

DEED OF AGREEMENT

BETWEEN

THE COMMONWEALTH OF AUSTRALIA

AND

[insert name of institution]

to provide contributory support under the

**NHMRC INDEPENDENT RESEARCH INSTITUTES INFRASTRUCTURE
SUPPORT SCHEME**

**for overhead infrastructure costs associated with NHMRC competitively funded
research being administered by NHMRC Accredited Independent Medical Research
Institutes**

THIS DEED is made on the day of 200....

BETWEEN

THE COMMONWEALTH OF AUSTRALIA as represented by the Office of the National Health and Medical Research Council (ABN 83 605 426 759)

of: MDP 70
GPO Box 9848
CANBERRA ACT 2601
("Commonwealth")

AND

Institution:

ABN:

of (address):
.....
.....
.....
.....
("Institution")

WHEREAS:

- A. The *National Health and Medical Research Council Act 1992* (the Act) provides for the establishment of an account, known as the Medical Research Endowment Account (the Account), which consists of such amounts as are appropriated from time to time by the Parliament of the Commonwealth and of income derived from the investment of these amounts, gifts or bequests given or made for the purposes of the Account and the income derived from the investment of these amounts.
- B. The purposes of the Account are to provide assistance, in such cases and subject to such conditions as the Minister of State of the Commonwealth responsible for the Act, acting upon the advice of the National Health and Medical Research Council (NHMRC), determines:
 - 1 to Departments of the Commonwealth or of a State or Territory engaged in medical research; and
 - 2 to Universities for the purposes of medical research; and
 - 3 to institutions and persons engaged in medical research; and
 - 4 in the training of persons in medical research; and
 - 5 for any other purpose that is prescribed,

and subject to agreement by the recipient to comply with guidelines issued by the NHMRC relating to ethical issues in the conduct of medical and health research.

- C. The Minister of State responsible for the administration of the Act has announced an infrastructure support scheme called “Independent Research Institutes Infrastructure Support Scheme” (IRIISS), for which funds were appropriated by the Commonwealth Parliament in the 2004-2005 Budget and which is to be funded from the Account.
- D. The purpose of IRIISS is to provide contributory funding support for non-capital infrastructure costs associated with research conducted using NHMRC competitively awarded research funds being administered by the Institution.
- E. The Institution has been separately granted funding by the NHMRC under a Research Funding Scheme Deed and/or an NHMRC Researcher Support Scheme Deed. When entering into either or both of these Deeds of Agreement, the Institution accepted an obligation to provide support to meet all infrastructure and administrative costs associated with the conduct of the NHMRC awards. The Institution has now become eligible for additional funding support for overhead infrastructure costs which is to be provided by the NHMRC pursuant to this Deed of Agreement.
- F. The Commonwealth has agreed to provide the funding to the Institution provided the Institution executes this Deed and complies with the legal obligations on the Institution to use the Funds in support of the objectives of IRIISS.

INDEX

1. INTERPRETATION
2. PROVISION OF INFRASTRUCTURE
3. FUNDING AND CO-FUNDING
4. USE OF FUNDS
5. ACCOUNTABILITY OF INSTITUTION FOR FUNDS
6. REPORTING
7. COMPLIANCE
8. INSPECTION OF DOCUMENTS
9. MOBILITY
10. ACKNOWLEDGEMENTS
11. TERMINATION FOR CONVENIENCE
12. TERMINATION AND SUSPENSION
13. RECOVERY OF FUNDS
14. INDEMNITY
15. INSURANCE
16. USE OF INFORMATION
17. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY
18. COMPLIANCE WITH LAW
19. CONFLICT OF INTEREST
20. PROTECTION OF PERSONAL INFORMATION
21. DISPUTE RESOLUTION
22. NOTICES
23. RESPONSIBLE OFFICER
24. ASSIGNMENT AND OTHER ENCUMBRANCES
25. CEO MAY ACT
26. SURVIVAL OF PROVISIONS
27. TAXES, DUTIES AND CHARGES

SCHEDULE

- | | |
|--------|--|
| ITEM A | INSTITUTION (subclause 1.1) |
| ITEM B | PROJECT (subclause 1.1) |
| ITEM C | FUNDS (subclause 1.1 and clause 3) |
| ITEM D | PERIOD OF FUNDING (subclause 1.1 and clause 6) |
| ITEM E | PAYMENT SCHEDULE (clause 3) |
| ITEM F | REPORTING REQUIREMENTS (subclause 6.1) |
| ITEM G | NOTICES (clause 22) |

- | | |
|--------------|-------------------------|
| ATTACHMENT 1 | IRISS FUNDING POLICY |
| ATTACHMENT 2 | INSTITUTIONAL APPROVALS |

THIS DEED PROVIDES that the parties be bound by the conditions of this Deed.

IT IS HEREBY AGREED AS FOLLOWS:

1. INTERPRETATION

1.1 In this Deed, unless the contrary intention appears:

“Account” means the Medical Research Endowment Account established by the Act;

“Act” means the *National Health and Medical Research Council Act 1992* as amended;

“Annual Financial Report” means a statement of receipts and expenditure for each calendar year as specified in Clause 6.1;

“Attachment” means an attachment to this Deed;

“Australian Accounting Standards” refers to the standards of that name maintained by the Australian Accounting Standards Board created by section 226 of the *Australian Securities and Investments Commission Act 2001* (Cth);

“CEO” means the position of Chief Executive Officer of the NHMRC as established by the Act or a person duly authorised to exercise the powers of the CEO, and includes a person for the time being occupying that position;

“Chief Financial Officer” means the person with principal responsibility for accounting and financial management within the Institution, or another person nominated by the Institution who is a qualified public accountant and member of one of the following organisations, CPA Australia, the Institute of Chartered Accountants, or the National Institute of Accountants;

“Commonwealth” means the Commonwealth of Australia;

“Financial Acquittal” means a statement of receipts and expenditure as specified in Clause 6.1;

“Funds” means funds provided by the Commonwealth for the Infrastructure, as specified in Item C;

“Information Privacy Principles” means the Information Privacy Principles in the *Privacy Act 1988* (Cth);

“Infrastructure” means the infrastructure for which this funding is entered into by the Parties and specifically may include:

- (i) non-capital aspects of facilities such as libraries, laboratories, computing centres, animal houses, herbaria; experimental farms;
- (ii) purchase of equipment, installation of equipment, maintenance of equipment, hire of equipment and lease of equipment;
- (iii) salaries for, or like payments to, research support staff (including research assistants, accounting and administrative staff and technicians) who are employed to provide general support for an activity such as a research assistant supporting a number of research projects;

but specifically excludes:

- (iv) salaries for, or like payments to, research assistants who are dedicated to a particular project;
- (v) capital works such as the construction of buildings;
- (vi) rental of accommodation;
- (vii) salaries or stipends of researchers;
- (viii) salaries of support staff supporting project-specific research at the institute level;
- (ix) travel costs directly associated with individual projects unless those travel costs are to allow participation in international consortiums.

“Institution” means the institution intended to receive funding under this agreement and which is referred to at the commencement of this Deed and in Item A of the Schedule;

“Institutional Approvals” means the statements of compliance and ethics clearances specified at Attachment 2;

“IRIIS” means the Independent Research Institutes Infrastructure Support Scheme announced in the 2004-2005 Budget and for which this Agreement specifically provides;

“Item” refers to an item specified in a Schedule;

“NHMRC” means the National Health and Medical Research Council as defined and established by the Act;

“Parties” means the two parties to this Deed of Agreement and **“Party”** means either one of them;

“Period of Funding” means one calendar year as specified in Item D;

“Personal Information” means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion; (this definition has been taken from section 6 of the *Privacy Act 1988* (Cth));

“Project” means a researcher, project or body of research work for which the Infrastructure is designed or is intended to support or assist, regardless of whether that researcher, project or body of research work is the only research activity support by the Infrastructure;

“Responsible Officer” means the officer appointed by the Institution for the purposes of the administration of the Funds;

“Schedule” and **“Schedules”** means the schedule or schedules (as the case may be) to this Deed;

“Working Day” means any day, but does not include Saturdays, Sundays, public holidays or any other day on which the Office of the NHMRC is closed for business to the public.

- 1.2 Except where the context otherwise requires:
 - (a) words importing a gender include either gender;
 - (b) words in the singular number include the plural and words in the plural number include the singular;
 - (c) clause headings are for convenient reference only and have no effect in limiting or extending the meaning of the provisions to which they refer;
 - (d) where any word or phrase is given a defined meaning, any other form of that word or phrase has a corresponding meaning;
 - (e) a reference to a person or body includes a partnership and a body corporate or body politic; and
 - (f) A reference to a thing being done biannually means that thing is done twice within the year in question but not necessarily after equal intervals of time or necessarily each six months.
- 1.3 The Schedules and any document attached to them by reference or otherwise shall be deemed to be substantive parts of, and be construed in accordance with, this Deed.
- 1.4 This Deed may be executed in any number of counterparts. All of such counterparts taken together shall be deemed to constitute one and the same Deed and the producing of any one such counterpart shall be taken by the Parties to be evidence of the existence of this Deed.
- 1.5 Where any conflict arises between the terms and conditions contained in the clauses of this Deed and any part of a Schedule (and attachments, if any), the terms and conditions of the clauses prevail.
- 1.6 Where any conflict arises between any part of a Schedule and any part of an attachment, the Schedule prevails.
- 1.7 Where the Institution consists of more than one person, those persons agree to be jointly and severally bound by the terms of this Deed.
- 1.8 The laws of the Australian Capital Territory apply to this Deed.
- 1.9 This Deed comprises the entire agreement between the Parties in relation to its subject matter.
- 1.10 Subject to the provisions of clause 2.3, no variation of this Deed shall be legally binding on either party unless executed in the same manner as this Deed.
- 1.11 If a Party does not exercise (or delays in exercising) any of its rights under this Deed or at law, that failure or delay does not operate as a waiver of those rights.
- 1.12 A single or partial exercise by a Party of any of its rights under this Deed or at law does not prevent the further exercise of any right.

2. PROVISION OF INFRASTRUCTURE

2.1 The Institution shall ensure that the Infrastructure is developed or acquired efficiently and within a reasonable time having regard to all the circumstances including the identified need for the Infrastructure.

2.2 In developing or acquiring the Infrastructure, the Institution shall:

- (a) develop or acquire the Infrastructure in accordance with IRIISS policy generally and, in particular:
 - i. comply with the objectives of the NHMRC Independent Research Institutes Infrastructure Support Scheme (IRIISS) as set out in Attachment 1;
 - ii. endeavour in good faith to ensure efficient and timely completion of the development or acquisition of the Infrastructure and support the objectives of IRIISS; and
 - iii. notify the Commonwealth of any significant expected or actual delay or suspension in the progress of the development or acquisition of the Infrastructure;
- (b) provide the assistance, facilities, services and general administration necessary for the efficient development or acquisition of the Infrastructure; and
- (c) otherwise comply strictly with the terms and conditions of this Deed.

2.3 The Commonwealth may at any time, in its absolute discretion and without the requirement to give reasons, unilaterally vary any term, condition, part, or provision of this Deed by giving the Institution notice in writing of such variation and the Institution agrees to be bound by such variation. Any variation made pursuant to this clause shall take effect immediately upon receipt by the Institution of the notice unless a different date is specified or provided for in the notice, in which case the date of effect shall be the date specified or provided for in the notice. The Commonwealth declares that, in exercising this right to vary, it will act in good faith and make any variation only if the Commonwealth, in its absolute discretion, considers the variation to be necessary or convenient having regard to, but not limited to, good and proper administration of research funding.

3. FUNDING AND CO-FUNDING

3.1 Subject to Parliamentary appropriation for the Account and compliance by the Institution with this Deed, the Commonwealth agrees to pay the Funds to the Institution in accordance with the payment schedule specified in Item E.

3.2 Unless otherwise specified in Item E, payment of the Funds will normally be made annually but, where NHMRC administrative needs or other timing issues require, payment may, at the absolute discretion of the NHMRC be made biannually.

3.3 Payment of the Funds will only occur for those Projects for which the Commonwealth has been provided with satisfactory evidence that all Institutional Approvals required for the Projects have been obtained by the Institution. Where any Institutional Approvals necessary for the Projects are withdrawn or not renewed during the Period of Funding, the Institution must notify the Commonwealth as soon as practicable and in any event not later than one (1) month after the withdrawal or expiration of the Institutional Approval in which event the Commonwealth may, in its absolute discretion, terminate this Deed or suspend or terminate payment or part payment of the Funds for the Infrastructure pursuant to clause 12.

- 3.4 If for any reason there has been no expenditure on the Infrastructure six (6) months after the date on which the Funding becomes due, then the Institution must immediately notify the Commonwealth in writing. The Commonwealth pursuant to clause 13, may recover any Funds not expended in accordance with this Deed or that remain unexpended.
- 3.5 Despite any other provision contained in this Deed, the Commonwealth is under no legal obligation to release or make available to the Institution any Funds or part of the Funds unless all relevant Institutional Approvals set out in Attachment 2 are obtained and maintained as required for the duration of the Project.

4. USE OF FUNDS

- 4.1 The Institution shall not use the Funds for any purpose other than the development or acquisition of the Infrastructure and in accordance with aims of IRIISS.
- 4.2 The Institution shall deposit all Funds into a bank account controlled solely by the Institution and keep proper accounts and records of its receipts and use of the Funds. The Institution must establish and maintain a separate ledger within the bank account for the Infrastructure and use any apportioned interest earned on the Funds only for the purposes of the development or acquisition of the Infrastructure.

5. ACCOUNTABILITY OF INSTITUTION FOR FUNDS

- 5.1 The Institution shall:
- (a) ensure that proper accounting controls are exercised over the development or acquisition of the Infrastructure, including the Funds; and
 - (b) maintain appropriate accounting records for all to ensure proper accountability and auditing.
- 5.2 Where the Institution has not legally committed or expended the full amount of the Funds during the Period of Funding, the Institution shall, within six (6) months after the end of the Period of Funding, pay to the Commonwealth any amount not so committed or expended, unless the Institution prior to the end of the Period of Funding advises the Commonwealth of the reasons for the non-expenditure, and requests and obtains the Commonwealth's written approval for the unexpended part of the Funds to be carried forward and for the Period of Funding to be varied.

6. REPORTING

Financial Acquittal – Annual Report

- 6.1 The Institution shall, by 30 June in the calendar year following the Period of Funding, or at other times, as reasonably requested by the Commonwealth, provide a final **Financial Acquittal** that complies with Australian Accounting Standards, in a form to be stipulated by the Commonwealth. The acquittal must include:
- (a) a statement of income and expenditure for the Funds received and expended by the Institution for the **entire** period of Funding (or a time specified by the Commonwealth);
 - (b) the total interest attributable to the Funds under this Deed;
 - (c) particulars of the use made of the Funds by the Institution; and

- (d) particulars, including the dollar amount, of any co-funding received by the Institution from the Government of a State or Territory for the Infrastructure.

6.2 The Financial Acquittal provided by the Institution under subclause 6.1 shall be certified by the Chief Financial Officer as notified to the NHMRC.

7. COMPLIANCE

7.1 The Institution shall provide to the Commonwealth such information as the Commonwealth may reasonably request for the purpose of auditing and evaluating compliance with this Deed.

7.2 The Institution shall:

- (a) upon fourteen (14) days' written notice given by the Commonwealth; and
- (b) at times agreed to by the Parties during the performance of, or up to five (5) years after the completion of, the development or acquisition of the Infrastructure;

make itself available for visits by officers of the Commonwealth (including officers of the Australian National Audit Office or any other person nominated by the NHMRC) for the purpose of auditing and evaluating auditing and evaluating compliance with this Deed..

8. INSPECTION OF DOCUMENTS

8.1 The Institution shall, if requested in writing by the Commonwealth, make available for inspection and audit (and copying if required) by officers of, or by other persons authorised by the Commonwealth (including officers of the Australian National Audit Office), all books, accounts, receipts, printed or electronic material and other documents relating to the expenditure by the Institution of the whole or any part of the Funds, up to five (5) years after the completion of, the Infrastructure.

9. MOBILITY

9.1 Funds provided to the Institution pursuant to this Deed in respect of any calendar year are not transferable to any other entity for that calendar year, but if the Project is transferred to another entity the Commonwealth may, at its absolute discretion reduce the amount of funding relating to the Project in any subsequent calendar year.

10. ACKNOWLEDGMENTS

10.1 The Institution shall properly acknowledge the contribution of the Commonwealth and the NHMRC to the development or acquisition of the Infrastructure in any relevant correspondence, public announcement, advertising material, research reports or other material produced by, on behalf of or through the Institution in any manner relating to the Infrastructure.

11. TERMINATION FOR CONVENIENCE

11.1 The Commonwealth may, at any time by written notice, suspend or defer any payment of the Funds, or terminate this Deed. If this Deed is terminated or reduced in scope, the Commonwealth shall, subject to subclause 11.3, be liable only for:

- (a) Funds payable under this Deed up to the effective date of termination or reduction; and
- (b) any reasonable costs incurred by the Institution and directly attributable to the termination or reduction (excluding costs arising pursuant to the termination of an employment contract which exceed the equivalent of four (4) weeks' salary).

11.2 Upon receipt of a notice of termination or reduction, the Institution must:

- (a) stop work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction and;
- (c) immediately repay to the Commonwealth so much of the Funds not spent or acquitted to the satisfaction of the Commonwealth as relate to any part of the Infrastructure affected by the notice as at the date of the notice.

11.3 The Commonwealth is not liable to pay any other amount in respect of a termination or reduction under this clause.

12. TERMINATION AND SUSPENSION

12.1 Where:

- (a) the Commonwealth is reasonably satisfied that any of the terms and conditions of this Deed have not been complied with by the Institution;
- (b) the Commonwealth, by notice in writing, requests the Institution to take action to fulfil an obligation specified in the this Deed or any Schedule to it, and, after one month from the date of the notice, the Institution has failed to take that action;
- (c) the Commonwealth is reasonably satisfied that any information provided to the NHMRC by the Institution was incorrect or incomplete in a way which would have affected the original decision to approve the Funds;
- (d) the Commonwealth is not reasonably satisfied that the purposes and activities of the Institution remain compatible with the objectives of IRIISS;
- (e) as a result of any change in government policy or lack of appropriation by the Commonwealth Parliament, Funds for the Infrastructure or any aspect of its development or acquisition are to cease or be reduced; or

- (f) the Institution is using the Funds for purposes other than the development or acquisition of the Infrastructure;

the Commonwealth may, in its absolute discretion, by notice in writing given to the Institution:

- (g) terminate this Deed; or
- (h) suspend or reduce payment of the Funds, pending a review by the Commonwealth of the continuing development or acquisition of the Infrastructure.

12.2 Where the Commonwealth terminates this Deed under clause 12.1, the Commonwealth shall not be obliged to pay to the Institution any outstanding amount of the Funds.

13. RECOVERY OF FUNDS

13.1 If at any time the Commonwealth is reasonably satisfied that any part of the Funds has been expended or committed by the Institution other than in accordance with this Deed, the Commonwealth may recover that amount as a debt due to the Commonwealth.

13.2 The Commonwealth may, following the submission of any report, or following the time that the Financial Acquittal was due to be submitted under subclause 6.1, whichever is the earlier, recover from the Institution as a debt due to the Commonwealth any part of the Funds which:

- (a) the Commonwealth is not reasonably satisfied has been expended in accordance with this Deed; or
- (b) remains unexpended.

14. INDEMNITY

14.1 The Institution hereby indemnifies and holds harmless absolutely, at all times, the Commonwealth, its officers, employees and agents from and against all action, claims, demands, costs and expenses (including the cost of defending or settling any action, claim or demand) made, sustained, brought or prosecuted in any manner based upon, occasioned by, or attributable to any loss or damage to any person, or loss or damage to property which may arise from or be a consequence of the development or acquisition of the Infrastructure.

14.2 The Institution's liability to indemnify the Commonwealth under clause 15.1 will reduce proportionately to the extent that any negligent or other tortious act or omission of the Commonwealth contributed to the relevant liability, loss or damage, or loss or expense.

15. INSURANCE

- 15.1 Unless the Commonwealth otherwise agrees, the Institution must, for so long as any obligations remain in connection with this Deed:
- (a) effect and maintain workers' compensation insurance as required by law, and public risk insurance policies for appropriate amounts to cover all the obligations of the Institution under this Deed, including those which survive the expiration or termination of this Deed; and
 - (b) upon request, provide proof of insurance acceptable to the Commonwealth.

16. USE OF INFORMATION

- 16.1 The Institution consents to the Commonwealth providing information concerning this Deed and the Institution's performance under this Deed to the NHMRC.
- 16.2 The Institution acknowledges that the Commonwealth may be required to provide information in relation to this Funding or this Deed, as required by the operation of any law, judicial or parliamentary body or government agency.
- 16.3 The Commonwealth reserves the right to publicise and report on the awarding of funding to the Institution. The Commonwealth may do this by including general information about the Institution, the Funds, title and a brief description of the Infrastructure being developed or acquired in media releases, general announcements about the Funding and in annual reports.
- 16.4. The Institution acknowledges that its development or acquisition of the Infrastructure and any failure to comply with this Deed, including, without limitation:
- (a) any failure to provide full and thorough reports pursuant to clause 6; or
 - (b) any careless use or misuse of the Funds,
- may be taken into consideration by the Commonwealth in any future application by the Institution for funding under any scheme.

17. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY

- 17.1 The Institution agrees not to represent itself, and to use its best endeavours to ensure that its officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the Commonwealth or the NHMRC, or as otherwise able to bind or represent the Commonwealth or the NHMRC.
- 17.2 The Institution, its officers, employees, agents and subcontractors do not by virtue of this Deed become an officer, employee, partner or agent of the Commonwealth or the NHMRC, nor does the Institution have any power or authority to bind or represent the Commonwealth or the NHMRC.

18. COMPLIANCE WITH LAW

- 18.1 The Institution shall ensure that in carrying out its functions and expending the Funds, it complies with all relevant Commonwealth, State and local government laws, regulations and by laws and including, without limiting the generality of the foregoing, all those relating to employment terms and conditions.

19. CONFLICT OF INTEREST

- 19.1 The Institution warrants that, at the date of signing this Deed no conflict of interest exists or is likely to arise in the performance of its obligations under this Deed.
- 19.2 If during the term of this Deed, a conflict of interest, or risk of a conflict of interest, or an apparent conflict of interest ('conflict, risk or apparent conflict') arises in respect of the Institution, or an employee or agent of the Institution, the Institution must immediately notify the NHMRC in writing of that conflict, risk or apparent conflict.
- 19.3 If a conflict, risk or apparent conflict is experienced by the Institution, or an employee or agent of the Institution, the Institution must take such steps as the Commonwealth may reasonably require to resolve or otherwise deal with that conflict, risk or apparent conflict.
- 19.4 If the Institution fails to notify the NHMRC under this clause 19, or is unable or unwilling to resolve or deal with the conflict, risk or apparent conflict as required, the Commonwealth may terminate this Deed in accordance with clause 12 (Termination and Suspension).

20. PROTECTION OF PERSONAL INFORMATION

- 20.1 The Institution agrees to:
- (a) use any Personal Information held or acquired in any way, including that which may relate to any Project, only for the purposes of fulfilling its obligations under this Deed;
 - (b) take all reasonable measures to ensure any Personal Information in its possession or control in connection with the development or acquisition of the Infrastructure is protected against loss and unauthorised access, use, modification or disclosure;
 - (c) comply with the *Privacy Act 1988* (to the extent that Act applies to the Institution), including any guidelines issued by the NHMRC and approved for the purposes of that Act;
 - (d) comply with any relevant privacy law of State or Territory (to the extent that such law applies to the Institution);
 - (e) regardless of whether (c) or (d) applies comply with those Information Privacy Principles which affect the security, use and disclosure of Personal Information to the extent that the content of those Principles applies to the types of activities the Institution is undertaking under the Deed, as if the Institution were an agency as defined in the *Privacy Act 1988*;
 - (f) cooperate with any reasonable demands or inquiries made by either the Commonwealth's Liaison Officer or the Privacy Commissioner on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request

from the Commonwealth's Liaison Officer to comply with a guideline concerning the handling of Personal Information;

- (g) ensure that any person who has access to any Personal Information is made aware of, and undertakes in writing, to observe the Information Privacy Principles and other obligations referred to in this clause 20;
- (h) comply, as far as practicable, 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;
- (i) comply, as far as practicable, with any direction of the Commonwealth's Liaison Officer to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Institution that the Privacy Commissioner considers breach the Institution's obligations set out in this clause 20; and
- (j) indemnify the Commonwealth as the circumstances require, 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 Institution under this clause 20 or any misuse of Personal Information by the Institution or any disclosure by the Institution in breach of an obligation or confidence, whether arising under the *Privacy Act 1988* or otherwise.

21. DISPUTE RESOLUTION

- 21.1 Before resorting to external dispute resolution mechanisms (except for urgent interlocutory relief) the Parties must attempt to settle by negotiation any dispute in relation to this Deed, including by referring the matter to persons who may have authority to intervene and direct some form of resolution.
- 21.2 If a dispute is not settled by the Parties within twenty (20) Working Days of one Party first sending to the other Party written notice of the dispute, the dispute may be the subject of court proceedings or may be submitted to some alternative dispute resolution mechanism as may be agreed in writing between the Parties.
- 21.3 Notwithstanding the existence of a dispute, the Institution must continue to perform its obligations under this Deed.

22. NOTICES

- 22.1 Any notice, request or other communication to be given or served pursuant to this Deed shall be in writing and addressed to the other party at the address as set out in the schedule under Item G [NOTICES] or such other address as a Party may notify the other party from time to time.
- 22.2 A notice, request or other communication will be deemed to be received:
 - (a) if delivered by hand, upon delivery;

- (b) if sent by pre-paid ordinary post within Australia, upon the expiration of two (2) business days after the date on which it was sent;
- (c) if sent by facsimile, on the business day following the day of dispatch provided that the sender receives an “OK” code in respect of the transmission and is not notified by the Institution by close of business of the next business day following the day of dispatch that the transmission was illegible; or
- (d) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

23. RESPONSIBLE OFFICER

- 23.1 The Institution shall notify the Commonwealth in writing of the name and title of the Responsible Officer. All correspondence and reports relating to the Funds shall be made by or through the Responsible Officer and all documents signed by the Responsible Officer shall be binding on the Institution.
- 23.2 The Responsible Officer shall supply all necessary information reasonably requested by Commonwealth in relation to the purposes for which the Funds are used.

24. ASSIGNMENT AND OTHER ENCUMBRANCES

- 24.1 The Institution shall not without the written consent of the Commonwealth assign, mortgage, charge or encumber this Deed or any benefit, moneys or rights obtained or to be obtained or obligation under this Deed.

25. CEO MAY ACT

- 25.1 The CEO may exercise, on behalf of Commonwealth, any of the powers conferred upon the Commonwealth by this Deed.

26. SURVIVAL OF PROVISIONS

- 26.1 The provisions of clauses 2.2(c), 5, 6, 7.1, 11, 12, 14.2, 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, 26 and 27 will survive the expiration or earlier termination of this Deed.

27. TAXES, DUTIES AND CHARGES

- 27.1 Except as provided by this clause, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Deed shall be borne by the Institution.
- 27.2 The Funds payable (“Original Funds Payable”) to the Institution by the Commonwealth do not include an amount to cover any liability of the Institution for Goods and Services Tax (“GST”) on any supplies made under this Deed which are taxable supplies within the meaning of *A New Tax System (Goods and Services Tax) Act 1999* (the “GST Act”).

- 27.3 If a supply made by the Institution under this Deed is a taxable supply under the GST Act, the Institution may, by notice in writing to the Commonwealth, increase the Original Funds Payable by the Commonwealth by the amount of GST that is payable by the Institution on that part of the Original Funds Payable which relates to the taxable supply as if that part of the Original Funds Payable is the value of the supply for the purposes of the GST Act.
- 27.4 If required by the Commonwealth, the Institution shall substantiate to the Commonwealth's reasonable satisfaction how any change in the amounts payable by the Commonwealth determined under this clause have been calculated, before such changes will take effect.
- 27.5 In relation to any taxable supplies made under this Deed, the Institution agrees to issue the Commonwealth with a tax invoice in accordance with the GST Act.

IN WITNESS WHEREOF the Parties have executed this DEED as at the day and year written above.

SIGNED, SEALED AND DELIVERED)
on behalf of the COMMONWEALTH)
OF AUSTRALIA by:)

.....)
(print name))

.....)
(position))

in the presence of:

.....)
(print name))

.....)
(position))

.....)
(Signature))

.....)
(Signature))

SIGNED, SEALED AND DELIVERED)
on behalf of the)

.....)
(Institution name))

by)
(print name) who warrants)
they have the authority to bind the Institution))

.....)
(position))

in the presence of:

.....)
(print name))

.....)
(position))

.....)

(Signature))

.....)
(Signature))

SCHEDULES TO THIS DEED OF AGREEMENT

SCHEDULE

ITEM A: INSTITUTION

Insert name and details of the Institution

ITEM B: PROJECT

Insert details of projects attracting IRIISS support.

ITEM C: FUNDS

Dollar value of IRIISS Payment
(Refer item 5 “Allocative Mechanism” in policy document at Attachment 1)

ITEM D: PERIOD OF FUNDING

Note: one calendar year (for example 1 January – 31 December 2005)

ITEM E: PAYMENT SCHEDULE

Refer to item 7 “Payments” in policy document at Attachment 1.

ITEM F: REPORTING REQUIREMENTS

As advised by NHMRC (pursuant to Clause 6.1)

ITEM G: NOTICES

Executive Director
Centre for Research Management and Policy
National Health and Medical Research Council
GPO Box 9848
Canberra ACT 2601

Enter the amount of State/ Territory Government Infrastructure funding received in previous calendar year.	
If known, enter the amount of State/ Territory Government Infrastructure funding expected to be received in this calendar year.	

SIGNATURE BLOCK FOR SCHEDULE

This Schedule is made on the day of 200....

The parties agree to be bound by the terms and conditions set out in the Deed dated *{insert date Deed was signed}*

IN WITNESS WHEREOF the Parties have executed this Schedule as a DEED as at the day and year written above.

SIGNED, SEALED AND DELIVERED)
on behalf of the COMMONWEALTH)
OF AUSTRALIA by:)

.....)
(print name))

.....)
(position))

in the presence of:)

.....)
(print name))

.....)
(position))

.....)
(Signature))

.....)
(Signature))

SIGNED, SEALED AND DELIVERED)
on behalf of the)

.....)
(Institution Name))

by)
(print name) who warrants)
they have the authority to bind the Institution))

.....)
(position))

in the presence of:)

.....)
(print name))

.....)
(position))

.....)
(Signature))

.....)
(Signature))

ATTACHMENT 1

Attach the policy statement “NHMRC Independent Research Institutes Infrastructure Support Scheme (IRIISS) Funding Policy (for funding commencing in 2005)”

ATTACHMENT 2 – INSTITUTIONAL APPROVALS

Clearance requirements:

The Institution must meet the following clearance requirements and obtain and maintain as required, the necessary approvals for the duration of the Projects:

(i) Research Involving Humans

All research involving humans shall be conducted in accordance with the requirements of the '*National Statement on Ethical Conduct in Research Involving Humans*' (1999) and associated guidelines, as amended from time to time.

Approval shall be obtained from the relevant Human Research Ethics Committee (HREC) before commencement of the Project, and shall be maintained for the duration of the Project and reobtained if required for the duration of the Project. Institutions and HRECs shall be responsible for monitoring the conduct of the Project and ensuring that ethical approval is obtained for amendments to the Project.

(ii) Animal experimentation

Experiments involving the use of animals shall be conducted, and experimental animals shall be housed, maintained and controlled, in accordance with the current '*Australian Code of Practice for the Care and Use of Animals for Scientific Purposes*' and any additional policy statements adopted by the NHMRC.

The Institution shall ensure that Projects shall demonstrate being acceptable to the appropriate Animal Ethics Committee of the particular institution, as shall intended variations, with ethical implications, to any already approved research protocol.

Where a Project involves the use of inbred strains of animals, the institution must confirm that the genetic authenticity of such animal colonies has been checked at appropriate intervals.

(iii) Use of radioactive substances, ionising radiation, recombinant DNA, biohazardous material, potent teratogens or carcinogens

Clearance for Projects which involve any of the above must be obtained from the appropriate Institutional Bio-safety Committee and/or, where relevant, the appropriate Ethics Committee.

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, and that all relevant State or Territory legislation is complied with. The Institution shall retain all such licences and shall provide them to the Commonwealth if required to do so.

(iv) Administration to humans of drugs, chemical agents or vaccines

Any Project involving the above will be subject to prior clearance by the relevant human research ethics committee.

(v) Import of Experimental Organisms

The Institution must ensure that, before experimental organisms are imported into Australia for the purposes of a Project, the Institution or the Chief Investigator of the Project must obtain authorisation for the importation from the appropriate Commonwealth and State authorities.

(vi) Storage 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.

(vii) Genetic Manipulation

All work involving recombinant nucleic acids must conform to the requirements set out in the *Gene Technology Act 2000* (Cth) as amended from time to time.

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 must be obtained.

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 of the Institution. The Institution shall retain all Certificates relating to the above and will provide such evidence to the Commonwealth if required to do so.

Statements of Compliance

The Institution must ensure that research under the Projects is conducted in accordance with the principles outlined in the following NHMRC guidelines:

National Statement on Ethical Conduct in Research Involving Humans

Joint AVCC/NHMRC Statement and Guidelines on Research Practice

Australian code of practice for the care and use of animals for scientific purposes

Guidelines on Ethical matters in Aboriginal and Torres Strait Islander Health Research

Ethical Guidelines on Assisted Reproductive Technology (1996) [under review]

Guidelines for Genetic Registers and Associated Genetic Material 1999

Guidelines for Ethical Review of Research Proposals for Human Somatic Cell Gene Therapy and Related Therapies

Guidelines under Sections 95 and 95A of the *Privacy Act 1988* (Cth)

Guidelines under Sections 95 and 95A of the *Privacy Act 2000* (Cth)

Supplementary Note 7 – Somatic Cell Gene Therapy and Other Forms of Experimental Introduction of DNA and RNA into Human Subjects 1992.