immediately advise the Scheme Coordinator of the relinquishment of the Project by means of a submission of a *Variation of Funding Agreement* request to the ARC. The End of Year Report must also contain details regarding any Future Fellow(s) that have relinquished their Project.

17. Transfer of a Project

- 17.1 The transfer of a Project to another Eligible Organisation will be considered only if the circumstances are exceptional.
- 17.2 If at any time during the term of a Project, the Administering Organisation becomes aware that a Future Fellow wishes to move organisations, the Administering Organisation must notify the ARC as soon as possible of the proposed change in circumstances for the Future Fellow.
- 17.3 If the proposed transfer of the Project is to another Eligible Organisation, the Administering Organisation may seek the Minister's approval for the transfer of the Funding from the Administering Organisation to the other Eligible Organisation ('the recipient Eligible Organisation') by submitting a *Variation of Funding Agreement* request to the ARC. The Minister shall have regard to the circumstances surrounding the proposed transfer and may approve the transfer subject to such conditions as the Minister considers appropriate. The request must provide evidence that:
- (a) the following parties agree to the transfer:
 - i. the Administering Organisation; and
 - ii. the recipient Eligible Organisation;
 - (b) the recipient Eligible Organisation agrees to provide (in total) for the Project (including costs and in-kind financial support and facilities of commensurate quality) equivalent to that which would have been provided by the Administering Organisation and which satisfies the requirements of this Agreement and the Funding Rules;
 - (c) the transfer of the Project will not adversely impact on the research capacity developed by the Administering Organisation through the Project and that there is sufficient time available during the remainder of the Project to build world-class research capacity at the new recipient Eligible Organisation;
 - (d) the research already developed will not be put at risk as a result of the transfer; and
 - (e) the Future Fellow aligns with the current and emerging research strengths of the new recipient Eligible Organisation.

- 17.4 When the ARC receives a proposal requesting the transfer of Funding for a Project it will seek the Minister's approval for the transfer of unspent Funds and indicative Funding for the Project and any Assets as outlined in clause 22.4 to the recipient Eligible Organisation.
- 17.5 If Ministerial approval is granted to transfer the Funding (and any Assets);
- (a) the Administering Organisation must:
 - i. agree to any variation or termination (as applicable) of this Agreement proposed by the ARC to give effect to the changed Funding arrangements;
 - ii. provide to the ARC, in writing, the amount of all unspent Funds for the Project and pay the ARC such unspent Funds. The ARC may then provide the unspent Funds to the recipient Eligible Organisation;
 - iii. report expenditure of Funding for the Project prior to the transfer in its End of Year Report and identify the transfer in that Report; and
 - iv. comply with any other directions reasonably given by the ARC to give effect to the transfer.
 - (b) the recipient Eligible Organisation will be required to:
 - i. enter into a new, or vary an existing, Funding Agreement with the ARC to give effect to the changed Funding arrangements; and
 - ii. report expenditure of Funding for the Project subsequent to the transfer in its End of Year Report and identify the transfer in that Report.
- 17.6 If the Fellow changes organisations and the Minister's approval is not given for arrangements for the continuation of the Project and the continued administration of the Funding, the Project may be terminated and any unspent Funds recovered by the ARC.
- 17.7 If Funding for a Project which was previously administered by another Eligible Organisation is to be transferred to the Administering Organisation, the Administering Organisation must ensure that the Project which is transferred and the Future Fellow performing the project satisfy the eligibility and accountability requirements of the Funding Rules and terms and conditions of this Agreement.
- 17.8 If the transfer is approved by the Minister, relocation expenses must be paid by the recipient Eligible Organisation in accordance with Schedule B of this Agreement for the cost of relocation for the Future Fellow and will not be reimbursed by the ARC.
- 17.9 The Project and any equipment purchased with the Funding must not be transferred to the recipient Eligible Organisation until Ministerial approval for the transfer of the Funding is granted.

18. Negation of Employment by the Commonwealth

- 18.1 Future Fellows and the Administering Organisation shall not by virtue of this Agreement be, or be deemed to be, employees, partners, or agents of the Commonwealth, or as having any power or authority to bind or represent the Commonwealth.

19. Conduct of Research

- 19.1 The Projects must be conducted in accordance with any Special Conditions specified in this Agreement and with any other requirements or conditions imposed by the Minister in connection with any Funding covered by this Agreement.
- 19.2 The Administering Organisation must ensure that a Project under this Agreement will not proceed without appropriate ethical clearances from the relevant committees and/or

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

- 19.3 All parties involved in or associated with a Project are required to disclose to the ARC and the other parties involved in the Project, any actual or potential Conflict of Interest which has the potential to influence, or appear to influence, the research and activities, publications and media reports, or requests for funding related to the Project.
- 19.4 If the Administering Organisation or any Future Fellows become aware of any such actual or potential Conflict of Interest relating to any party involved in a Project, the Administering Organisation must:
- (a) notify the ARC immediately of the nature and details of the Conflict of Interest; and
 - (b) have established processes in place for managing the actual or potential Conflict of Interest for the duration of the Project. Such processes must comply with the NHMRC/ARC/UA *Australian Code for the Responsible Conduct of Research Practice* (2007).
- 19.5 If the Administering Organisation or any Future Fellow has failed to disclose a Conflict of Interest, the Commonwealth may do any of the things provided for in clause 5.3.
- 19.6 Each Project must, unless otherwise approved by the ARC in writing, conform to the principles outlined in the following and their successor documents:
- (a) the NHMRC/ARC/UA *Australian Code for the Responsible Conduct of Research* (2007);
 - (b) as applicable, the NHMRC/ARC/AVCC *National Statement on Ethical Conduct in Human Research* (2007); and
 - (c) as applicable, the NHMRC's other codes on animal research.

20. Material Produced under this Agreement and Dissemination of Research Outputs

- 20.1 The Administering Organisation must establish and comply with its own procedures and arrangements for the ownership of all Material produced as a result of any Project funded under this Agreement.
- 20.2 For any Material produced under this Agreement, the Administering Organisation must ensure that Future Fellows:
- (a) take reasonable care of, and safely store, any data or specimens or samples collected during, or resulting from, the conduct of their Project;
 - (b) make arrangements acceptable to the ARC for lodgement with an appropriate museum or archive in Australia of data or specimens or samples collected during, or resulting from their Project; and
 - (c) include details of the lodgement or reasons for non-lodgement in the Progress Reports and the Final Report for the Project.
- 20.3 The Administering Organisation shall consider the benefits of depositing the data and any publications arising from each Project in an appropriate subject and/or institutional repository wherever such a repository is available. If the Administering Organisation is not intending to deposit the data from a Project in a repository within six months of the completion of the research, reasons for not doing so must be detailed in the Project's Final

Report. Any research outputs that have been or will be deposited in appropriate repositories should be identified in the Final Report.

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

21. ARC Assessments

21.1 The Administering Organisation must ensure that, for the term of this Agreement, if requested by the ARC, each Future Fellow agrees to assess up to twenty new proposals for ARC funding per annum for each year of Funding.

21.2 If the ARC determines that a Future Fellow has failed to meet the obligation to assess proposals assigned by the ARC for assessment, the ARC will notify the Administering Organisation in writing of that failure.

21.3 If a Future Fellow does not undertake assessment of the assigned proposals within a period specified by the ARC of the notice referred to in clause 21.2, the Administering Organisation will be considered to be in breach of this Agreement and Funding for the relevant Project (including the Future Fellowship on which the Future Fellow is listed under this Agreement), may be terminated.

22. Assets

22.1 Unless otherwise approved by the ARC, Assets purchased with Funding must be purchased for the exclusive purposes of the Project for the duration of the Funding Period.

22.2 The Administering Organisation shall establish and comply with its own procedures and arrangements for purchasing, installing, recording, maintaining and insuring all items of equipment purchased with the Funds.

22.3 The Administering Organisation shall ensure that the Future Fellow shall have first priority in the use and operation of equipment purchased for the Project and the Administering Organisation must so far as is practicable permit persons authorised by the Minister or the ARC to have priority access to that equipment in preference to other persons.

22.4 Unless otherwise approved by the ARC, the ownership of any Asset purchased wholly or partly with the Funding shall be vested in the Administering Organisation, located on its campus and listed in its assets register unless:

- (a) otherwise specified in the Proposal;
- (b) the Project is terminated, in which case the Minister may, by notice in writing, require the transfer of any such item of equipment to the Commonwealth; or
- (c) the Project is transferred to another organisation in accordance with clause 17, in which case, subject to the agreement of both the Administering Organisation and the recipient Eligible Organisation under that clause, the equipment purchased with Funds provided under this Agreement for the relevant Project may be transferred in accordance with clause 17.9.

23. Intellectual Property

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

- 23.2 Unless otherwise approved by the ARC, the Administering Organisation's Intellectual Property policy referred to in clause 23.1 must comply with the *National Principles of Intellectual Property Management for Publicly Funded Research* as amended from time to time.
- 23.3 The Administering Organisation, if it is not a Commonwealth entity which is contracting on behalf of the Commonwealth, must at all times indemnify 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 (or alleged infringement) of Intellectual Property rights by the Administering Organisation, 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 Administering Organisation under this Agreement.
- 23.4 The indemnity referred to in clause 23.3 shall survive the expiration or termination of this Agreement.

24. Protection of Personal Information

- 24.1 The Administering Organisation agrees with respect to all activities related to or in connection with the performance of the Project or in connection with this Agreement:
- (a) to comply with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988* which concern the collection, security, access, data quality, relevance, use and disclosure of personal information to the extent that the content of those principles applies to the types of activity the Administering Organisation 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 Privacy Commissioner or the CEO in relation to the management of personal information by the Administering Organisation, 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 Privacy Commissioner from time to time relating to the handling of personal information;
 - (f) to comply with any reasonable direction of the CEO to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Administering Organisation that the Privacy Commissioner considers to be a breach of the obligations in paragraph (a) above;
 - (g) to comply with any reasonable direction of the CEO to provide the Privacy Commissioner access for the purpose of monitoring the Administering Organisation'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 Administering Organisation under this clause or any misuse of personal information by the Administering Organisation, or any disclosure by the Administering Organisation 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 Administering Organisation by the Commonwealth or any other person pursuant to this Agreement is, at the expiration or earlier termination of this Agreement, either returned to the ARC or deleted or destroyed in the presence of a person authorised by the ARC to oversee such deletion or destruction; and
- (j) to the naming or other identification of the Administering Organisation in reports by the Privacy Commissioner.

24.2 The Administering Organisation must immediately notify the ARC if the Administering Organisation becomes aware of a breach of its obligations under clause 24.1.

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

25. Confidentiality

25.1 Subject to clause 25.2, the ARC agrees not to disclose any Confidential Information of the Administering Organisation, without the Administering Organisation's consent.

25.2 The ARC will not be taken to have breached its obligations under clause 25.1 to the extent that the ARC discloses Confidential Information:

- (a) to its officers, employees, agents, external professional advisers or contractors solely to comply with obligations, or to exercise rights, under this Agreement;
- (b) to its internal management personnel solely to enable effective management or auditing of this Agreement or the National Competitive Grants Program or the Scheme;
- (c) for a purpose directly related to the enforcement or investigation of a possible breach of any Commonwealth, State, Territory or local law;
- (d) to the Minister, or in response to a demand by a House or a Committee of the Commonwealth Parliament;
- (e) within the ARC, the Department or another government agency or authority, where this serves the ARC's, the Department's or the Commonwealth's legitimate interests;
- (f) as required or permitted by any other law, or an express provision of this Agreement, to be disclosed; or
- (g) that is in the public domain other than due to a breach of this clause 25.

25.3 The Commonwealth warrants that, for a period of three years from the date of submission of the Final Report for the Project it will consult with the Administering Organisation before any information which is contained in any reports related to the Project and which the Administering Organisation has indicated is confidential and should not be disclosed, is disclosed to any person other than an officer, employee, agent or member of the ARC or the Minister. If disclosure is required to other persons, the Commonwealth will discuss the intended terms of disclosure with the Administering Organisation.

26. Compliance with Commonwealth Policies

- 26.1 The Administering Organisation must, in carrying out its obligations under this Agreement, comply with all relevant statutes, regulations, by-laws and requirements of any Commonwealth, State, Territory or local authority.
- 26.2 The Administering Organisation must, when using the Commonwealth's premises or facilities, comply with all reasonable directions and Commonwealth 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.
- 26.3 The Administering Organisation must 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 the *Equal Opportunity for Women in the Workplace Act 1999*.
- 26.4 The Administering Organisation 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.

27. Acknowledgments, Publications, Publicity

- 27.1 Subject to commercial sensitivities and Intellectual Property considerations, the outcomes of Projects are expected to be communicated to the research community and, where appropriate and possible, to the community at large.
- 27.2 When, at any time during or after completion of a Project, the Administering Organisation or the researchers or any other party publishes, produces or is involved in promotional material, such as books, articles, television or radio programs, newsletters or other literary or artistic works which relate to the Project and/or Future Fellowship, the Administering Organisation must ensure (wherever possible) that the ARC's contribution and support of the Project is acknowledged in a prominent place and an appropriate form acceptable to the ARC. Similar efforts should be made when publicly speaking about a Project. Advice of acceptable forms of acknowledgement and use of the logo is provided on the ARC Web Site.
- 27.3 This clause survives the expiration or earlier termination of this Agreement.

28. Administration of the Funding

- 28.1 The Administering Organisation must maintain reasonable, up-to-date and accurate records relating to the Funding in general, and the Projects conducted with the Funding in particular, to verify its compliance with this Agreement.
- 28.2 Records maintained under clause 28.1 must be retained by the Administering Organisation for each Project for a period of no less than 7 years after whichever is the later of:
- (a) the final payment of Funds by the ARC for the Project or
 - (b) the final approved carryover of Funds for the Project.

29. Audit and Monitoring

- 29.1 The Administering Organisation is responsible for monitoring the expenditure of the Funding and certifying to the ARC that the Funding has been expended in accordance with this Agreement in the End of Year Report. If at any time, in the opinion of the Responsible

Officer of the Administering Organisation, the Funding is not being expended in accordance with this Agreement, the Administering Organisation must take all action necessary to minimise further expenditure in relation to the Project and inform the ARC immediately.

- 29.2 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 Administering Organisation and are not misleading. Persons nominated by the ARC to conduct these reviews are to be given full access by the Administering Organisation, if required, to all accounts, records, documents and premises in relation to the Funding and the administration of the Funds in general.
- 29.3 The Administering Organisation must:
- (a) provide information to the Scheme Coordinator, or a person nominated by the Scheme Coordinator, as reasonably required by the Scheme Coordinator;
 - (b) comply with all reasonable requests, directions, or monitoring requirements received from the Scheme Coordinator; and
 - (c) cooperate with and assist the ARC in any review or other evaluation that the ARC undertakes.

30. Access to Premises and Records

- 30.1 The Administering Organisation must, at all reasonable times, give to the CEO or any person authorised in writing by the CEO:
- (a) unhindered access to:
 - i. the Administering Organisation's employees;
 - ii. premises occupied by the Administering Organisation; and
 - iii. Material; and
 - (b) reasonable assistance to:
 - i. inspect the performance of any or all Projects;
 - ii. locate and inspect Material relevant to any Project or the Administering Organisation's compliance with this Agreement or the Scheme; and
 - iii. make copies of any such Material and remove those copies and use them for any purpose connected with this Agreement or the Scheme.
- 30.2 The access rights in clause 30.1 are subject to:
- (a) the provision of reasonable prior notice by the ARC; and
 - (b) the Administering Organisation's reasonable security procedures.
- 30.3 If a matter is being investigated which, in the opinion of the ARC, or any person authorised in writing by the CEO, may involve an actual or apprehended breach of the law, clause 30.2 will not apply.
- 30.4 Upon receipt of reasonable written notice from the ARC, or any person authorised in writing by the CEO, the Administering Organisation must provide any information required by the Commonwealth for monitoring and evaluation purposes.
- 30.5 Nothing in clauses 30.1 to 30.4 inclusive affects the obligation of each party to continue to perform its obligations under this Agreement unless otherwise agreed between them.

- 30.6 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 Administering Organisation, may:
- (a) require the Administering Organisation to provide records and information which are directly related to this Agreement;
 - (b) have access to the premises of the Administering Organisation for the purposes of inspecting and copying documentation and records, however stored, in the custody or under the control of the Administering Organisation which are directly related to this Agreement; and
 - (c) where relevant, inspect any Commonwealth Assets and Commonwealth Material held on the premises of the Administering Organisation.
- 30.7 This clause shall survive the expiration or earlier termination of this Agreement.

31. Reporting Requirements

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

31.2 End of Year Report

- (a) The Administering Organisation must submit an End of Year Report by 31 March in the year following each full calendar year for which the Funding was awarded. The ARC will provide the Administering Organisation with a proforma for this report.
- (b) The End of Year Report will contain information on all expenditure for that year under the Project on a Project-by-Project basis, including:
 - i. any unspent Funds to be recovered by the Commonwealth;
 - ii. any unspent Funds that the Administering Organisation 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 ARC Act, Funds provided by the Commonwealth to the Administering Organisation which are not spent during the year of the Funding period to which those Funds were allocated may be carried over if approved by the Minister. If the Administering Organisation wishes any Funds to be carried over from one year to the next year, the Administering Organisation must request this approval in the End of Year Report for the calendar year for which those Funds were initially paid.
- (d) Where a carryover is requested for 75% or more of the Funds allocated for a Project for a calendar year (excluding any Funds carried over from the previous calendar year), separate written justification must be provided.
- (e) Funds may be carried over more than twelve months only in exceptional circumstances and subject to approval by the Minister. Separate written justification must be provided in this instance.

31.3 Progress Report

- (a) Unless otherwise approved by the ARC, the Administering Organisation must ensure that all Future Fellows provide Progress Reports in respect of each ongoing Project by 31 January of each year, except in the first year of Funding, on a form

which will be made available on the ARC Web Site. For the purpose of clarification, the initial Progress Report is due 31 January 2011.

- (b) The ARC may review the outcomes reported against the objectives of the Project as stated in the Proposal, or any approved revised budget, aims and research plan. Any Future Fellow who is or was involved in a Project for which a Progress Report is deemed inadequate or unsatisfactory may be contacted for further information.
- (c) If the ARC is not satisfied with the progress of any Project, further payment of Funds will not be made until in the opinion of the ARC, satisfactory progress has been made on the Project. If satisfactory progress is still not achieved within a reasonable period of time, the Funding may be terminated and all outstanding monies will be recovered by the ARC.
- (d) Unsatisfactory progress on any Project may be noted against any further proposals under any ARC scheme submitted by, or on behalf of, the Future Fellow and will be taken into account in the assessment of those proposals.

31.4 Final Report

- (a) Unless otherwise approved by the ARC, the Administering Organisation must ensure that Final Reports are provided for each Project within six months of the final payment of Funds by the ARC for the Project or within six months of the final carryover of Funds approved by the ARC, whichever is the later. The form for this report will be made available on the ARC Web Site. The ARC may review the outcomes against the objective(s) of the Project as stated in the Proposal or any approved revised budget, aims and research plan.
- (b) If a Final Report is considered by the ARC to be inadequate, the Future Fellow for the Project may be contacted for further information. If the ARC is not satisfied with the outcomes of the Project, this may be noted against any further proposals under any ARC scheme submitted by, or on behalf of, the Future Fellow and may be taken into account in the assessment of those proposals.
- (c) If the Final Report is not submitted on time this may be noted against any further proposals under any ARC scheme submitted by, or on behalf of, the Future Fellow and may be taken into account in the assessment of those proposals.
- (d) Proposals submitted under any ARC scheme by, or on behalf of, any Future Fellow on a Project for which the Final Report is outstanding may be deemed ineligible for approval or funding.

31.5 Audited Financial Statement

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

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

32. Copyright in Proposals and Reports

32.1 Copyright in any Proposal and all reports provided under this Agreement will vest in the Administering Organisation at the time of creation but the Administering Organisation grants to the Commonwealth a permanent, irrevocable, royalty-free, non-exclusive licence

to use and reproduce information contained in a Proposal or a report and publish it on a non-profit basis for any purpose related to:

- (a) the evaluation and assessment of proposals;
- (b) verifying the accuracy, consistency and adequacy of information contained in a Proposal, or otherwise provided to the ARC;
- (c) the preparation and management of any funding agreement; or
- (d) the administration, auditing, management or evaluation of the National Competitive Grants Program or any funding scheme administered by the ARC; or
- (e) the sharing of information by the ARC within the ARC's organisation, or with another Commonwealth Department or agency, or Commonwealth Minister or parliamentary committee, where this serves the Commonwealth's legitimate interests;

or where the use, reproduction or publication of the material is authorised or required by law.

32.2 If a Proposal or a report contains information belonging to a third party, the Administering Organisation must ensure that it has in place all necessary consents sufficient to allow the ARC to deal with the information or any report in accordance with this Agreement.

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

33. Recovery of Unspent Funds or Overpayments of Funds

33.1 Any unspent Funds may be recovered by the Commonwealth under paragraph 58(1)(c) of the ARC Act. Any amount of Funding paid to the Administering Organisation which exceeds the amount of financial assistance that is properly payable to it may be recovered under paragraph 58(1)(d) of the ARC Act.

33.2 The Commonwealth may offset the unspent or overpaid Funds against the total of any further Funds payable to the Administering Organisation.

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

34. Indemnity

34.1 The Administering Organisation, if it is not a Commonwealth entity which is contracting on behalf of the Commonwealth, must at all times indemnify 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 wilful, unlawful or negligent act or omission of the Administering Organisation, its employees, agents or subcontractors in connection with this Agreement.

34.2 The Administering Organisation's liability to indemnify the Commonwealth under clause 34.1 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.

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

35. Insurance

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

36. Termination of the Agreement

Termination of Funding for a Project

- 36.1 The ARC may immediately terminate Funding for a Project by notice in writing to the Administering Organisation if:
- (a) the ARC reasonably believes that any one or more of the Funding conditions specified in clause 5.2 has/have not been satisfied in relation to that Project;
 - (b) the ARC reasonably believes that it has received inaccurate, incomplete or misleading information in relation to that Project, including in the Proposal or in any report provided under this Agreement;
 - (c) the Administering Organisation fails to comply as soon as possible with any additional Ministerial requirement or condition notified by the ARC under clause 3.2; or
 - (d) the ARC receives notice that work on the Project will cease, or has ceased.
- 36.2 If the ARC terminates Funding for a Project under clause 36.1:
- (a) the Administering Organisation must immediately take all available and reasonable steps to stop any further expenditure of Funding on the Project;
 - (b) the Administering Organisation must provide the reports required by this Agreement (or as otherwise notified by the ARC), within the timeframes specified in this Agreement (or as otherwise notified by the ARC); and
 - (c) the ARC may recover all or any Funding for the Project in accordance with clause 5.3.

Termination of Agreement

- 36.3 The ARC may immediately terminate this Agreement by notice in writing to the Administering Organisation if:
- (a) the ARC reasonably considers there is fraud, misleading or deceptive conduct on the part of the Administering Organisation or any Future Fellow, or personnel in connection with any Project;
 - (b) the Administering Organisation fails to comply as soon as possible with any Ministerial requirement or condition notified by the ARC under clause 3.2;
 - (c) the Administering Organisation commits any breach of this Agreement that the ARC, acting reasonably, considers is capable of remedy, and has failed to rectify that breach within 30 days of receiving an earlier notice from the ARC requiring the breach to be remedied; or
 - (d) the Administering Organisation commits any material breach of this Agreement which the ARC, acting reasonably, considers is not capable of remedy.
- 36.4 If the ARC terminates this Agreement under clause 36.3:

- (a) the Administering Organisation must immediately take all available and reasonable steps to stop any further expenditure of Funding on all Projects;
- (b) the Administering Organisation must provide all reports required by this Agreement (or as otherwise notified by the ARC), within the timeframes specified in this Agreement (or as otherwise notified by the ARC); and
- (c) the ARC will immediately stop payment of all Funding under this Agreement and may recover from the Administering Organisation (by notice in writing) any unspent Funds as at the date of termination and any Funds not spent in accordance with this Agreement.

36.5 Any amount notified to the Administering Organisation as payable under clause 36.2 (c) or clause 36.4(c) is a debt due to the ARC (without further proof of the debt being necessary), payable within 30 days of the date of the notice.

36.6 Subject to clause 22.4, after the expiration or termination of this Agreement the Administering Organisation retains ownership of all Assets purchased using the Funds.

37. Dispute Resolution

37.1 The Parties agree not to commence any legal proceedings in respect of any dispute arising under this Agreement until the procedure provided by this clause 37 has been followed.

37.2 The Parties agree that the following procedure will be used in an expeditious way to resolve a dispute:

- (a) the Party claiming there is a dispute will notify the other Party in writing, setting out the nature of the dispute;
- (b) the Parties will try to resolve the dispute through direct negotiation, including by referring the matter to persons who have authority to intervene and direct some form of resolution;
- (c) the Parties have 10 business days from the date of the notice to reach a resolution or to agree that the dispute is to be submitted to mediation or some alternative dispute resolution procedure
- (d) if:
 - (i). there is no resolution of the dispute;
 - (ii). there is not agreement on submission of the dispute to mediation or some alternative dispute resolution procedure; or
 - (iii). there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 30 Business Days of the submission, or such extended time as the Parties may agree in writing before the expiration of the 30 Business Days,
- (i) then, either Part may commence legal proceedings.

37.3 This clause 37 does not apply to action that the Commonwealth takes, or purports to take, under clause 5, 33 or 36 or where a Party commences legal proceedings for urgent interlocutory relief. (clause 5 relates to payment of funds, clause 33 relates to recovery of unspent funds or over-allocated funds, clause 36 relates to termination.)

37.4 Despite the existence of the dispute, the Administering Organisation must (unless requested in writing by the Commonwealth not to do so) continue to perform its obligations under this Agreement.

38. Compliance with Law

38.1 The Administering Organisation 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.

38.2 The Administering Organisation 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 her/his knowledge or into her/his possession or custody by virtue of the performance of this Agreement (other than a person to whom the Administering Organisation 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 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 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;
- (f) it is aware of its obligations under Part 4 of the Charter of United Nations Act 1945 and the Charter of United Nations (Terrorism and Dealing with Assets) Regulations 2002; and
- (g) it may have obligations under the *Equal Opportunity for Women in the Workplace Act 1999* and it must comply with those obligations.

38.3 The Administering Organisation 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 Administering Organisation to provide the Administering Organisation with an acknowledgment that the officer, employee, agent or subcontractor is aware of the provisions of the section.

[Notes: Administering Organisations should note also that they may be subject to the provisions and applications of the Trade Practices Act 1974 and the Archives Act 1983. More information about the Charter of United Nations Act and the Charter of United Nations (Terrorism and Dealing with Assets) Regulations is available at http://www.dfat.gov.au/icat/freezing_terrorist_assets.html].

39. Liaison

- 39.1 All communication from the Administering Organisation to the ARC, or the Minister, relating to the Funding shall be made through the Responsible Officer of the Administering Organisation and shall be directed to the Scheme Coordinator at the following address:

Scheme Coordinator (ARC *Future Fellowships*)
Australian Research Council

Phone: 02 6287 6600
Fax: 02 6287 6638

Postal address

PO Box 2702
CANBERRA ACT 2601

Email

ARC-FutureFellowships@arc.gov.au

Courier address

1st Floor, 8 Brindabella Circuit,
Brindabella Business Park
Canberra Airport ACT 2609

40. Applicable Law

- 40.1 This Agreement is governed by and is to be construed in accordance with the law in force in the Australian Capital Territory.
- 40.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

SCHEDULE A

Details of Future Fellowships to receive Funding by the Commonwealth

SCHEDULE B

ARC notional Future Fellowship salaries and relocation allowances

1. Notional* Future Fellowship salaries for funding commencing in 2009 (in 2008\$)

* The figures in the table below are based on the 2008 levels of Funding and will be subject to variation (for example, due to annual indexation). Updated levels will be available on the ARC Web Site.

Future Fellowship Salary Rates	Salary	On-costs 28%	Total (\$2008)
Future Fellowship Step 1 (1.0 FTE)	\$95,000	\$26,600	\$121,600
Future Fellowship Step 2 (1.0 FTE)	\$115,000	\$32,200	\$147,200
Future Fellowship Step 3 (1.0 FTE)	\$135,000	\$37,800	\$172,800

2. Maximum Future Fellowship relocation allowances

North America	\$17,000;
Europe/Asia (Northern Hemisphere)/Africa/South America	\$14,000;
Asia (Southern Hemisphere)/Oceania	\$11,000;
within Australia	\$8,000.

Unless otherwise specified in this Funding Agreement, travel associated with relocations will be funded only up to a maximum of one return economy class airfare for each person approved for relocation.

Relocation allowances for Future Fellows must be paid from the \$50,000 Infrastructure Funding provided to the Administering Organisation.

SCHEDULE C

Research special conditions

- C1. *Importation of Experimental Organisms:* The Administering Organisation must ensure that, before experimental organisms are imported into Australia for the purposes of a Project, the Administering Organisation or the Future Fellow of the Project must obtain agreement in principle for the importation from the appropriate Commonwealth and State authorities.
- C2. *Research Involving Humans or other Animals:* If any Project conducted by the Administering Organisation involves research on or involving humans or other animals, the Administering Organisation must 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 Administering Organisation's Ethics or Biosafety Committee (or equivalent) and from any other relevant authority.
- C3. *Deposition of Biological Materials:* Any biological material accumulated during the course of a Project shall be transferred to an Australian body with statutory responsibility for control of such material. If no such body is available to take control of the biological material then the Administering Organisation must dispose of the material in accordance with the Administering Organisations established safeguards.
- C4. *Genetically Modified Organism:* If a Project involves the use of gene technology (ie. any technique for the modification of genes or other genetic material either in vitro or on live organisms) or the use of a genetically modified organism (ie. an organism that has been modified by gene technology or that has inherited particular traits from an organism that were present because of the use of gene technology) which is registered under the *Gene Technology Act 2000*, then before the proposed research commences, the Administering Organisation must ensure that the proposed work is assessed by an Institutional Biosafety Committee and/or licensed by the Gene Technology Regulator before commencement of the Project. The Administering Organisation must retain all certificates relating to the above and will provide evidence to the Scheme Coordinator if required to do so. The Administering Organisation must be accredited with the Office of the Gene Technology Regulator.
- C5. *Ionising Radiation:* If a Project involves the use of ionising radiation, the Administering Organisation 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 Administering Organisation must retain all such licences and shall provide them to the Scheme Coordinator if required to do so.
- C6. *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 Future Fellow is not intending to do so within the two-year period, she/he should include the reasons in the Project 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)

.....
signatory to sign above

the)
insert signatory's title above)

of the Australian Research Council)

In the Presence of:)

.....)
insert name of witness above)

.....
witness to sign above

SIGNED for and on behalf of)
<<**Administering Organisation**>>)

by)
insert name of signatory above)

.....
signatory to sign above

the)
insert signatory's title above)

of the said Administering Organisation who,)
by signing, certifies that he/she has the authority)
so to sign)

In the Presence of:)

.....)
insert name of witness above)

.....
witness to sign above