



Australian Government

Australian Research Council

Updated version 16 April 2010

Funding Agreement
between the
Commonwealth of Australia
as represented by the
Australian Research Council
and
<<Administering Organisation>>

regarding funding for
Super Science Fellowships
to commence in
2010 and 2011

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Parties & Recitals

THIS AGREEMENT is made on the _____ day of _____

between the

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

and

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

(together the Parties)

WHEREAS:

- A. The Commonwealth through the ARC operates the *Super Science 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 *Super Science Fellowships* and which will be responsible for the administration of the funding if the proposed project is approved for funding.

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

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

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

ARC Fellowship means a position held by a researcher where the salary is funded wholly or partly by the ARC and the researcher has been awarded an ARC Fellowship in one of the following ARC schemes: Australian Postdoctoral Fellowship (APD), Australian Research Fellowship (ARF), Australian Research Fellowship-Indigenous (ARF-I), Queen Elizabeth II Fellowship (QEII), Australian Professorial Fellowship (APF), Australian Postdoctoral Fellowship (Industry) (APDI), Linkage Industry Fellowship (LIF), ARC Centre Fellowship, ARC International Fellowship (ARCIF),

Federation Fellowship, ARC Future Fellowship, Australian Laureate Fellowship, Indigenous Researcher Fellowship (IRF) and Super Science Fellowship (SSF).

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

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 Act.

Centre Director means the person appointed to direct programs of a Commonwealth-funded Research Centre.

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 Act.

Chief Investigator means a person named in the Proposal as Chief Investigator for a particular Project, or as otherwise approved by the Minister and includes any replacement person or persons approved by the Minister in accordance with clause 16.

Commonwealth means the Commonwealth of Australia.

Commonwealth-funded Research Centre means a research centre substantially funded from Commonwealth competitive research funding sources and includes ARC Centres, Commonwealth Research Centres (CRCs) and National Health and Medical Research Council (NHMRC) Program Grants and Centres of Clinical Research Excellence. It does not include Research Networks funded by the ARC.

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 *Super Science Fellowships Funding Rules*.

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

Fellow means an individual researcher who has been awarded a Super Science Fellowship.

Fellowship means an individual Super Science Fellowship which has been awarded to an eligible researcher.

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.

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 *Super Science Fellowships Funding Rules for funding commencing in 2010 and 2011* and includes the *Instructions to Applicants* document that form part of the Funding Rules.

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

Host Organisation means another research organisation at which a Fellow may undertake some of her/his research while holding a Super Science Fellowship. A

Super Science Fellow may spend a period or periods of up to 12 months in total, over the life of the fellowship conducting research at one or more Host Organisations.

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.

Personnel means those persons involved in the conduct of the Project ie. Chief Investigators and Fellows.

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 Super Science Fellowships; or as otherwise approved by the Minister for funding under this Agreement.

Project Leader means the first-named person named on a Proposal who is a Chief Investigator, and includes any replacement person approved by the Minister in accordance with clause 16.

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 (*Super Science Fellowships*) in the ARC, or any other person to whom the administration of the *Super Science Fellowships* scheme may be allocated.

Special Conditions means a special condition specified in Schedule A of a Funding Agreement which governs 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 Project 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 researchers or 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 Projects 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 including any Fellowship element 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 Fellowships, 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 Chief Investigator(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 Project 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 Chief Investigator listed in Schedule A, at all times during her/his participation in a Project, meet the criteria specified in section 6.3 of the Funding Rules, including by having direct responsibility for the strategic decisions and the communication of results for the Project;
 - (i) that each Fellow, at all times during her/his participation in a Project, meet the criteria specified in subsection 7.2 of the Funding Rules, including by having significant responsibility for the progress of their fellowship project against the

proposed outcomes of the Project, and be involved with the project team in the communication of results for the Project;

- (j) 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;
 - (k) 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;
 - (l) that there is no duplication of Commonwealth funding for the research and/or activities funded for the Project under this Agreement;
 - (m) 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
 - (n) 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 Super Science Fellowship salary and other allowances, as set out in Schedule B, are applicable as at 1 January 2010. 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 'Project Description' 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 'Project Description' 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 clause 7.5 of the Agreement.
- 7.4 The Administering Organisation, and where relevant, the Host Organisation(s) must ensure that the Super Science Fellow(s) 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) qualified supervision to support the Super Science Fellow's research;
 - (b) suitable accommodation (e.g. laboratory and office, suitably equipped and furnished);
 - (c) access to workshop services (if required by the Project)
 - (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 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.
- 7.6 Unless otherwise approved by the Minister, the Administering Organisation must provide the resources to undertake each Project as specified in the Proposal.
- 7.7 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.

8. Use of the Funding: Provision of Salaries

- 8.1 The Funding specified in Schedule A for Fellowship salary must only be used for the provision of salary and on-costs for the Fellow.
- 8.2 Salary entitlements for Super Science Fellows are detailed in Schedule B. Funding provided for a Super Science Fellowship must be used in accordance with this Funding Agreement.
- 8.3 The provision of salaries, recreation leave, sick leave and other conditions of employment for Personnel shall be those of the Administering Organisation.
- 8.4 The on-cost provisions beyond the ARC contribution of 28% remain the responsibility of the Administering Organisation, e.g. extended periods of leave, severance pay etc. must not be provided from ARC funds.
- 8.5 The Administering Organisation must ensure that Super Science Fellows shall not, without the prior agreement of the ARC, accept any remuneration whatsoever from any source other than the Administering Organisation in respect of work performed on the Project.

9. Selection of Super Science Fellows

- 9.1 The Administering Organisation must undertake a process of competitive national and international recruitment for the Super Science Fellowships. Recruitment and selection processes must include the following features:
- (a) Positions must be clearly advertised in a national newspaper and in at least two international publications. In addition, electronic advertising is encouraged.
 - (b) Each potential candidate must be provided with adequate details of the approved project, the expected project outcomes, the team, the facilities available at the Administering Organisation and, where applicable, the Host Organisation(s).
 - (c) The closing date for potential candidates' applications must be at least one-month from the date of the last published advertisement.
 - (d) The selection criteria should be consistent with the successful Super Science Fellowships Proposal; focus on the Fellows' research and publications that will enhance the project; and be open to all competitive applicants (national and international).
 - (e) The selection committee should include at least one external - to the Administering and Host Organisation(s) - member, have gender balance and follow best practice equity processes.
 - (f) The selection committee should select the most competitive candidates to fill the 2010 Fellow(s) and create a reserve list (where appropriate).

- (g) The recommendations of the committee must be used by the Administering Organisation to fill the 2010 fellowship(s) and allow for replacements in the case of resignations or extended leave for up to 12 months from the date of the selection committee's recommendation.
 - (h) The process and the recommended Fellows (and reserves) must be signed-off by the Deputy Vice-Chancellor/Pro Vice-Chancellor or Vice-Chancellor.
 - (i) The details of the selection and appointment process, commencement date and Curriculum Vitae of the successful Fellows must be forwarded to the ARC for its auditing processes.
 - (j) The Administering Organisation will be required to report every 12 months on the Fellows (budget and progress), and any variations to the conditions of employment, resignations, extended leave, etc.
- 9.2 The process mentioned in 9.1 must be repeated for recruitment of the second round of fellowship candidates prior to June 2011.
- 10. Use of the Funding: Relocation Expenses**
- 10.1 Under the *Super Science Fellowships* scheme, the ARC does not provide reimbursement for relocation expenses.
- 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 Project**
- 12.1 Subject to clause 13, the Project, including the Fellowship(s), must commence:
- (a) for Projects funded in Round One - by no later than 31 December 2010; and
 - (b) for Projects funded in Round Two - by no later than 31 December 2011
- unless the commencement has been deferred to a later date approved by the Minister.
- 13. Deferral of Commencement of Project**
- 13.1 If the Administering Organisation wishes to defer commencement of a Project, beyond the applicable commencement date specified in clause 12.1, 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 the applicable commencement date specified in clause 12.1.
- 13.2 The Administering Organisation must not defer commencement of the Project, beyond the applicable commencement date specified in clause 12.1, 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, beyond to the applicable commencement date specified in clause 12.1. The ARC may recover Funding for any Project which has not commenced by to the applicable commencement date specified in clause 12.1.
- 14. Suspension of a Project**
- 14.1 The request for the suspension of a Project will be considered only if the circumstances are exceptional. Administering Organisation's wishing to suspend a Project, must apply

by submitting a *Variation of Funding Agreement*, 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. Personnel

- 15.1 The Administering Organisation shall ensure that the Personnel conduct the Project in a diligent and competent manner and will comply with this Agreement.
- 15.2 The Administering Organisation shall provide each Chief Investigator and Super Science Fellow performing a Project with a copy of this Agreement within a reasonable time after the commencement of the Funding.
- 15.3 The Administering Organisation warrants that it has made proper inquiries of the Personnel in relation to their eligibility pursuant to the Funding Rules and their ability to perform the Project.
- 15.4 The Administering Organisation must ensure that each of the Personnel who is to perform any Project has the approval of her/his employing organisation to participate in the Project.

16. Change of Personnel

- 16.1 If a Chief Investigator is at any time during the term of a Project no longer able to continue working on the Project, the Project may be continued under one or more other Chief Investigator provided that:
- (a) there is at least one Chief Investigator performing the Project;
 - (b) all replacement or additional Chief Investigators meet the eligibility criteria, as specified in the Funding Rules for the particular role they are to perform, for the period for which they are perform that role;
 - (c) approval is sought from the ARC for the change in Personnel:
 - i. in writing by submitting a *Variation of Funding Agreement* (including with the request a copy of the proposed replacement Personnel's curriculum vitae); and
 - ii. within three months of the date that the Personnel cease working on the Project;
 - (d) if additional or replacement Chief Investigators ('New Personnel') are proposed for a Project, the Administering Organisation must obtain certifications from the New Personnel and their employers which have similar effect to those required to be obtained for the other Specified Personnel on the Project; and
 - (e) the change is approved, in writing, by the Minister if the person being replaced is the 'Project Leader', or the ARC in all other cases.
- 16.2 If a Super Science Fellow is no longer able to continue performing a Project, within 12 months from the date of the selection committee's recommendation, the Administering Organisation may replace the Fellow with a reserve, as detailed in subsection 7.1.1 of the *Super Science Fellowships Funding Rules for funding commencing in 2010 and 2011*.

17. Transfer of Project

- 17.1 A *Super Science Fellowships* Project cannot be transferred to another organisation.

18. Negation of Employment by the Commonwealth

18.1 Chief Investigators, Fellows, the Administering Organisation and/or the Host Organisation(s) 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 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 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. Conduct of Elements of Projects - Identification of Super Science Fellowships

20.1 The number of funded Fellowships per Project and the salary plus on-cost payable for the Fellowship appears in Schedule A. The Administering Organisation must conduct Projects involving Fellowships in accordance with the Special Conditions for Fellows specified in Schedule D. The Special Conditions for Fellows form part of this Agreement.

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

- 21.1 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.
- 21.2 For any Material produced under this Agreement, the Administering Organisation must ensure that Fellows:
- (a) take reasonable care of, and safely store, any data or specimens or samples collected during, or resulting from, the conduct of their 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.
- 21.3 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.
- 21.4 This clause survives the expiration or earlier termination of this Agreement.

22. ARC Assessments

- 22.1 The Administering Organisation must ensure that, for the term of this Agreement, if requested by the ARC, each Chief Investigator and Fellow agrees to assess up to twenty new proposals for ARC funding per annum for each year of Funding.
- 22.2 If the ARC determines that a Chief Investigator or 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.
- 22.3 If a Chief Investigator or Fellow does not undertake assessment of the assigned proposals within a period specified by the ARC of the notice referred to in clause 22.2, the Administering Organisation will be considered to be in breach of this Agreement and Funding for the relevant Project (including Fellowship), may be terminated.

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 will indemnify the Commonwealth, its officers, employees and agents against any liability, loss, damage, costs and expenses 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 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 website.

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 Project Leaders 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 website. For the purpose of clarification, the due date for the initial Progress Reports for Round 1 Projects commencing in July 2010, is 31 January 2012. For Round 2 Projects commencing in July 2011, the due date for the initial Progress Reports is 31 January 2013.
- (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 Chief Investigator or 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 Chief Investigators and/or Fellows 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 website. 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 Chief Investigators and Fellows 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 Chief Investigators and Fellows 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 Chief Investigators and Fellows 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 Chief Investigator or 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 carryover 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 will indemnify the Commonwealth, its officers, employees and agents against any liability, loss, damage, costs and expenses arising from any claim, suit, demand, action or proceeding by any person, 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 35.1 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 *Super Science 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. Dispute Resolution

36.1 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 36 has been followed.

36.2 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,

then, either Part may commence legal proceedings.

36.3 This clause 36 does not apply to action that the Commonwealth takes, or purports to take, under clause 5, 33 or 37 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 37 relates to termination.]

36.4 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.

37. Termination of the Agreement

Termination of Funding for a Project

37.1 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.

37.2 If the ARC terminates Funding for a Project under clause 37.1:

- (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

37.3 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 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.
- 37.4 If the ARC terminates this Agreement under clause 37.3:
- (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.
- 37.5 Any amount notified to the Administering Organisation as payable under clause 37.2 (c) or clause 37.4(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.
- 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 (<i>Super Science Fellowships</i>)	Phone:	02 6287 6600
Australian Research Council	Fax:	02 6287 6638

Postal address
PO Box 2702
CANBERRA ACT 2601

Email: SuperScience@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 Projects to receive funding by the Commonwealth

SCHEDULE B

ARC notional Super Science Fellowship salary support

1 Notional* Super Science Fellowship salary for funding commencing in 2010 and 2011

* The figure in the table below is based on the 2010 level of funding and will be subject to variation (for example, due to annual indexation). Updated rates will be available on the ARC website.

Super Science Fellowship salary rates	Salary	On-costs 28%	Total 2010 \$
Super Science Fellowship (1.0 FTE)	\$72,500	\$20,300	\$92,800

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 Super Science 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 Super Science Fellow is not intending to do so within the two-year period, she/he should include the reasons in the Project Final Report.

SCHEDULE D

Special Conditions Applicable for Projects with a Fellowship Element

D1 Duration

- D1.1 Fellowships are funded for up to three years, on a full-time basis, subject to Parliamentary appropriations and the receipt of satisfactory annual Progress Reports as required by clause 31.3.
- D1.2 The Administering Organisation must ensure that the Fellow is employed full-time on the research and research capacity-building activities of the Project.

D2 Relocation expenses

- D2.1 The ARC will not provide reimbursement for relocation expenses under the *Super Science Fellowships* scheme.

D3 Conditions of Employment and Recognition of Fellows

- D3.1 Requests to convert Super Science Fellowships to part-time may be submitted by the Administering Organisation completing and submitting a *Variation of Funding Agreement* request to the ARC.
- D3.2 Fellows cannot hold another Fellowship either at the Administering Organisation or at another organisation. Before a Fellow commences the Fellowship the Administering Organisation must confirm that the Fellow has completed or relinquished any current Fellowships. This applies to all ARC Fellowships and any other Fellowship held with another funding body.
- D3.3 Unless otherwise approved by the Minister, Fellows cannot hold another appointment/position (continuing or non-continuing) either at the Administering Organisation or at another organisation. Fellows must relinquish any existing appointment/positions (continuing or non-continuing) prior to commencement of the Fellowship.
- D3.4 The Administering Organisation shall recognise 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 (see D3.5 below). The provision of salaries, recreation leave, sick leave and other conditions of employment for Fellows shall be those of the Administering Organisation.
- D3.5 Notwithstanding D3.1 and D3.3, a Fellow may undertake research supervision or academic duties in addition to performing the Project but only where it enhances, rather than detracts from, the Project. However, a Fellow may not accept additional appointment(s) or remuneration without the prior agreement of the Administering Organisation and the ARC.
- D3.6 The Administering Organisation and/or Host Organisation(s) must provide the Fellow with a minimum of AUD\$20,000 cash for each of the three years of the Fellowship, to support the research project.
- D3.7 The Administering Organisation must ensure that, during the Fellowship period, a 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 Fellowship period by arrangement between the Fellow and the Administering Organisation. However, the Commonwealth will not provide additional funds to cover accrued leave proposed to be taken after the Fellowship period has expired or has been terminated. If a Fellow's salary entitlements for recreation leave

accrued during the Fellowship are to be funded from the Funding, the Fellow must take her/his recreation leave during the period of Fellowship.

- D3.8 The Administering Organisation must ensure that eligible Fellows are entitled to up to 14 weeks paid maternity leave during the duration of their Fellowship. The Commonwealth will provide up to 14 weeks additional funding for this purpose and the 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.
- D3.9 The Administering Organisation must ensure that eligible 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 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.
- D3.10 In addition to recreation leave, as provided for in D3.7 and maternity and paid partner/parental leave as provided for in D3.8 and D3.9 above respectively, the Fellow may take additional leave of up to 12 months in total during the duration of the 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 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 Fellowship period may be extended accordingly. The Funds for the 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 D3.8 and D3.9 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/Fellowship.
- D3.11 Subject to D3.12, Fellows must reside predominantly in Australia for the full duration of the Project. If the 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 Fellowship.
- D3.12 Fellows may, undertake research overseas for periods of up to 12 months in total over the life of the 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 to Funding Agreement* to the ARC.
- D3.13 Funding for the 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.

D4 Commencement of Fellowship

D4.1 Subject to D5, Fellowships must commence:

- (a) for Projects funded in Round One - by no later than 31 December 2010; and
- (b) for Projects funded in Round Two - by no later than 31 December 2011;

unless the commencement has been deferred to a later date approved by the Minister.

D5 Deferral of commencement of Fellowship

D5.1 If the Administering Organisation wishes to defer commencement of a Fellowship, beyond the applicable commencement date specified in D4 above, 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 the applicable commencement date specified in D4.

D5.2 The Administering Organisation must not defer commencement of a Fellowship, beyond the applicable commencement date specified in D4, unless the Administering Organisation has received written approval from the ARC.

D5.3 Other than in exceptional circumstances, the Minister will not approve the commencement of a Fellowship, beyond to the applicable commencement date specified in D4. The ARC may recover Funding for any Project which has not commenced by to the applicable commencement date specified in D4.

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)