

**Secretary to the
Department of Human Services**

and

[Administering Institution]

and the

[Principal Chief Investigator]

RESEARCH PROJECT AGREEMENT – Version 1

Date of Agreement: / / 2007

Research Project Agreement - Version 1, July 2006

**Department of Human Services
50 Lonsdale Street
MELBOURNE 3000**

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RESEARCH PROJECT AGREEMENT

THIS AGREEMENT is made on the.....day of.....2007.

BETWEEN

[Administering Institution](ABN []) [a body politic and corporate] established by [section....of the ...Act] of the State of Victoria ("Administering Institution")

AND

[Principal Chief Investigator] an individual, of **[organisation]** (the "Principal Chief Investigator")

AND

SECRETARY TO THE DEPARTMENT OF HUMAN SERVICES being a body corporate established under the *Health Act 1958 (Vic)* of 50 Lonsdale Street, Melbourne ("DHS")

[*The Principal Chief Investigator is not required to sign this Agreement if s/he is employed by the Administering Institution. In this situation the Administering Institution must confirm the employment relationship in writing prior to execution of the Agreement.]

WHEREAS

- A DHS administers research funding. The objectives of DHS research funding include providing opportunities within biomedical, clinical, public health and/or health services research and other research relevant to human health, to:
 - Extend knowledge in a specified field of research;
 - Undertake research to answer novel questions;
 - Develop and extend collaborations between researchers;
 - Translate research outcomes into improved health practices and practical outcomes.
- B The Administering Institution has applied to DHS for, or DHS has otherwise awarded, funding for the Project.
- C DHS has agreed to provide funding in the amount shown in, and on the terms and conditions of, this Agreement.
- D The Administering Institution and the Principal Chief Investigator have agreed on the Application Form to comply with the terms and conditions of this Agreement and to use the funds in support only of the DHS research funding objectives set out in this Agreement.

The Research Project Agreement

This Research Project Agreement is made up of the following parts:

1. Schedule 1 – Details
2. Schedule 2 – Funding Structure
3. Schedule 3 – Operative Provisions
4. Schedule 4 – Research Project Brief
5. Schedule 5 - Research Project Application
6. Schedule 6 – Research Project Application Amendments
7. Schedule 7 – Reporting Requirements
8. Schedule 8 – DHS Liaison Committee
9. Schedule 9 – Special Conditions
10. Annexure A – Institutional Approvals
11. Annexure B – Confidentiality Undertaking

Where and for so long as the Principal Chief Investigator is an employee of the Administering Institution, obligations described as being joint as between the Administering Institution and the Principal Chief Investigator shall be understood to apply to the Administering Institution only.

Execution Page

Date: / / 2007

THE CORPORATE SEAL of SECRETARY TO THE)
DEPARTMENT OF HUMAN SERVICES was affixed in the)
presence of:)
.....)
Signature of authorised person)
.....)
Witness)

SIGNED by XXXXXXXXX (Executive Director/Regional)
Director of [.....] Division/Region) as authorised)
representative for SECRETARY TO THE DEPARTMENT OF)
HUMAN SERVICES a body corporate established under)
the Health Act 1958 in the presence of:)
.....)
Signature of witness)
.....)
Name of witness (block letters)

By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of DHS

GIVEN under the COMMON SEAL of)
XXXXXXXXXXXXXXXXX UNIVERSITY by direction of an)
officer authorised for the purpose under Statute XXXX of)
the XXXXX University Statutes:)
.....)
Authorised Officer)
.....)
University Secretary)
.....)
Name of authorised person (block letters)

SIGNED by XXXXXXXXX as the Principal Chief)
Investigator in the presence of:)
.....)
Signature of witness)
.....)
Name of witness (block letters)

By executing this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of all Chief Investigators and Associate Investigators

.....
Name of Principal Chief Investigator (block letters)

THE COMMON SEAL of Pty Ltd / Limited)
(ACN) was affixed in accordance)

with its constitution in the presence of:
.....
Signature of Director
.....
Name of Director (block letters)

)
)
.....
Signature of Director/Company Secretary
.....
Name of Director/Company Secretary (block letters)

SIGNED by **XXXXXXXXXX** as authorised representative for
XXXXXXXXXXXX Pty Ltd / Limited (ACN
.....) in the presence of:
.....
Signature of witness
.....
Name of witness (block letters)

)
)
)
)
.....
By executing this Agreement the signatory warrants that
the signatory is duly authorised to execute this
Agreement on behalf of **XXXXXXXXXX**

SIGNED by **XXXXXXXXXX** as authorised representative for
and on behalf of all the partners trading as
XXXXXXXXXXXX in the presence of:
.....
Signature of witness
.....
Name of witness (block letters)

)
)
)
)
.....
By executing this Agreement the signatory warrants that
the signatory is duly authorised to execute this
Agreement on behalf of **XXXXXXXXXX**

THE COMMON SEAL of XXXXXXXXX Inc. was affixed by
the authority of its committee in the presence of:
.....
Signature of authorised person
.....
Office held
.....
Name of authorised person (block letters)

)
)
)
.....
Signature of authorised person
.....
Office held
.....
Name of authorised person (block letters)

THE COMMON SEAL of XXXXXXXXX was affixed in the
presence of:
.....
Signature of authorised person
.....
Office held
.....
Name of authorised person (block letters)

)
)
)
.....
Signature of authorised person
.....
Office held
.....
Name of authorised person (block letters)

Schedule 1 - Details

The details of this Agreement are:

- 1. Administering Institution:** [Name Organisation]
(ACN) (ABN)
- 2. Project Title:** [Enter title of project]
- 3. Brief description of Project:** [Enter description of project]
- 4. Commencement Date:**
- 5. Approvals Date:** (Default is 6 months after Commencement Date)
- 6. Completion Date:** (Default is 12 months after Commencement Date)
- 7. Address of Administering Institution:**
- 8. Administering Institution's Contact Officer:** Name:
Position:
Telephone Number:
Fax Number:
Email Address:
- 9. Principal Chief Investigator:** Name:
Position:
Organisation:
Telephone Number:
Fax Number:
Email Address:
- 10. DHS Supervising Officer:** Name:
Position:
Telephone Number:
Fax Number:
Email Address:
- 11. DHS Program Officer:** Name:
Position:
Telephone Number:
Fax Number:
Email Address:
- 12. DHS Liaison Committee:** Yes/No (If Yes, details in Schedule 8 to be completed)

Schedule 2 – Funding Structure

[State here details of the Funds to be paid by DHS to the Administering Institution.]

Summary of Funding

	Including GST	Excluding GST
Option 1: Maximum Lump	\$	\$
Option 2: Maximum Milestone Payments	\$	\$
Maximum Payable:	\$	\$

Method of Payment

DHS will pay the Administering Institution pursuant to clause 2.4 of Schedule 3 by reference to the following options:

Option 1: Lump Sum	
Lump Sum Fee (Including GST) \$	Lump Sum Fee (Excluding GST) \$
This amount is payable when DHS and the Administering Institution have signed this Research Project Agreement. Funding is subject to all Institutional approval(s), and must not be used by the Administering Institution until all required Institutional approval(s) have been obtained [see clause 2.3(f)].	

Option 2: Milestone Payments			
Milestone Description	Due Date	Payment (Including GST) \$	Payment (Excluding GST) \$

Schedule 3 - Operative Provisions

IT IS AGREED

1. DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires:

"Administering Institution" means the institution referred to at Item 1 of Schedule 1.

"Administering Institution's Contact Officer" means the person named in Item 8 of Schedule 1, being the person appointed by the Administering Institution for the purposes of administration of the funds.

"Agreement" means this agreement and including all of its schedules and annexures.

"Applicable Departmental Policies" means and includes all policies, guidelines and principles of the Department as amended or replaced from time to time, and as notified to the Administering Institution, and includes, but is not limited to, the following:

- (i) Human Services Capital Development Guidelines;
- (ii) Human Services Insurance Guide for Non-Government Organisations;
- (iii) Departmental Incident Reporting System;
- (iv) Pre-employment / Pre-placement Safety Screening (Police Checks);
- (v) DHS Policy and Funding Plan(s);
- (vi) DHS Information Privacy Policy;
- (vii) DHS Guidelines for Applicants; and
- (viii) DHS Ethical Employment Policy.

"Application" means the application for DHS research funding that was lodged with the DHS and attached as Schedule 5.

"Annexure" means an annexure to this Agreement.

"Approvals Date" means the date shown at Item 5 of Schedule 1.

"Associate Investigator" means the person(s) identified as the associate investigator(s) in the Application.

"Background Intellectual Property" means the Intellectual Property of each party which exists at the date of this Agreement or is developed independently of it, and all Improvements made by that party to Background Intellectual Property.

"Business Day" means a day (not being a Saturday or Sunday) on which banks are open for general banking business in Melbourne.

"Chief Investigator" means the person(s) identified as the chief investigator(s) in the Application.

"Commencement Date" means the date shown at Item 4 of Schedule 1.

"Completion Date" means the date shown at Item 6 of Schedule 1.

"Confidential Information" means any information or data, including Personal Information and Health Information, whether or not in a material form, which is confidential to a party including confidential information acquired, collected or developed for the purpose of the Project or obtained during the currency of this Agreement, except that which is:

- (i) already in the public domain otherwise than as a result of a breach of this Agreement;
- (ii) developed by the Administering Institution independently from this Agreement; or
- (iii) in the lawful possession of either party from a source other than the other party without obligations of confidentiality.

“Deliverables” means the research, reports, tables, data, analyses and results more particularly described in Schedules 4 (Research Project Brief), 5 (Research Project Application), 6 (Research Project Application Amendments) and 7 (Reporting Requirements).

“DHS Data” means all data, in whatever form, provided by DHS to the Administering Institution and/or the Principal Chief Investigator for use in the performance of this Agreement.

“DHS Liaison Committee” means the body set up and described as such by the parties, and which is constituted as, and has the powers and responsibilities, described in Schedule 8 of this Agreement.

“DHS Supervising Officer” means the person named at Item 10 of Schedule 1 or such other person as nominated in writing by DHS.

“Funding” means the money, or any part of it, that DHS agrees to provide to the Administering Institution under or in conjunction with this Agreement, detailed in Schedule 2.

“GST” means GST within the meaning of the GST Act.

“GST Act” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended.

“Health Information” has the same meaning as that term in the *Health Records Act 2001*.

“Improvements” means all Intellectual Property created as a result of improvements to, or enhancements or further development of, Intellectual Property.

“Insolvency Event” means:

- (a) in respect of a natural person:
 - (i) the person commits an act of bankruptcy as defined in section 40 of the *Bankruptcy Act 1966* (Cth) (Bankruptcy Act);
 - (ii) a creditor's petition is presented against the person pursuant to Division 2 of Part IV of the Bankruptcy Act;
 - (iii) the person presents a petition against himself or herself pursuant to section 55 of the Bankruptcy Act;
 - (iv) a sequestration order is made in respect of the person;
 - (v) the person signs an authority pursuant to section 188 of the Bankruptcy Act;
 - (vi) a meeting of creditors of the person is convened for the purposes of Part X of the Bankruptcy Act;
 - (vii) the person enters into any arrangement with creditors pursuant to Part X of the Bankruptcy Act;
- (b) in respect of an entity which is not a natural person:
 - (i) the board of the entity passes a resolution under section 436A of the Corporations Act or its equivalent for the type of entity in question;
 - (ii) the entity is placed into administration pursuant to Part 5.3A of the Corporations Act or its equivalent for the type of entity in question;
 - (iii) a deed of arrangement is entered in respect of the entity;
 - (iv) an application is made to a court or other authority for the winding up of the entity;
 - (v) the entity resolves that it be wound up voluntarily;
 - (vi) a winding up order is made in respect of the entity;
 - (vii) a receiver or receiver and manager or the equivalent is appointed to the entity;
 - (viii) a court or other authority orders that there be a meeting of creditors or members of the entity for any purpose related to Part 5.1 of the Corporations Act or its equivalent for the type of entity in question;

- (c) and in either case:
- (ix) a mortgagee takes possession of any assets of the person or entity;
 - (x) the person or entity informs DHS or any creditor of the person or entity, in writing, that it, he or she is insolvent; or
 - (xi) any execution is levied against the property of the person or entity and remains unsatisfied for 30 days.

"Institutional Approvals" means the ethics clearances and statements of compliance specified at Annexure A, all of which are to be obtained by the Approvals Date.

"Intellectual Property" means copyright, all rights in relation to inventions (including registered and registrable patents), registered and unregistered trademarks, registered and unregistered designs, circuit layouts, know-how and confidential information, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

"Laws" includes all Acts of the Parliaments of Australia and the states, and all regulations, by-laws, awards and orders made thereunder, and the lawful requirements of public, municipal and other competent authorities in any way affecting or applicable to the Project.

"Licence" means a non-exclusive, world-wide, perpetual, irrevocable, royalty free licence to the State, and accepted by DHS on behalf of the State, to exercise all rights in relation to the Intellectual Property it applies to as if the licensee were the owner, including the right to sub-license, but not including the right to transfer or assign the Intellectual Property, or to seek or enforce remedies for infringements of the Intellectual Property against a third party.

"Personal Information" has the same meaning as that term in the *Information Privacy Act 2000*.

"Principal Chief Investigator" means the person or persons so designated in Schedule 1, and means the person who is employed or engaged by the Administering Institution for the purposes of the Project and who will have primary responsibility (on behalf of the Administering Institution where employed by it) for the scientific oversight and the management of the Project.

"Project" means the research project described in the attached Schedules 1, 4, 5 and 6.

"Project Intellectual Property" means all Intellectual Property developed, created, discovered, brought into existence or otherwise acquired (other than from DHS) by the Administering Institution under or as a result or for the purposes of this Agreement, but does not include any Intellectual Property developed by the Administering Institution with any funding provided by DHS under or for the purposes of any other agreement.

"Project Materials" mean all materials and documentation, in whatever form, produced by the Administering Institution and Principal Chief Investigator in performance of the Project.

"Proposal" means the Application prepared by the Principal Chief Investigator and the Administering Institution in relation to the Project as attached to Schedule 5 together with any agreed amendments attached to Schedule 6.

"Reporting Requirements" means the reporting requirements for the Project more particularly described in Schedule 7.

"Schedule" means a schedule to this Agreement.

"State" means the State of Victoria.

"Termination Date" means the date on which this Agreement is terminated pursuant to its terms.

1.2 Unless the context otherwise requires:

- (a) words importing any gender include each other gender;
- (b) the plural includes any singular and vice versa;

- (c) a reference to a person includes any other entity recognised by law and vice versa;
 - (d) a reference to a statute, ordinance, code or other law includes subordinate legislation, consolidations, amendments, re-enactments, and replacements of it;
 - (e) terms used in other Schedules have the same meaning when used in this Agreement;
 - (f) where a term is defined, the definition includes all grammatical forms of that term; and
 - (g) headings and notes in square brackets are for reference only.
- 1.3 In the event of any inconsistency between the clauses of this Agreement and any Schedule or annexure, the inconsistency will be resolved in the following order of priority:
- (a) Schedule 1 - Details;
 - (b) Schedule 9 – Special Conditions;
 - (c) Schedule 3 – Operative Provisions;
 - (d) Schedule 2 – Funding Structure;
 - (e) Schedule 7 – Reporting Requirements;
 - (f) Schedule 4 – Research Project Brief,
 - (g) Schedule 6 – Research Project Application Amendments;
 - (h) Schedule 5 – Research Project Application;
 - (i) Schedule 8 – DHS Liaison Committee;
 - (j) Annexure A – Institutional Approvals; and
 - (k) Annexure B – Confidentiality Undertaking.
- 1.4 Despite anything contained in this Agreement, the obligations contained in clauses 5.1, 5.2, 5.3, 5.8, 5.10, 5.11, 6, 10.1, 12.9, and Schedule 7 are continuing obligations and will not cease on the completion, expiry or termination or any other discharge of this Agreement.

2. RESEARCH PROJECT

- 2.1 The term of this Agreement will commence on the Commencement Date and, subject to this clause 2 and Clause 12 [Termination], end on the Completion Date or such other date as is agreed in writing between the parties.
- 2.2 If the Administering Institution and/or the Principal Chief Investigator fail(s) to deliver the Deliverables to the reasonable satisfaction of DHS by the Completion Date then this Agreement will continue, without the Administering Institution and/or the Principal Chief Investigator being entitled to any extra payment, until:
- (a) the Deliverables are delivered to DHS to its reasonable satisfaction;
 - (b) DHS waives the right to insist on delivery of the Deliverables; or
 - (c) DHS elects in its sole discretion to end this Agreement by notice to the Administering Institution,
- but the operation of this clause will not be construed as a waiver by DHS of any of its rights.
- 2.3 The Administering Institution agrees to comply, and to procure the compliance of any student, employee, researcher or contractor enrolled, employed or engaged by the Administering Institution and/or the Principal Chief Investigator on or for the purposes of the Project, with the following obligations:

- (a) to obtain all of the Institutional Approval(s) as soon as possible and in any event not later than the Approvals Date;
- (b) to carry out the Project and fulfil all obligations in relation to the Project in full compliance with all parts of this Agreement;
- (c) in fulfilling the obligations under this Agreement, to exercise due care, skill and judgment and at all times act in accordance with applicable Laws, professional ethics, principles and standards;
- (d) to carry out the Project and fulfil all obligations in relation to the Project in a timely manner and in any event in accordance with the timetables included in the Application, or Schedule 7 if different, or in such other reasonable time as may be stipulated by DHS' Supervising Officer;
- (e) to have regard to such reasonable considerations and requirements as may be conveyed by DHS' Supervising Officer from time to time;
- (f) not to use, expend or commit any Funding other than for the purposes of the Project, and not to do so until all required Institutional Approval(s) have been obtained and, if such Institutional Approval(s) are refused or not received in time, to return the Funding to DHS in its entirety under clause 12.3(b) and 12.12;
- (g) to prepare and submit to DHS' Supervising Officer within the applicable time limits and in the required format as he or she may stipulate, all Deliverables, progress reports or other material prepared in accordance with this Agreement including but not limited to Schedule 7; and
- (h) to comply, in carrying out of the Project, with:
 - (i) the agreed research standards and performance targets as set out in this Agreement;
 - (ii) any Applicable Departmental Policies in force at the Commencement Date and as amended from time to time, as well as any other or new policies, funding plans and guidelines which become Applicable Departmental Policies through being introduced or made applicable to the Project or this Agreement by DHS by written notice to the Administering Institution during the term of this Agreement; and
 - (iii) all Laws applicable to the Project including, without limitation, those relating to fire protection, health and general safety which apply to any premises from which the Administering Institution and/or Principal Chief Investigator or any of the other personnel involved in the Project operate.

2.4 DHS agrees, subject to adequate appropriation, to provide Funding and support as set out in Schedule 2.

GST

2.5 Where GST is payable in respect of taxable supplies represented by all or part of the Project and tax invoices are required under the GST Act:

- (a) DHS and the Administering Institution will maintain registration for the purpose of receiving and supplying taxable supplies under the GST Act;
- (b) unless otherwise stated, an amount payable by DHS under this Agreement in respect of a taxable supply under the GST Act is deemed to be the GST inclusive amount and DHS is not required to pay to the Administering Institution any additional amount for the GST payable in respect of the supply; and
- (c) the Administering Institution must give DHS a tax invoice under the GST Act at the time of submitting an invoice for payment under this clause in respect of the taxable supply.

3. RECORDS AND EXPENDITURE

3.1 The Administering Institution agrees to:

- (a) keep clear records of, and account for, all Funding as required by this Agreement, including but not limited to Schedule 7, and all legislation applicable

to the Administering Institution, and of all Project Intellectual Property, and of all Background Intellectual Property covered by clause 6.3; and

- (b) subject to clause 12 [Payment upon Termination], expend the Funding only for the purposes of the Project or matters reasonably incidental to the carrying out of the Project.
- 3.2 The Administering Institution will create and maintain a register of all expenditure of Funds at the time it is spent, and maintain a register of all Project Intellectual Property, at the time it is acquired or created.
- 3.3 The Administering Institution will keep those registers (created under clause 3.2) in accordance with all Australian Accounting Standards. If the Administering Institution is required to provide an audit report under this Agreement or otherwise, then it will also have the intellectual property register audited at least once each financial year.
- 3.4 If the Administering Institution:
- (a) disposes of any Intellectual Property required to be entered in the intellectual property register, the Administering Institution agrees to notify DHS immediately in writing, and DHS may reduce the Funding to be provided to the Administering Institution after that disposal, by the value of that Intellectual Property disposed; or
 - (b) ceases to carry out the Project (either by reason of termination of this Agreement or otherwise), the Administering Institution will immediately provide to DHS copies of all materials covered by the Licence granted to DHS in clause 6.3, unless DHS gives notice to the contrary.

4. DHS DATA

- 4.1 The Administering Institution and the Principal Chief Investigator must not use the DHS Data containing Personal Information or Health Information for any purposes other than the Project or otherwise than in accordance with any applicable privacy legislation.
- 4.2 The Administering Institution and the Principal Chief Investigator may use the DHS Data for research and normal academic purposes provided that it does not contain Personal Information or Health Information.

5. CONFIDENTIALITY

Mutual Undertaking

- 5.1 Each party must keep all Confidential Information absolutely confidential and each party undertakes to the other that it will not communicate, publish or release, or permit the communication, publication or release of any Confidential Information except:
- (a) as is necessary for the parties to perform their obligations under this Agreement;
 - (b) as is required by Law; or
 - (c) as is permitted under this Agreement or otherwise agreed in writing by the parties.

Privacy

- 5.2 The Administering Institution and the Principal Chief Investigator acknowledge that the Administering Institution is an "organisation" within the meaning of the *Information Privacy Act 2000* (Vic) (the "IP Act") and the *Health Records Act (Vic) 2001* (the "HR Act") and agree in respect of their carrying out of the Project under this Agreement:
- (a) to use and disclose Personal Information and Health Information obtained during the course of carrying out the Project under this Agreement only for the purposes of the Agreement and in accordance with the IP Act and the HR Act;

- (b) not to do any act or engage in any practice that would breach an Information Privacy Principle ("IPP") contained in schedule 1 of the IP Act, which if done or engaged in by DHS would be a breach of that IPP;
 - (c) to carry out and discharge the obligations contained in the IPPs as if it/they were DHS under the IP Act;
 - (d) not to do any act or engage in any practice that would breach a Health Privacy Principle ("HPP") contained in schedule 1 of the HR Act;
 - (e) to notify individuals, whose Personal Information it or they hold, that complaints about acts or practices of the Administering Institution and/or the Principal Chief Investigator may be investigated by the Victorian Privacy Commissioner or Victorian Health Services Commissioner who has the power to award compensation against the Administering Institution and/or the Principal Chief Investigator in appropriate circumstances;
 - (f) to comply with any direction, guideline, determination or recommendation made by the Victorian Privacy Commissioner or Victorian Health Services Commissioner;
 - (g) to ensure that any employee of the Administering Institution and/or the Principal Chief Investigator who is required to deal with Personal Information or Health Information for the purposes of this Agreement is made aware of the obligations of the Administering Institution and/or the Principal Chief Investigator set out in clauses 5.1 to 5.2; and
 - (h) to immediately notify DHS if the Administering Institution and/or the Principal Chief Investigator becomes aware of a breach or possible breach of any of the obligations referred to in sub-clauses (a) to (g) whether by the Administering Institution or the Principal Chief Investigator or any sub-contractor.
- 5.3 The Administering Institution and the Principal Chief Investigator agree to ensure that any sub-contract entered into for the purposes of fulfilling its/their obligations under this Agreement contains provisions to ensure that the sub-contractor has the same awareness and obligations as the Administering Institution and the Principal Chief Investigator has or have under clauses 5.1 to 5.3.
- 5.4 Clauses 5.2 and 5.3 apply only where the Administering Institution and the Principal Chief Investigator deal(s) with Personal Information and/or Health Information when and for the purposes of carrying out the Project under this Agreement.

Undertaking by Employees and Agents of the Administering Institution and the Principal Chief Investigator

- 5.5 The Administering Institution and/or the Principal Chief Investigator must:
- (a) procure from each person employed or engaged by them or either of them in relation to this Agreement an undertaking to the Administering Institution and/or the Principal Chief Investigator respectively that is consistent with the Administering Institution's and the Principal Chief Investigator's obligations under clause 5.1, in effect that the person will not communicate, publish or release Confidential Information, before giving them access to any Confidential Information; and
 - (b) on being informed, or otherwise becoming aware, of any breach or anticipated breach of any undertaking referred to in subclause (a), take such action as may be necessary to enforce that compliance, including all reasonable actions directed by DHS.
- 5.6 If in the reasonable opinion of DHS the Confidential Information is of an extremely sensitive nature, then DHS may at any time request in writing that the undertaking required by clause 5.5 be given in the form of an executed deed in favour of DHS, essentially in the form attached as Annexure B. If DHS so requests then the Administering Institution and/or the Principal Chief Investigator must deliver a copy of the undertaking to the DHS Supervising Officer.

Undertaking By Others

- 5.7 Where in the conduct of, or for the purposes of, the Project, the Administering Institution and/or the Principal Chief Investigator desires to engage the services of a person who is not an employee or agent, and it is necessary for the purposes of that engagement to disclose Confidential Information, no such disclosure may be made unless:
- (a) the other person undertakes to DHS that it will maintain the confidentiality of the Confidential Information in like terms to that required by clause 5.1 of this Agreement;
 - (b) except as expressly excluded by DHS in writing, the other person executes and delivers to DHS's Supervising Officer a similar undertaking to that set out in clause 5.1 and Annexure B; and
 - (c) the consent in writing of DHS's Supervising Officer is first obtained.

Surrender of Materials

- 5.8 Subject to clause 5.9, on or before the Completion Date (or earlier termination) the Administering Institution and/or the Principal Chief Investigator must, at DHS' option, either:
- (a) deliver to DHS all DHS Data, including all Confidential Information provided by DHS, and other material received from or through DHS including, without limiting the generality of the foregoing, reports, papers, technical information, plans, charts, drawings, calculations, tables, graphs, schedules, notes, computer programs, computer tapes and discs, computer databases, reference books and other texts;
 - (b) retain such materials in an appropriately secure manner for a minimum of seven (7) years and within that time deliver them or any part of them to DHS within 48 hours of any written request by DHS to do so; or
 - (c) destroy, and confirm to DHS in writing the destruction of, such materials.
- 5.9 If the DHS Supervising Officer gives the Administering Institution, and/or the Principal Chief Investigator respectively, written permission to retain certain specific DHS Data, including Confidential Information, held in electronic or written form, the Administering Institution, and/or the Principal Chief Investigator respectively, need not comply with the provisions of clause 5.8(a) or (c) in respect of the relevant materials. In any event, the Administering Institution shall be entitled to retain one copy of the DHS Data, including Confidential Information for its legitimate record-keeping purposes, provided that such retention shall not cause DHS or the Administering Institution to breach any applicable laws or confidentiality obligations and any such retention is in accordance with clause 5.10.

Security of Materials

- 5.10 The Administering Institution and the Principal Chief Investigator are responsible for and must take all reasonable measures to ensure the security of the Confidential Information for so long as that Confidential Information is within its or their control, and in so doing, must ensure that the Confidential Information is protected at all times from access, use or misuse, damage or destruction, by any person not authorised by this Agreement to have access to it.

Permitted Disclosure

- 5.11 Despite anything else in this Agreement:
- (a) the terms of this Agreement may be disclosed to the public, including disclosure on the internet, provided such disclosure does not involve trade secrets or proprietary information of a party where disclosure would result in a significant commercial disadvantage to that party; and
 - (b) if requested by the Auditor-General or the Ombudsman of the State in the course of performing their statutory duties, Confidential Information and the terms of this Agreement may be disclosed to the Auditor-General or the Ombudsman as the case may be.

6. INTELLECTUAL PROPERTY

- 6.1 The Background Intellectual Property of each party remains the property of that party.
- 6.2 All Project Intellectual Property vests in the Administering Institution, unless otherwise agreed.
- 6.3 The Administering Institution hereby grants, and DHS accepts, a Licence over:
- (a) the Project Intellectual Property and any Improvements to it; and
 - (b) if the Project requires or includes the use of Background Intellectual Property or any Intellectual Property of a third party, the Background Intellectual Property and third party Intellectual Property, to the extent necessary to enable the State to enjoy the full benefit of the Project and this Agreement.
- 6.4 The Administering Institution agrees to provide DHS with copies of all materials covered by a Licence on request and in a format which allows DHS to exercise its rights under the Licence.
- 6.5 The Administering Institution warrants that it has the right to grant the Licence under clause 6.3.
- 6.6 The Administering Institution agrees to obtain and provide all consents, assignments, licences or other documentation necessary for or to ensure the practical and legal efficacy of any Licence.
- 6.7 The Administering Institution acknowledges that the Funding is being provided with a view wherever possible to optimising tangible health benefits from the Project Intellectual Property for the people of Victoria. Accordingly, where Project Intellectual Property vests in the Administering Institution under this clause 6, the Administering Institution agrees to properly manage the Project Intellectual Property in good faith in accordance with this view and this Agreement, including but not limited to the post-completion reporting requirements described in Schedule 7.
- 6.8 For the purposes of clause 6.7, "properly manage" the Project Intellectual Property means to:
- (a) register, maintain the registration of, protect, manage and exploit it (as appropriate) for the benefit of the Victorian public;
 - (b) maintain, improve, enhance and develop it to the fullest extent reasonably necessary to maintain its usefulness and appropriateness to the Administering Institution and DHS to ensure DHS' enjoyment of the full benefit of the Project and this Agreement;
 - (c) use, reproduce, publish, adapt, disseminate, communicate to the public, and perform it for the benefit of the Victorian public; and
 - (d) comply with all applicable DHS and other Victorian government policies and clause 7 of this Agreement in respect of it.
- 6.9 The Administering Institution agrees not to accept co-funding nor involve any person, (including students as described in clause 8 of this Agreement), nor use or incorporate any Intellectual Property, in the delivery of the Project on terms or in a manner that would jeopardise or limit the scope of any Licence without the prior written consent of DHS, and warrants that it has not done so.
- 6.10 In the event of a dispute arising between the Administering Institution and DHS as to the matters referred to in 6.7 or 6.8, DHS will give notice in accordance with clause 11.2. The Dispute Resolution procedure set out in clauses 11.1 to 11.6 inclusive shall then take place, except that clause 11.6 shall be deemed to state that "If the Panel does not resolve the dispute within thirty (30) days of its being referred to the Panel, the parties agree that DHS may at any time thereafter notify the Administering Institution in writing and the ownership of the Project Intellectual Property will immediately, on issue of such notice, automatically revert to the State. The Administering Institution will immediately perform all acts and do all things and execute all documents necessary to enable the said ownership to be validly and legally assigned." The parties agree that the

matter in dispute will not be referred to mediation in accordance with clauses 11.7 and 11.8.

- 6.11 In relation to any work in which the Administering Institution and/or the Principal Chief Investigator or any person engaged by them or either of them, or any other person, has a moral right, the Administering Institution, and the Principal Chief Investigator consents, will procure the consent of any other such person, to DHS' doing or omitting to do anything that, but for this consent, would constitute an infringement of those moral rights, including reproducing, publishing, communicating to the public, performing, transmitting, exhibiting, adapting, altering or in any way changing or using the work in which the moral rights subsist:
- (a) with or without attribution of authorship;
 - (b) with or without any other materials comprising copyright;
 - (c) with or without any other text, data, sounds or images;
 - (d) with no title, the same title or any other title;
 - (e) in any medium or context,
in any way that DHS sees fit.

7. PUBLICATION

- 7.1 The parties acknowledge that it is expected and envisaged that the Administering Institution and/or the Principal Chief Investigator will maximise the benefits of the Research by appropriate dissemination but that they must do so only on the terms and conditions of this Agreement.
- 7.2 Where a DHS Liaison Committee has not been set up, clauses 7.3 and 7.4 apply.
- 7.3 The Administering Institution and/or the Principal Chief Investigator must notify DHS in writing not less than 10 working days prior to any publication or issuing of any media release or the making of any other public comment by them or either of them, or by any one or more of its or their students, employees or contractors relating in any way to the Project and/or this Agreement.
- 7.4 The Administering Institution and/or the Principal Chief Investigator will endorse all copies of the materials and any publication or release of information or materials or other communication related to them under this clause with the following acknowledgement in a prominent position:
- "This research/project was funded [in part] by the State of Victoria through its Department of Human Services ("DHS"). The views and conclusions are those of the author(s) and do not necessarily represent those of DHS."
- 7.5 Where a DHS Liaison Committee has been agreed to be set up in the course and for the purposes of this Agreement, the DHS Liaison Committee will decide all matters as to publication in accordance with this Agreement, and may issue guidelines as to what information or materials, if any, may be released without DHS' prior written consent.

8. STUDENTS

- 8.1 Where the Administering Institution and/or the Principal Chief Investigator proposes or intends to involve a student in the Project it/they agree as follows:
- (a) first to explain to DHS fully and precisely the expected type and extent of the role of the student in the Project;
 - (b) to obtain DHS' prior consent in writing to such involvement, which consent shall be in the sole and absolute discretion of DHS and on such terms and conditions with prior agreement by the student as to ownership and/or licensing of copyright in any resulting thesis or other work product of the student and any other matter as DHS shall decide; and
 - (c) to obtain any relevant prior ethics approval from any applicable body.

- 8.2 The Administering Institution and the Principal Chief Investigator acknowledge that DHS reserves the right not to consent to a PhD student being involved in the Project unless the student, prior to commencing his or her involvement in the Project, duly and validly executes a non-exclusive, irrevocable, world-wide, royalty free licence (including a right to sub-license) to the State to use, reproduce, publish, communicate to the public, adapt and exploit all Intellectual Property in his or her thesis or other work product arising out of the Project and his or her involvement in it.

9. STATUS OF THE ADMINISTERING INSTITUTION AND THE PRINCIPAL CHIEF INVESTIGATOR

- 9.1 Nothing in this Agreement will be deemed to constitute the Administering Institution, or the Principal Chief Investigator, nor any person employed or engaged by it, an agent or employee of the State, or of DHS, and neither the Administering Institution nor the Principal Chief Investigator has any authority to incur and may not incur any obligation or make any representation on behalf of the State or DHS, in relation to this Agreement, except with express prior written instructions from DHS.
- 9.2 All obligations of the Administering Institution and/or the Principal Chief Investigator under this Agreement are, where the Principal Chief Investigator has executed this Agreement, unless otherwise stated, joint and several.
- 9.3 The Principal Chief Investigator warrants that he/she is fully and validly authorised to sign this Agreement on behalf of all Chief Investigators and Associate Investigators and that they all have read and agree to be jointly and severally bound by the terms of this Agreement.

[Clause 9.3 only applies where this Agreement is also signed by the Principal Chief Investigator.]

10. INDEMNITY AND INSURANCE

- 10.1 The Administering Institution indemnifies DHS against Liability DHS may incur in respect of any Claim, including Claims in respect of:
- (a) personal injury or the death of any person;
 - (b) loss of or damage to any property;
 - (c) a breach or infringement of any third party Intellectual Property Rights; and
 - (d) a contravention of the requirements of clause 4 or the applicable privacy legislation,
- arising in any manner out of a breach by the Administering Institution and/or the Principal Chief Investigator of its/their obligations under this Agreement, any negligent or unlawful act or omission or wilful misconduct of the Administering Institution and/or the Principal Chief Investigator or either of them or any personnel employed or retained by the Administering Institution and/or the Principal Chief Investigator or either of them in the course of the Project.
- 10.2 For the purposes of clause 10.1:
- “Liability” includes all damages, costs, expenses or loss;
- “Claim” includes all demands, rights, actions, suits or proceedings of any kind; and
- “DHS” includes the Secretary to the Department of Human Services, the State of Victoria and its officers and employees.
- 10.3 The Administering Institution’s liability under clause 10.1 will be reduced to the extent that Liability is caused or contributed to by the negligent or unlawful act or omission of DHS.
- 10.4 The indemnities in this clause 10 are continuing obligations, separate and independent from other obligations of the parties and survive termination of this Agreement.
- 10.5 It is not necessary for DHS or the State to incur expense or make payment before enforcing a right of indemnity under this clause.

- 10.6 The Administering Institution and/or the Principal Chief Investigator must perform and observe all obligations and requirements required of the Administering Institution and/or the Principal Chief Investigator by Law in relation to itself/him/herself and its/his/her employees, including but not limited to paying all necessary wages, superannuation payments, taxes (including GST), duties and imposts, taking out and continuing all necessary insurances including compliance with the *Accident Compensation Act 1985* (Vic) by registration as an employer and the payment of any WorkCover premium required to be paid under that act, and complying with all occupational health and safety requirements.
- 10.7 The Administering Institution must, in relation to the Administering Institution and the Principal Chief Investigator:
- (a) maintain during the currency of this Agreement public liability insurance coverage with an insurer authorised under the *Insurance Act 1973* or otherwise acceptable to DHS (such acceptability must be confirmed by DHS in writing prior to the execution of this Agreement) for at least \$5,000,000 for any one occurrence; and
 - (b) maintain from the Commencement Date professional indemnity insurance coverage with an insurer authorised under the *Insurance Act 1973* or otherwise acceptable to DHS (such acceptability must be confirmed by DHS in writing prior to the execution of this Agreement) for at least \$5,000,000 for any one claim and maintain such insurance coverage for at least six years after the Completion Date; and
 - (c) any other appropriate policies of insurance to cover all relevant risks and for appropriate amounts of cover. For the purposes of this clause, "relevant risks" are those risks that a prudent provider of services of a similar nature to those provided by the Administering Institution would ordinarily insure against, and "appropriate amounts of cover" are the amounts sufficient to cover all foreseeable losses that might flow from the occurrence of such risks.
- 10.8 The Administering Institution must provide certificates of currency, or other documentary evidence to the satisfaction of DHS, with respect to the currency of insurances it is required to maintain under this Agreement if the DHS Supervising Officer requests it in writing.

11. DISPUTE RESOLUTION

For the purposes of clauses 11 to 19 inclusive of this agreement, "parties" and "party" refers only to the Administering Institution and DHS or either of them as the context requires.

Application of procedure

- 11.1 Each of the parties will use its best endeavours to co-operatively resolve a dispute.

Discussions between the parties

- 11.2 If a dispute arises, either party may give notice of the dispute in writing to the other party. The dispute must then be referred immediately to the Administering Institution's Contact Officer and the DHS Supervising Officer for resolution.
- 11.3 If the dispute is not resolved within fourteen (14) days of such referral, the dispute will be referred to a panel ("Panel") for resolution. The Panel will consist of a senior representative nominated for the Panel by each party within three (3) days of the referral to the Panel in accordance with this clause.
- 11.4 If a dispute is referred to the Panel in accordance with clause 11.3, the Panel will meet to resolve the dispute unless the Panel agrees to resolve the dispute without the need for a meeting.
- 11.5 The Panel may determine its own procedures for meetings. Decisions of the Panel may only be made by unanimous agreement of the members of the Panel. Any decision of the Panel will be final and binding on the parties and will be provided in writing to the parties.

- 11.6 If the Panel does not resolve the dispute within thirty (30) days of it being referred to the Panel, the parties agree that the dispute must be referred to mediation.

Conduct of Mediation

- 11.7 The mediator may be appointed either by agreement between the parties or, failing such agreement within fourteen (14) days of expiry of the period set out in clause 11.6, by the president for the time being of the Law Institute of Victoria.
- 11.8 The parties agree that:
- (a) each will bear their respective costs of the mediation save that the mediator's fee, fees for mediation rooms and costs of shared equipment facilities and services of the mediation will be shared equally;
 - (b) the venue for the mediation will be agreed between the parties or, failing such agreement, will be nominated by the mediator;
 - (c) each party may be legally represented if they so wish; and
 - (d) the mediation will be conducted without prejudice and complete confidentiality will be preserved in respect of the mediation and any documents and information used at or in relation to the mediation.

Condition Precedent

- 11.9 It is a condition precedent to the commencement of any litigation of any dispute that the issues arising in that dispute must have been referred in accordance with the procedures set out in clauses 11.3 to 11.8.
- 11.10 If the dispute or difference has not been resolved or mediated within ninety (90) days (or some other time agreed by the parties) of receipt of the notice specified in clause 11.2, the condition precedent established by clause 11.9 will be deemed to have been satisfied.

Performance of obligations pending resolution of dispute

- 11.11 Prior to the resolution of a dispute, the Administering Institution and the Principal Chief Investigator must continue to perform their obligations under this Agreement.

12. TERMINATION

- 12.1 Either party may terminate this Agreement at any time by giving a reasonable amount of notice in writing to the other party. In no circumstances can that notice be less than 3 months.
- 12.2 A party giving notice under clause 12.1 must pay the reasonable direct costs and other liabilities incurred by the other party arising directly out of the termination but not loss of profit. Each party must use its best endeavours to minimise those costs and liabilities.
- 12.3 DHS may, by notice to the Administering Institution, immediately terminate this Agreement if:
- (a) the Administering Institution and the Principal Chief Investigator or either of them are in breach of their obligations or any of them under this Agreement, and such breach is not remedied within thirty (30) days of the receipt of a notice from DHS, or if such breach is remedied but repeated at any time after the receipt of such a notice;
 - (b) all of the Institutional Approvals or any of them are not received by the Approvals Date;
 - (c) an Insolvency Event occurs in relation to the Administering Institution, without prejudice to any other rights DHS may have. The rights given by this sub-clause 12.3(c) are in addition to any other rights and may be exercised notwithstanding that there has been no breach of this Agreement; or

- (d) Funds for the Project are appropriated, either not sufficiently or not at all, by the State or Federal Parliament.
- 12.4 The Administering Institution may terminate this Agreement immediately by notice to DHS if:
- (a) DHS has failed to make a payment in breach of Schedule 2 and Schedule 3, except with respect to any payment or portion that DHS disputes under clause 11 or for a reason covered by clause 2.4; and
 - (b) the breach in sub-clause (a) is not remedied within thirty (30) days of receipt of a notice from the Administering Institution.

Principal Chief Investigator

- 12.5 The Administering Institution will use all reasonable endeavours to retain the services of the Principal Chief Investigator and all Chief Investigators for the term of this Agreement.
- 12.6 If for any reason at any time during this Agreement the services of the Principal Chief Investigator or any of the Chief Investigators (together "Investigators") cease to be available to the Administering Institution for the purposes of the Project and this Agreement, then the Administering Institution will immediately on becoming aware of the cessation or intention to cease notify DHS accordingly.
- 12.7 On receiving the notice referred to in clause 12.6, DHS agrees to work cooperatively with the Administering Institution and, if an acceptable replacement Investigator employed by the Administering Institution can be agreed, to continue the Agreement with the Administering Institution on its existing terms and substituting other persons as Principal Chief Investigator or Chief Investigator respectively.
- 12.8 If DHS and the Administering Institution cannot agree on an acceptable replacement Investigator, DHS may at its option:
- (a) terminate this Agreement by notice with effect from the date when those services cease to be available, or any other date in DHS' sole discretion; and/or
 - (b) replace this Agreement by contracting with another institution or person to complete the Project; and/or
 - (c) novate this Agreement to another institution or person.

Licence and materials upon termination or novation

- 12.9 If this Agreement is terminated, replaced or novated to another institution or person for any reason prior to the Project being completed to DHS' satisfaction, the Administering Institution agrees in good faith and with the intent that DHS will have the maximum possible benefit of the Project and this Agreement, immediately on request and at its own cost to:
- (a) take all reasonable steps to cease performance of the Project in a manner that will not cause any unnecessary or unreasonable loss or inconvenience to DHS;
 - (b) take all available steps to mitigate any loss resulting from termination;
 - (c) grant any further licence necessary to any such institution or person on the same terms at least as the licence to the State set out in sub-clauses 6.3 and 6.4;
 - (d) deliver up all DHS Data, Project Materials and all other materials and information not already supplied and reasonably necessary for the completion of the Project irrespective of whether they:
 - (i) were provided by DHS or produced under this Agreement;
 - (ii) are still in the course of preparation or fully completed at the date of termination; or
 - (iii) were prepared by an employee of the Administering Institution or otherwise.

Such delivery is to be made to DHS or, at DHS' option, to the replacement institution or person; and

- (e) perform all acts and do all things and render to DHS and the replacement institution or person all the assistance reasonably necessary for the completion by the replacement institution or person of the Project.

The obligations in this clause shall remain in full force and effect irrespective of any dispute in existence between DHS and the Administering Institution and the Investigators or any of them or any combination of them.

Payment upon termination

- 12.10 Subject to clause 12.2, if DHS or the Administering Institution terminates this Agreement, DHS's liability is only for payment of Funding that has become due and payable on or prior to the day on which the Agreement is terminated, and is subject to clause 12.11.
- 12.11 Any amount due to the Administering Institution under clause 12.10 may be set off against any amount due to DHS under this Agreement.
- 12.12 In the event that DHS terminates this Agreement under sub-clause 12.3(b), any amount paid to the Administering Institution prior to the required Institutional Approvals being obtained will be returned in full to DHS immediately on the termination of this Agreement by DHS unless otherwise agreed in writing by DHS's Supervising Officer.
- 12.13 In the event that DHS terminates this Agreement under sub-clauses 12.3(a) or 12.3(c), the Administering Institution must repay any amounts not already expended, and pay to DHS the additional costs incurred by DHS in completing the Project. This means the amount by which the costs incurred by DHS in completing, or attempting to complete, the Project exceed the balance of the Funding that would have been payable by DHS to the Administering Institution if this Agreement had not been terminated. They include:
 - (a) the additional cost to DHS of having the Project completed by an alternative administering institution, including the costs of any acceleration or expedited methods used in an attempt to mitigate any delay caused by the Administering Institution;
 - (b) all reasonable charges for administering any related contract or agreement; and
 - (c) all legal costs incurred by DHS (on an indemnity basis) associated with the termination.

Condition precedent to payment

- 12.14 It is a condition precedent to any payment to the Administering Institution of any amount outstanding as at the date of termination that the Administering Institution has fully complied with its obligations under clause 12.9.

Miscellaneous

- 12.15 Any termination of this Agreement will not prejudice or affect the accrued rights, claims or liabilities of either party under this Agreement.

13. RESOURCES

- 13.1 Unless authorised in writing by the DHS Supervising Officer, the Administering Institution and the Principal Chief Investigator will not access or utilise any of the resources of DHS, including without limitation, its employees or premises.

14. NOTICES

- 14.1 Any notices to be served on a party to this Agreement may be served by:
 - (a) hand on DHS's Supervising Officer or the Administering Institution's Contact Officer;

- (b) pre-paid post to the address of the party to be served set out in Schedule 1, or to such address as notified by the relevant party to the other party in writing from time to time; or
- (c) facsimile forwarded to the facsimile number of the party to be served set out in Items 9 and 10 of Schedule 1, or to such facsimile number as notified by the relevant party to the other party in writing from time to time.

14.2 A Notice given to a party in accordance with this clause is treated as having been given and received:

- (a) if delivered by hand, on the day of delivery if delivered before 4.00 pm on a Business Day, otherwise on the next Business Day;
- (b) if sent by pre-paid mail, on the third day after the day on which it was posted; and
- (c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed before 4.00 pm on a Business Day, otherwise on the next Business Day.

15. GOVERNING LAW

- 15.1 The laws of the State of Victoria govern this Agreement.
- 15.2 Subject to clause 11, each party submits to the jurisdiction of the courts of the State of Victoria and the courts of appeal from those courts.
- 15.3 If any provision of this Agreement is or becomes illegal, invalid or unenforceable ("Ineffective"), it will be read down to the extent necessary to ensure that it is not Ineffective. If the offending provision cannot be so read down, it will be severed. In any event, the remainder of this Agreement will be construed so as to ensure that it remains effective to the greatest extent possible.

16. ENTIRE AGREEMENT

- 16.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior representations, agreements, statements and understandings, whether verbal or in writing.

17. VARIATION OF AGREEMENT

- 17.1 This Agreement may only be varied with the written consent of each party.

18. NO ASSIGNMENT OR SUBCONTRACTING

- 18.1 Except with the prior written consent of DHS, neither the Administering Institution nor the Principal Chief Investigator may assign the whole or any part of their obligations under this Agreement nor assign nor sub-contract the whole or any part of the work or tasks associated with the Project.

19. WAIVERS

- 19.1 A waiver of any provision of, or right or obligation under, this Agreement must be in writing and is effective only to the extent specifically described in such writing.
- 19.2 If a party waives its rights in relation to a breach of any covenant, obligation or provision in this Agreement by the other party, that waiver does not operate as a waiver of another or a continuing breach of that covenant, obligation or provision or of any other covenant, obligation or provision in this Agreement.

20. FORCE MAJEURE

- 20.1 If any party is unable, wholly or in part, by reason of a Force Majeure Event to carry out any of its obligations under this document, the obligation will be suspended so far as it is affected by such Force Majeure during the continuance of it
- 20.2 The party affected must:
- (a) give the other party prompt notice of the Force Majeure Event; and
 - (b) use best endeavours to remove such Force Majeure Event and/or the effect of it as quickly as possible.
- 20.3 If the event of Force Majeure continues for more than 30 days, either party may terminate this document by notification in writing to the other party.
- 20.4 For the purposes of this clause 20, "Force Majeure Event" means any occurrence or omission as a direct or indirect result of which the party relying on it is prevented from or delayed in performing any of its obligations under this document and that is beyond the reasonable control of that party, including war, riots, acts of gods and industrial action (provided it is not directed only at that party).

Schedule 4 – Research Project Brief

Schedule 5 – Research Project Application

Application Number _____

Schedule 6 – Research Project Application Amendments

[See attached Acceptance of Offer Form.](#)

Schedule 7 – Reporting Requirements

During the Term of the Agreement

The Administering Institution and Principal Chief Investigator agree to submit to DHS the following reports and documentation by the specified dates:

- Copies of all necessary ethics approvals: [insert delivery date]
- Interim Report: The Interim Report must include summary details of expenditure to date. [insert delivery date].
- Final Report: [insert delivery date]
- DHS Financial Acquittal Form: to be submitted with the Final Report and signed by the Administering Institution's Chief Financial Officer. "Chief Financial Officer" means the person with principal responsibility for accounting and financial management for the Administering Institution, or their delegate, who has been nominated by the Administering Institution to carry out this function.

Post Completion

Twelve months after the completion of the project the Administering Institution and the Principal Chief Investigator agree to submit to DHS details of all known outcomes of the research including but not limited to publications, conference presentations and any links to developments in policy and/or practice in order to demonstrate the contribution their research and the Project has made to the benefit of the people of Victoria.

Schedule 8 – DHS Liaison Committee

Constitution

No. of members

No. of DHS representatives

Titles of DHS representatives

Roles of DHS representatives

No. of Administering Institution representatives

Titles of Administering Institution representatives

Roles of Administering Institution representatives

No. of additional members - project partners / stakeholders

Titles and organisations represented

Roles of additional members

Frequency of Meetings: [...] per [month] unless otherwise called by any member

Place of meetings:

Method of Voting (eg majority/unanimous):

Types of matters to be discussed/decided: eg name clause numbers/issues

Schedule 9 – Special Conditions

The parties agree to comply with the following special conditions in performing their obligations under this Agreement.

Nil

ANNEXURE A – Institutional Approvals

Ethics Clearances

Clearance requirements:

The Institution must obtain and maintain the necessary clearance approvals as required for the duration of the Project. Ethics approval must be obtained for research involving the following:

1. Research Involving Humans;
2. Animal experimentation;
3. Use of radioactive substances, ionising radiation, recombinant DNA, biohazardous material, potent teratogens or carcinogens;
4. Administration to humans of drugs, chemical agents or vaccines;
5. Import of Experimental Organisms;
6. Storage of Biological Materials;
7. Genetic Manipulation.

Statements of Compliance

The Administering Institution must ensure that research under the Project is conducted in accordance with the principles outlined in the following NHMRC guidelines and Victorian legislation:

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

Guidelines for Genetic Registers and Associated Genetic Material 1999

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

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

The *Information Privacy Act 2000* (Vic)

The *Health Records Act 2001* (Vic)

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

ANNEXURE B - Confidentiality Undertaking

This Deed is made on the _____ day of _____ 200__

I, _____, am an employee, agent or contractor of _____ ("**Administering Institution and/or Principal Chief Investigator**").

I have been engaged by the Administering Institution and/or Principal Chief Investigator to perform services in relation to the Project defined in the Research Project Agreement between Secretary to the Department of Human Services ("**DHS**") and the Administering Institution and Principal Chief Investigator dated _____ ("the Agreement").

I agree with the Administering Institution and/or Principal Chief Investigator that I will not communicate, publish or release any Confidential Information, as defined in the Agreement, except as directed by DHS, as required by law, or for the purpose of the Administering Institution and/or Principal Chief Investigator's performance of the Project.

I irrevocably authorise DHS to enforce this undertaking and **I acknowledge** that DHS is entitled (in addition to any entitlement to damages) to seek an injunction or other equitable relief for any actual or threatened breach by me of this Deed:

- (a) without the need for DHS to prove any special damage; and
- (b) DHS need not provide any security in respect of any damages that I or anyone else might incur as a result of an injunction being granted.

Executed as a deed on the date set out at the commencement of this Deed.

SIGNED SEALED AND DELIVERED

in the presence of:

)
)
)
)

.....
[Sign here](#)

.....
[Signature of witness](#)

.....
[Name of witness \(block letters\)](#)

[INSTRUCTION: TO BE SIGNED BY THE ADMINISTERING INSTITUTION AND/OR PRINCIPAL CHIEF INVESTIGATOR'S EMPLOYEE OR AGENT (not to be signed by the Administering Institution and/or Principal Chief Investigator)

In accordance with clause 5.6, if requested by DHS, the Administering Institution and/or Principal Chief Investigator must procure from each person employed or engaged by it/them in the carrying out of the Project a Confidentiality Undertaking in the form set out above. A copy of each Confidentiality Undertaking must be delivered to the DHS Supervising Officer.]