

# **Australian Research Council**

## **Research Infrastructure Equipment and Facilities Scheme**

### **Conditions of Grant 2001**

as agreed between the

**COMMONWEALTH OF AUSTRALIA**

as represented by the

**Australian Research Council**

and the

***«Institution»***

**THESE CONDITIONS OF GRANT** are agreed this ..... day of  
.....(year)

**BETWEEN**

**THE COMMONWEALTH OF AUSTRALIA** ('the **Commonwealth**'),

as represented by the **Australian Research Council** ('the **ARC**');

**AND**

«Institution» ('the **Institution**').

**AS A CONDITION OF THE RECEIPT BY THE INSTITUTION OF FUNDING UNDER THE *HIGHER EDUCATION FUNDING ACT 1988*, THE INSTITUTION AGREES TO COMPLY WITH THE FOLLOWING CONDITIONS OF GRANT IN RESPECT OF THE**

**RESEARCH INFRASTRUCTURE EQUIPMENT AND FACILITIES (RIEF) SCHEME**

**1. Definitions**

In these Conditions of Grant, unless the contrary intention appears:

**'the Act'** means the *Higher Education Funding Act 1988*, or subsequent relevant legislation, as amended from time to time;

**'Approved Proposal'** means a proposal for expenditure for purposes that will assist programmes of research undertaken by Institutions under section 23 of the Act approved by the Minister and, in these Conditions of Grant, includes all Projects funded at a particular Institution and set out in Annexure B;

**'ARC'** means the Australian Research Council, as established under the *Employment, Education and Training Act 1988*, or subsequent relevant legislation, to make recommendations to the Minister on the allocation of research funds, and includes the members of its Committees and Panels;

**'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 23(5) of the Act;

**'the Commonwealth'** means the Commonwealth of Australia;

**'the Department'** means the Department of Education, Training and Youth Affairs or any other Department charged with the administration of the Act;

**‘the Director’** means the occupant of the position of the Director of the Programme Management Section of the Australian Research Council, or of any other Section to which the administration of the Grants may be allocated;

**‘Facility’** means the research infrastructure, equipment or facility described in the Approved Proposal;

**‘Grant’** means the amount of financial assistance payable by the Commonwealth to the Institution under subsection 23(3) of the Act for an Approved Proposal;

**‘Institution’** means the institution or body approved by the Minister under section 23 of the Act as the institution responsible for administering the Grant;

**‘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;

**‘Key Personnel’** means those persons who are listed in Column 2 of Annexure B;

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

**‘the Minister’** means the Minister responsible for the administration of the Act, or the Minister’s delegate;

**‘Participant’** means an Institution or body other than the Institution, named in the Approved Proposal as a beneficiary of the Grant, including any named officers, employees, agents and sub-contractors of the Participant, and the Participant’s successors and assigns;

**‘Project’** means any Project which forms part of the Approved Proposal and which is set out in Column 3 of Annexure B;

**‘Project Application’** means the application for a Project which was lodged with the ARC and given the application number which appears in Column 1 of Annexure B; and

**‘Responsible Officer’** of the Institution means the Vice-Chancellor or an officer nominated by him/her for the purposes of clauses 17.2, 23.2 and 24.1.

## **2. Interpretation**

2.1 In these Conditions of Grant, 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) condition headings 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 conditions are to conditions in these Conditions of Grant;
- (f) 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;
- (g) 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; and
- (h) all references to dollars are to Australian dollars.

2.2 These Conditions of Grant are subject to the Act. If there is any conflict between these Conditions of Grant and the Act, then the Act prevails.

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

- 3.1 These Conditions of Grant 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 these Conditions of Grant.
- 3.2 The Institution and the Commonwealth can agree to vary these Conditions of Grant. To be legally binding any variation must be in writing and signed by both parties.

### **4. Grant Period**

Subject to these Conditions of Grant and the Act, the Grant period is from 1 January to 31 December of the year set out in Annexure B, unless the Grant is terminated earlier.

### **5. Grant Funds**

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

Institution of the variation within forty-five (45) days of that variation.

## **6. Payment of the Grant**

The Commonwealth will pay the Grant to the Institution in accordance with section 111 of the Act.

## **7. Use of the Grant - activities and facilities**

7.1 The Institution will ensure that each Grant is applied in accordance with:

- (a) these Conditions of Grant, in a diligent and competent manner; and
- (b) access to the Facility being available to any Participant at all reasonable times and in such appropriate manner as accords with the Project Application.

## **8. Use of the Grant - budget**

8.1 The Institution shall ensure that expenditure on each Grant is in accordance with the purposes of the Grant as specified in the Project Application.

8.2 The Institution shall not use the Grant for purposes specifically excluded in these Conditions of Grant.

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

9.1 Personnel, including Key Personnel, shall not, by virtue of the Grant or these Conditions of Grant, be deemed to be in the service or employment of the Commonwealth.

## **10. Conduct of Research**

10.1 Research Projects shall be conducted in accordance with any special conditions specified in the annexures.

10.2 The Institution will ensure that a research Project under these Conditions of Grant will not be permitted to proceed without appropriate ethical clearances having been obtained from the relevant committees and/or authorities listed in Annexure A. Responsibility for ensuring such clearances have been obtained remains with the Institution.

## **11. Material produced under these Conditions of Grant**

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

## **12. Assets**

12.1 The Institution shall establish and comply with its own procedures and arrangements for purchasing, installing, recording, maintaining and insuring an item of equipment purchased with Grant money.

12.2 The ownership of any Asset purchased wholly or partly with the Grant shall be vested in the lead Institution nominated in the Approved Proposal, located on its campus and listed in its assets register.

### **13. Intellectual Property**

13.1 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.

### **14. Research Evaluation Programme**

14.1 The Institution shall ensure that researchers are available to contribute to, and participate in, any Research Evaluation Programme (REP) exercise relating to their Projects during, and for a reasonable period after the conclusion of, their Projects. Evaluations undertaken through the Department on behalf of the Commonwealth to review the outcomes of research supported by research programmes. The REP also enables the development of discipline research strategies by the respective research communities concerning their longer term goals and priorities.

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

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

15.2 When, at any time during or after completion of a research Project, the Institution publishes promotional material, books, articles, television or radio programmes, newsletters or other literary or artistic works which relate to the Project, the Institution shall acknowledge, at a prominent place in the publication, the support of the ARC.

### **16. Administration of the Grant**

16.1 The Institution must maintain reasonable records relating to the Grant in general and the Project(s) conducted with the Grant, in particular to ensure its compliance with these Conditions of Grant.

### **17. Audit and Monitoring**

17.1 The ARC may conduct ad hoc on-site reviews in relation to financial and other reports to ensure these Conditions of Grant 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 Grant and the administration of the Grant funds in general.

17.2 The Institution is responsible for monitoring the progress of the Grant and certifying to the ARC that progress is satisfactory in the Annual Report. If at any time, in the opinion of the Responsible Officer, the Grant is not being carried out with competence and diligence, or in accordance with these Conditions of Grant, the Institution shall take

all action necessary to minimise further expenditure in relation to the Grant and to inform the Commonwealth immediately.

## **18. Reporting Requirements**

18.1 The Institution must submit the following report and statement, in accordance with these Conditions of Grant and the Act, in the format required by the ARC, if specified.

### *End of Year Report*

18.2 The Institution shall submit, by 31 March of the year following the calendar year for which the Grant was awarded, an End of Year Report on the expenditure of Grant funds, including a request for carry over of any funds unspent as at 31 December for the grant year.

### *Final Report*

18.3 The Institution shall submit, by 31 August of the year following the calendar year for which the Grant was awarded, a Final Report on the usage of the Grant funds and related developments in the research areas supported. The proforma for this report will be supplied by the ARC. Each Final Report will be referred to the relevant ARC committee for evaluation and comment. The committee will review the outcomes against the objective(s) of the project as stated in the Application. If a Final Report is deemed inadequate, the Chief Investigator will be contacted for further information.

18.4 If the Committee is not satisfied with the outcome of the grant, this will be noted against any further applications submitted by, or on behalf of, the Chief Investigators and may affect their success in obtaining funding for subsequent applications under this or any other scheme.

18.5 Under paragraph 108(c) of the Act, Grant funds provided by the Commonwealth to the Institution which are not spent during the year of the Grant period to which those funds were allocated may be carried over where approved by the Minister. The usual mechanism for the Institution to seek this approval is in the Annual Report.

### *Audited Financial Statement*

18.6 The Institution shall submit, by 30 June of the year following the calendar year for which the Grant was awarded, an Audited Financial Statement. The Department on behalf of the Commonwealth will provide the Institution with a proforma for this statement. This statement will contain detailed information setting out to the satisfaction of the Commonwealth how the Grant funds were expended.

18.7 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 to carry over in the Annual Report.

### *Copyright in Reports*

18.8 Copyright in all reports required by these Conditions of Grant 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, reproduce and publish on a non-profit basis, these reports. The Commonwealth's licence is subject to the requirements of clause 18.9 below.

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

## **19. Recovery of Unspent Grant Monies or Overpayments of Grant Monies**

Any unspent Grant monies may be recovered by the Commonwealth under subsection 108(a) of the Act. Any overpayment of Grant monies made to an Institution may be recovered under subsection 108(b) of the Act. The Commonwealth may offset the unspent or overpaid Grant monies against the total of any further Grant monies paid to the Institution.

## **20. Indemnity**

- 20.1 Subject to these Conditions of Grant, 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 wilful, unlawful or negligent act or omission of the Institution, its employees, agents or subcontractors in connection with these Conditions of Grant.
- 20.2 The indemnity referred to above shall survive the expiration or termination of these Conditions of Grant.

## **21. 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 RIEF Scheme and, if requested, provide the Commonwealth with a copy of the policy/ies. 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.

## **22. Year 2000 Compliance**

The Institution warrants that the date (and century) and clock fields within any electronic version of a report, or any other document, required by these Conditions of Grant, which is provided to the ARC:

- (a) generate and otherwise perform Calculations using Valid Dates, for all intervals of time including those that refer to the calendar year 2000 and beyond; and
- (b) is Compatible with Related Products that reference years to the end of 1999 by two digits or four digits.

For the purposes of this condition:

- ‘**Calculations**’ includes without limitation arithmetic, calculations, comparison, sequencing sorting operations and any combination required, which accommodates same century and multi-century formulas and date values and date data interface values, including leap year calculations and date data century recognition.
- ‘**Compatible**’ means all Related Products’ ability to interface and continue to operate, to accept and produce a two-digit year with an implied prefix of 19.
- ‘**Related Product**’ means an item of hardware, software or firmware with which any electronic version of the report or document shares information relating to Calculations or with which that version needs to complete a function involving the recording of an interval of time.
- ‘**Valid Date**’ means the date of an actual day which is represented with four-digit year, two-digit month within year and two-digit day within a month, or any other equivalent representation.

## 23. Termination

23.1 If the Institution fails to comply with any of these conditions then the Commonwealth may, in accordance with section 108 of the Act, require the Institution to return all or some of the Grant monies to the Commonwealth.

23.2 The Institution must terminate a Grant:

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

23.3 Upon termination of the Grant under clause 23.2 above:

- (a) the Institution shall take all action necessary to minimise further expenditure under the Grant; and
- (b) the Minister will, under section 108 of the Act, recover monies that have not been expended under the Grant.

## 24. Liaison

All communications from the Institution to the ARC or the Minister relating to the Grant shall be made through the Responsible Officer of the Institution and shall be directed to the Director at the following address:

The Director  
Programme Management Section  
Australian Research Council  
GPO Box 9880  
CANBERRA CITY ACT 2601  
Fax: (02) 6284 6638

**IN WITNESS WHEREOF** the parties have agreed to these Conditions of Grant 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 )  
 )  
«Institution» )  
insert name of Institution above )  
 )  
by ..... ) .....  
insert name of signatory above ) signatory to sign above  
 )  
the ..... )  
insert signatory's title above )  
of the said Institution who, by signing, certifies that )  
they have the authority so to sign )  
 )  
In the Presence of: )  
 )  
..... ) .....  
insert name of witness above ) witness to sign above

## ANNEXURE A

### RESEARCH SPECIAL CONDITIONS

1. *Importation of Experimental Organisms:* The Institution must ensure that, before experimental organisms are imported into Australia for the purposes of a Project, they or the Chief Investigator of the Project must obtain agreement in principle for the importation from the appropriate Commonwealth and State authorities.
2. *Research Involving Humans or Animals:* If any Project conducted by the Institution involves research on or involving humans or animals, the Institution shall ensure that the codes adopted for these purposes by the National Health and Medical Research Council are complied with and that the 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.
3. *Deposition of Biological Materials:* Any biological material accumulated during the course of a Project shall be transferred to an Australian body with statutory responsibility for control of such material. If no such body is available to take control of the biological material then the Institution shall dispose of the material in accordance with the Institution's established safeguards.
4. *Genetic Manipulation:* If a Project involves the preparation and/or use of recombinant nucleic acids constructed *in vitro* from sources that do not ordinarily recombine genetic information, approval in writing by the Institution's Biosafety Committee (or equivalent) or the Genetic Manipulation Advisory Committee (GMAC) must be obtained.
5. If a Project involves, or is concerned with the use of, recombinant DNA techniques, the Institution shall ensure that the principles and guidelines established and approved from time to time by the Australian Government's Recombinant DNA Monitoring Committee are observed.
6. If a Project involves or concerns the use of recombinant DNA techniques on animals or humans then, before the proposed research commences, the Institution shall ensure that the research has been approved by the relevant Ethics or Biosafety Committee (or equivalent) of the Institution. The Institution shall retain all Certificates relating to the above and will provide such evidence to the Director if required to do so.
7. *Ionising Radiation:* If a Project involves the use of ionising radiation, the Institution shall ensure that any personnel performing procedures involving ionising radiation are appropriately trained and hold a relevant current licence from the appropriate State authority. The Institution shall retain all such licences and shall provide them to the Director if required to do so.
8. *Social Science Data Sets:* Any machine-readable data arising from a Project involving research relating to the social sciences should be lodged with the Australian Consortium for Social and Political Research Inc. (ACSPRI) or any other appropriate archive for secondary use by other investigators. This should normally be done within two years of the conclusion of any fieldwork relating to the 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 Annual Report.

**ANNEXURE B**

**RESEARCH INFRASTRUCTURE EQUIPMENT AND FACILITIES SCHEME**

**INSTITUTION:**

Column 1 Application no.	Column 2 Project	Column 3 First researcher	Column 4 2000 funds
			\$
			\$
		<b>Total funding:</b>	\$