

SCHOLARSHIP AGREEMENT FOR EXTERNALLY FUNDED AWARDS

BASIC AGREEMENT

VARIANT CLAUSES

<p>THIS AGREEMENT is made on the day of 200</p> <p>BETWEEN</p> <p> [<i>the Company</i>] defined in Schedule A.</p> <p>and</p> <p>MONASH UNIVERSITY a body politic and corporate established under the Monash University Act 1958 No 6184 (Vic) of Wellington Road, Clayton [<i>“the University”</i>]</p> <p><u>WHEREAS</u></p> <p>A. [<i>the Company</i>] has agreed to provide funding to the University for the purposes of [carrying out collaborative research] funding a [<i>Doctorate/Masters</i>] scholarship for a Student of the University.</p> <p>B. Subject to the provisions of the Agreement the University has agreed to accept the funding for research and the parties will [<i>the University will</i>] agree on the choice of a Student who will be involved in the Research Project and receive the scholarship.</p> <p>C. The parties agree to undertake the [<i>insert short titles as per schedules A/D</i>] research in accordance with the following terms and conditions.</p>	<p>This column would not be available to outside donor. However, academic collaborator would be instructed on how to negotiate a fall-back position.</p> <hr/> <p>NOTE:</p> <hr/> <p>(i) The Student’s agreement with the University (Schedule C) should be signed before the University’s nominee signs the general agreement.</p> <hr/> <p>(ii) While the University’s preference is shown in the first column (Basic Agreement), it is willing to negotiate other arrangements, as illustrated in this column.</p> <hr/> <p>Subject to the provisions in this agreement</p> <p>The Student is also an employee of [<i>the Company</i>] and is willing to accept the scholarship.</p> <p>C. This Agreement sets out the parties’ respective obligations in relation to the Student’s research on the topic[<i>as stated in Schedule A/D</i>] and, inter alia, their agreement concerning the ownership of intellectual property generated as a result of the Student undertaking the Research Project.</p> <p>C. The collaborative research shall be carried out in accordance with the objectives stated in Schedule D.</p>
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IT IS AGREED AS FOLLOWS:

1. Interpretation

1.1 Definitions

The following definitions shall apply

“Commencement Date” of Scholarship means the date on which the payments to the Student commence as specified in Schedule A;

“Confidential Information” means information of any kind which, because of its confidential character, is capable of protection by contractual or equitable means, and includes information of a valuable commercial or technical character and does not include information which -

- (a) is already in the public domain;
- (b) hereafter becomes part of the public domain otherwise than as a result of an unauthorised disclosure by the recipient party or its representatives;
- (c) is or becomes available to the recipient party or the Student from a third party lawfully in possession thereof and who has the lawful power to disclose such information to the recipient party or the Student, as the case requires, on a non-confidential basis;
- (d) is lawfully known by the recipient party or the Student prior to the date of disclosure to it by the disclosing party; or
- (e) is independently developed by an employee of the recipient party who has no knowledge of the disclosure under this Agreement.

“Department” means the department, school, centre or faculty as specified in Schedule A;

“Duration of this Agreement” means the period between the Commencement Date and the End Date of Scholarship if not earlier terminated or extended pursuant to Clauses 5 and 8;

“End Date” means the date on which the payments to the Student conclude as specified in Schedule A if not earlier terminated or extended pursuant to Clauses 5 and 8;

"GST" means a goods and services tax imposed on the supply of goods and services (including intellectual property) under A New Tax System (Goods and Services Tax) Act 1999 Cth;

“Normal Commercial Terms” means terms which would be contained in a contract transaction entered into by persons dealing with each other at arm’s length and from positions of comparable bargaining power;

“Project Intellectual Property” means any copyright in any Publication or report, circuit layout, eligible layout, drawings, design, patent, invention, Confidential Information, trade secret, know-how, plant variety, trade mark, trade name or other insignia or origin arising from the Research Project but excluding any copyright in respect of the Thesis;

“Project Leader/Associate Supervisor” means that person within [*the Company*] who is appointed by [*the Company*] to ensure that the Student receives adequate assistance and guidance from [*the Company*] to pursue the Studies; the project leader may also be appointed as an associate supervisor to help guide the student in the Research Project;

“Publication” means any conference paper, article for a journal, advertisement, portion of a book, broadcast, or other means of public disclosure which may emerge from the Research Project;

“Research Project” means the program of research undertaken by the Student in order to satisfy the requirements of a Monash [*Doctorate/Master of*] degree;

“Studies” means all work required to be undertaken and to be completed by the Student to the satisfaction of the supervisor including research, training and a Thesis to qualify for the degree of [*Doctorate/Masters*] degree;

“Student” means the person who is enrolled or to be enrolled at the University at the time this Agreement is made to undertake the Studies through the University department referred to in Schedule A;

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“Supervisor” - the member of the University’s academic staff appointed to supervise the Student in accordance with the provisions of the relevant Monash legislation;

“Thesis” means the dissertation which is submitted by the Student for examination for admission to the degree of [*Doctorate/Masters* degree].

1.2 The Schedules attached to this agreement are as follows:

Schedule A - Summary of the Agreement

Schedule B - Contributions: Cash and In Kind

Schedule C - Agreement between the Student and the University pertaining to this Agreement

Schedule D - The Research Project

1.3 Construction

In this document unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing one gender include the other gender;
- (c) references to a statute include regulations or other statutory instruments under it and consolidations, re-enactments including statutes, laws, regulations, rules or decrees brought into existence after the execution of this Agreement;
- (d) references to persons include corporations and bodies politic;
- (e) reference to a person includes the legal personal representatives, successors and assigns of that person;
- (f) references to clauses and schedules are to clauses of and schedules of this Agreement;
- (g) headings are for convenience only and do not affect the interpretation of this Agreement.

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2. The Scholarship

2.1 [the Company] shall grant to the University the sum of \$..... over years for the purpose of [collaborative] research and scholarship funding payable in accordance with Schedule B. [the Company] guarantees that funding will be available for scholarships.

2.2 The scholarship shall be awarded to a [Doctorate/Masters] Student for research in the field ofas per Schedule A [and D].

2.3 The University [and the Company] shall select the Student on the basis of merit.

Some of the funding shall be used to pay for departmental supervisory expenses [as per Schedule B.....]

2.2 Subject to the approval of the University, the Student shall have the right to choose the research topic.*

or

2.2 The Student shall have the right to choose, with the approval of the University, a specific research topic within the broad field of research nominated by [the Company]*

or

The Student will undertake the specific research topic nominated by [the Company]* *and agreed by the University.

2.3 A selection panel comprising representatives from the Department and [the Company] shall nominate a Student for the award of a scholarship.

***NOTE:**

It is important that the Student and the University sign Schedule C prior to signing the general agreement.

** Likely tax implications.

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3. GST

Any amount payable by *[the company]* for anything supplied under this Agreement is expressed exclusive of GST, *[the Company]* will on issue of a valid invoice (or other documentation required under GST laws to enable tax in-put credits to be claimed) pay Monash an amount equal to the GST liability payable by Monash on the supply within 7 days of invoice.

4. Supervision of the Student

4.1 The parties acknowledge that the University is responsible for the Student's supervision.

The University shall appoint a Supervisor for the Student who shall supervise the Student's Research Project in accordance with the provisions of the Monash *[Doctorate candidature regulations/Masters degree candidature regulations]* and other relevant University statutes, regulations, codes and policies.

4.2 Subject to 3.1 *[the Company]* may nominate a Project Leader to help guide the Student in the Research Project. The person so nominated may be appointed as an Associate Supervisor.

[the Company] shall notify the University in writing if there is a change in the Project Leader/Associate Supervisor.

The University shall notify *[the Company]* in writing if the Student ceases *[his/her]* Studies, takes leave of absence other than approved annual leave, exceeding two weeks, changes *[his/her]* research topic, or the University appoints another supervisor[s].

5. Reporting

5.1 The University shall require that the Student

5.1.1 submits a brief monthly [.....] report in writing *[orally]* to the supervisor;

5.1.2 submits through *[his/her]* supervisor a progress report in writing to *[the Company]* every six [.....] months.

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6. Payments

6.1 [the Company] shall pay into a nominated University account by the due dates the contributions in Schedule B.

6.2 Scholarship payments shall be made by the University to the Student fortnightly in arrears.

6.3 If the Student ceases the Studies or takes leave of absence, other than approved annual leave, of more than two (2) weeks from the Studies the payments to the Student shall cease or be suspended as appropriate. Providing a total of all leave of absence/approved suspension does not exceed six (6) months, the End Date shall be extended. After six (6) months any further extension will be by agreement of the parties.

Students are entitled to twenty (20) days paid leave a year calculated on a pro-rata basis. Leave must be taken during the tenure of the scholarship. The Supervisor's agreement must be obtained before leave is taken.

Students shall have an entitlement of up to three (3) months' paid sick leave and up to three (3) months' paid maternity leave within the tenure of the scholarship. A scholarship may be extended to compensate for periods longer than two (2) weeks if a medical certificate is provided by the Student. Maternity leave may not be taken within the first twelve (12) months of the scholarship.

6.4 The Company acknowledges that the University has procedures whereby progress by a Student can be reviewed. If the University at any time under those procedures determines that the Student is making unsatisfactory progress in relation to the degree, payments to the Student shall be suspended.

6.5 This Agreement may be extended by [the Company] if it wishes to continue to pay the Student beyond the End Date.

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<p>7. Project Intellectual Property</p> <p>7.1 It is acknowledged by the Parties that the Student has entered into an agreement assigning to the University ownership in any intellectual property arising from the Research Project other than copyright in a thesis or publications arising from the Research Project. This agreement is contained in Schedule C.</p> <p>7.2 Nothing in this Agreement shall give the Company any rights in background intellectual property owned by the University or the University rights in any background intellectual property owned by the Company.</p> <p>7.3 Subject to [...] the parties agree and acknowledge that the <u>University</u> shall be the legal and beneficial <u>owner</u> of all Project Intellectual Property.</p> <p>7.3.1 In the case of Project Intellectual Property owned by a person engaged in carrying out the research, the University undertakes to use its best endeavours to procure an assignment of that intellectual property to the University.</p> <p>7.3.2 The Parties agree that the proceeds of Commercial exploitation of Project Intellectual Property shall be shared in proportion to their respective contributions to the development and commercialisation of Project Intellectual Property.</p> <p>7.4 [<i>the Company</i>] is hereby granted an option to take up a non-exclusive, non-transferable licence to use for commercial exploitation within Australia and over-seas on Normal Commercial Terms, all Project Intellectual Property, provided that such licence shall be the subject of a licence agreement setting out the full terms of the licence, and provided that notice in writing of the Company's decision to exercise the option is given to the university at any time during the currency of the Research Project and for a period of twelve (12) months after the end date of the agreement.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; padding: 5px;">NOTE:</td> </tr> <tr> <td style="padding: 5px;">While the University's preference is shown in the first column (Basic Agreement), it is willing to negotiate other arrangements with respect to intellectual property, as illustrated in this column.</td> </tr> </table> <p>7.3 Project Intellectual Property arising from the Research Project shall be wholly <u>owned</u> by the <u>Company</u> and consequently the Company shall be responsible for all costs in protecting the Project Intellectual Property.</p> <hr style="border: 0.5px solid black;"/> <p style="text-align: center;">or</p> <p>7.3 Project Intellectual Property rights arising from the Research Project shall be <u>jointly owned</u> by the University and the Company</p> <p>7.4 [<i>the Company</i>] shall be granted an option to take up an exclusive [<i>royalty free</i>] licence to use intellectual property first created or developed in the course of this project. The option shall commence on the date of this Agreement and terminate twelve (12) months after the End Date of this Agreement unless otherwise agreed in writing by the parties.</p> <p>Thereafter the University shall have the right to grant non-exclusive licences to third parties.</p>	NOTE:	While the University's preference is shown in the first column (Basic Agreement), it is willing to negotiate other arrangements with respect to intellectual property, as illustrated in this column.
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7.5 [the Company] shall be entitled to a non-exclusive, non-transferable right to sub-licence third parties with a right to exploit commercially within Australia and overseas on Normal Commercial Terms, all Project Intellectual Property, provided that the terms of the sub-licence to be granted to a third party shall first be agreed by the University.

7.6 The terms agreed in respect of any licence or sub-licence granted pursuant to Clauses 7.4 and 7.5 shall include provisions for the payment of licence fees to the University having regard to:

7.5.1 the extent of the financial [and unreimbursed in-kind contributions] contribution that the University and [the Company] have made to the particular subject matter to be licensed or sub-licensed;

7.5.2 the cost of filing, prosecuting and maintaining patent application; and

7.5.3 Normal Commercial Terms.

7.7 If the University decides not to seek patent protection for patentable inventions or discoveries arising from the project or decides not to maintain a patent, [the Company] may, at its own expense, file the application or maintain the patent in the name of the University either generally or in relation to a particular country. The associated costs incurred by [the Company] in filing or maintaining a patent or other intellectual property right will be recoverable by [the Company] from the licence fees payable to the University pursuant to Clause 7.6.

7.7.1 In the event that [the Company] has no interest in commercialising the Project Intellectual Property, the University may seek another commercial collaborator.

7.5 The licence shall not be assigned or otherwise encumbered by [the Company] without the written consent of the University.

7.7 If the University decides not to seek patent protection for patentable inventions or discoveries arising from the project or decides not to maintain a patent, [the company] may, at its own expense, file the application or maintain the patent in its own name either generally or in relation to a particular country.

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8. Confidentiality and Publication

- 8.1 Each party shall, for the duration of this Agreement and thereafter, keep confidential Confidential Information of the other party, and shall not disclose such Confidential Information to any person unless the party obtains the prior written consent of the other party to its disclosure and to the form in which it may be disclosed.
- 8.2 Nothing in this Agreement shall prevent the Student or the University from providing the Thesis to examiners for examination provided only that the Company may require the Thesis to be submitted to the examiners in confidence.
- 8.3 Prior to any Publication, including a Publication arising from the thesis, the authors wishing to publish information must forward full details of the proposed Publication in writing together with a request in writing to the Company seeking permission to publish the information.
- 8.3.1 The Company must within thirty (30) days of receipt of any such request, notify the university whether permission has been granted or delayed.
- 8.3.2 If the Company determines, in its absolute discretion, that the benefits of publication outweigh the potential loss of commercially valuable intellectual property rights, then the Company shall inform the university that permission to publish has been granted.
- 8.3.3 If the Company determines, in its absolute discretion, that the benefits of publication do not outweigh the potential loss of commercially valuable intellectual property rights then the Company shall either:

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8.3.3.1 suggest alterations to the Publication so that it does not disclose information affecting the commercially valuable intellectual property rights; or

8.3.3.2 if altering the Publication is impractical, delay publication for a stipulated period not exceeding twelve (12) months from the date of the request.

8.3.4 If the Company fails to notify the authors of any decision within thirty (30) days of receipt of the university's request, then the author will be entitled to proceed to publication.

9. Termination

9.1 The parties may on days written notice terminate this Agreement if -

9.1.1 the Student's progress is deemed unsatisfactory by the University;

9.1.2 the Student discontinues the Studies prior to the completion of the Thesis;

9.1.3 a party is in breach of any provision of this Agreement and does not remedy the breach within days of receipt of written notice requiring it to do so.

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10. Notices

10.1 Any notice or communication made pursuant to this Agreement

10.1.1 must be in writing addressed as shown below:

If to *[the Company]*:

.....

.....

Tel:

Fax

If to the University:

The General Manager
Monash University
Wellington Road
VICTORIA 3800

Tel: 9905 2073

Fax: 9905 5128

or to any other address specified by any party to the sender by notice;

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10.1.2 must be signed by an officer of the sender;

10.1.3 is deemed to be given by the sender and received by the addressee;

10.1.3.1 if by delivery in person, when delivered to the addressee;

10.1.3.2 if by post, three (3) business days from and including the date of postage and delivery on the address;

10.1.3.3 if by facsimile transmission when received by the addressee but if delivery or receipt is on a day which is not a business day or is after 4.00 p.m. (addressee's time) it is deemed to be given on the succeeding business day;

10.14 can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

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11. Arbitration

11.1 In the event of any dispute or difference between the parties to this Agreement, in any matter arising from or in connection with this Agreement and where such dispute is not resolved within fourteen (14) days, such dispute or difference shall forthwith be referred to arbitration in accordance with the laws relating to arbitration in force in the State of Victoria.

12. Entire Agreement

12.1 This Agreement constitutes the entire understanding of the parties on the subject matter herein and supersedes any and all other representations or statements by a party or its officers and employees, whether oral or in writing, made prior to the date of this Agreement.

13. Amendment

13.1 Any amendment or alterations to this Agreement shall have effect only upon being made in writing and executed by all parties.

14. Governing Law and Jurisdiction

14.1 This Agreement shall in all respects be construed as an agreement made in the State of Victoria and subject to the laws of that State.

15. Severability

15.1 The invalidity or unenforceability of any one or more of the provisions hereof shall not invalidate or render unenforceable the remaining provisions of this Agreement. Any illegal or invalid provision of this Agreement shall be severable and all other provisions shall remain in full force and effect.

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SCHEDULE A

[THE COMPANY:]

.....
COMPANY PROJECT LEADER/ASSOCIATE SUPERVISOR:

(Telephone:)
(Fax:)

ADDRESS FOR NOTICES:

MONASH UNIVERSITY: a body politic and corporate established under the
Monash University Act 1958 (No. 6184) (Vic) of Wellington Road,
Clayton in the State of Victoria

DEPARTMENT: Campus

UNIVERSITY SUPERVISOR:

ADDRESS FOR NOTICES: University Solicitor's Office
Administration 3a
Monash University
Wellington Road
VICTORIA 3800

THE STUDENT:

DEGREE IN WHICH ENROLLED:

RESEARCH PROJECT:

START DATE OF CANDIDATURE:

END DATE OF CANDIDATURE:

COMMENCEMENT DATE OF SCHOLARSHIP:.....

END DATE OF SCHOLARSHIP:.....

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SCHEDULE B

CONTRIBUTIONS

The Company shall

- a) pay \$ on invoice sent following final signing of this Agreement. A further \$..... will be due months after the Commencement Date and[*schedule of payment*];
- b) provide access to relevant facilities and information.
- c) provide..... for Departmental supervisory expenses.

The University shall

- a) provide supervision;
- b) access to facilities and resources in accordance with relevant University statutes, regulations and codes and policies pertaining to postgraduate research candidature.

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SCHEDULE C

DEED made this _____ day of _____ 200 .

Whereas

- A. (_____) has enrolled at Monash University to undertake a Research Project in the field of _____ for the degree of Master/Doctorate.
- B. _____ has been appointed as the Student's Supervisor.
- C. Under Statute 11.2 of Monash University, a student shall assign ownership of Intellectual Property to the University if the Intellectual Property is prescribed under the Intellectual Property Regulations.
- D. Under Section 2.2.3 of the Monash Intellectual Property Regulations, Intellectual Property is prescribed where, under an agreement between the University and another person, the Intellectual Property is to be owned in whole or in part by a person other than the student who created it.
- E. Monash has entered into an Agreement dated _____ day of _____ 200 with (_____) under which Intellectual Property arising from the Student's Research Project is to be owned by (_____).

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This DEED Witnesses:

1. The Student

- (a) hereby assigns to Monash ownership in any Intellectual Property arising from the Project other than intellectual property rights in data in respect of which the student has given undertakings of confidentiality, and other than copyright in a thesis or publications. The student agrees to execute any document or do anything reasonably required by Monash to secure intellectual property protection for any intellectual property created in whole or in part by the student;
- (b) agrees to keep secure and confidential and not to disclose without the written consent of the Supervisor any Intellectual Property provided for or arising out of the Research Project; and
- (c) to submit to the Supervisor prior to publication any material arising from the Research Project other than (his/her) Master's/Doctorate thesis which will not constitute a publication for the purposes of this clause.

2. Definitions

“Intellectual Property” means any copyright, work, circuit layout, eligible layout, design, patent, invention, confidential information, know-how, plant variety and any related right.

“Monash” means Monash University a body corporate established by the Monash University Act 1958, and located at Wellington Road, Clayton.

“Supervisor” means the member of the University’s academic staff appointed to supervise the student in accordance with the relevant Monash legislation.

“Research Project” means the research project entitled _____
_____ being undertaken by the Student for the degree of (Master of
_____/Doctorate) at Monash University.

“ the Student” means [Name and Address]

In Witness Whereof these presents have been executed as a DEED the day and year first herein written.

Signed Sealed and Delivered by)
(the student)) _____
)

_____ in the presence of:

SCHEDULE D

The Research Project

Title

Short Title

Introduction

Aim

Objectives

[Methodology]

FILE NAME : C:\WORK\WORD\PSC\POLICY\PRECED2.AH

PRH:ah

08-Aug-2000