

MEMORANDUM OF UNDERSTANDING

For

Access to and Acquisition of Research Infrastructure in Queensland

Between

The University of Queensland
and
Queensland University of Technology
and
University of the Sunshine Coast
and
Griffith University
and
University of Southern Queensland
and
Central Queensland University
and
James Cook University
and
Southern Cross University
and
Translational Research Institute Pty Ltd atf the Translational
Research Institute Trust

THIS MEMORANDUM OF UNDERSTANDING is made between:

UNIVERSITY OF QUEENSLAND (ABN 63 942 912 684) a body corporate established under the *University of Queensland Act 1998* (Qld) ("UQ")

AND:

QUEENSLAND UNIVERSITY OF TECHNOLOGY (ABN 83 791 724 622) a body corporate established under the *Queensland University of Technology Act 1998* (Qld) ("QUT")

AND:

UNIVERSITY OF THE SUNSHINE COAST (ABN 28 441 859 157) a body corporate established under the *University of the Sunshine Coast Act 1998* (Qld) ("USC")

AND:

GRIFFITH UNIVERSITY (ABN 78 106 094 461) a body corporate established under the *Griffith University Act 1998* (Qld) ("Griffith")

AND:

UNIVERSITY OF SOUTHERN QUEENSLAND (ABN 40 234 732 081) a body corporate established under the *University of Southern Queensland Act 1998* (Qld) ("USQ")

AND:

CENTRAL QUEENSLAND UNIVERSITY (ABN 39 181 103 288) a body corporate established under the *Central Queensland University Act 1998* (Qld) ("CQU")

AND:

JAMES COOK UNIVERSITY (ABN 46 253 211 955) a body corporate established under the *James Cook University Act 1998* (Qld) ("JCU")

AND:

SOUTHERN CROSS UNIVERSITY (ABN 41 995 651 524) a body corporate established under the *Southern Cross University Act 1993* ("SCU")

AND:

TRANSLATIONAL RESEARCH INSTITUTE PTY LTD as trustee for the TRANSLATIONAL RESEARCH INSTITUTE TRUST (ABN 58 155 991 662) ("TRI")

Known as the "Parties"

BACKGROUND:

- A. The Parties are each leading research institutions located in Queensland and own or have an interest in research infrastructure.
- B. In the interests of enabling the efficient use of research infrastructure, of optimising the return on investment in research infrastructure and the return on investment in research funding generally, and of promoting greater research collaboration between the Parties, the terms for access and acquisition of research infrastructure in Queensland have been agreed as set out in this Memorandum of Understanding (MOU).
- C. This MOU is a statement of the intent between the Parties. It is not intended that this MOU create any contractual relationship or that it be legally binding on the Parties with the exception of clause 9 on confidentiality.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS

1.1. In this MOU the following definitions will apply except where the context otherwise requires:

"Assets" means the research infrastructure capabilities which includes the equipment and any technical expertise that might support the equipment or capability either owned or employed by a Party or to which a Party has a legal right to use. The equipment, which is listed in the attached Schedule, would be acquired under the capital acquisition program agreed under clause 5 or have otherwise been nominated in writing by that Party to the other Parties for inclusion in the access and pricing arrangements described in this MOU;

"Confidential Information" means the confidential subject matter of knowhow, financial information and other commercially valuable information in whatever form, including unpatented inventions, trade secrets, formulae, know-how, drawings, works, improvements, concepts, ideas, designs, biological materials, chemical compounds and formulae, samples and other materials of whatever description or form, whether written or oral which a Party claims is confidential to itself and excludes information which:

- (a) is or becomes part of the public domain unless it came into the public domain by a breach of confidentiality;
- (b) is obtained lawfully from a third party without any breach of confidentiality;
- (c) is already known by the recipient Party (as shown by its written record) before the date of disclosure to it;
- (d) is independently developed by an employee of the recipient Party who has no knowledge of the disclosure under this agreement; or
- (e) required to be disclosed by a court, rule or governmental law or regulation, or the rules of any stock exchange, provided that the Party making the disclosure provides prompt notice to the other Party of any such requirement.

"Direct Costs" means

- (a) salaries and on-costs of academic and professional staff;
- (b) salaries and on-costs of technical staff;
- (c) operating costs including: repairs and maintenance; consumables; professional development; occupational health & safety and other training costs; computing & telecommunications;

- (d) centre management service team (as apportioned to each facility) including: directorate salaries + on-costs (director, data manager, administration officer);
- (e) computing & telecommunications; occupational health & safety; website maintenance costs.

"Indirect costs" means

- (a) depreciation;
- (b) central service teams (research & development, finance & human resource);
- (c) facility management services (power, water, utilities, space, etc);
- (d) insurance;
- (e) reporting costs.

"Party" means a party to this MOU and **"Parties"** means all or some of them, as the context requires;

"Personnel" mean, in respect of a Party, that Party's employees, officers, adjunct and clinical appointments, and/or students. In the case of TRI, this extends to its shareholders (being UQ, QUT, Mater Research Ltd and the State of Queensland (acting through Queensland Health)).

2. COMMENCEMENT, DURATION AND NEW ENTRANTS

- 2.1. This MOU shall commence and shall be conducted upon the terms and conditions of this MOU from the date this MOU is signed by the last Party to sign, and shall continue for an initial term of five (5) years, unless terminated earlier by the mutual agreement of all Parties.
- 2.2. This MOU may be extended for a further terms of five (5) years by agreement of the Parties in writing.
- 2.3. A Party may, by giving three (3) months' written notice to all other Parties, withdraw from this MOU at any time.
- 2.4. The Parties may by mutual agreement allow new entrants to this MOU who, to give effect to that agreement, must sign a document that indicates their agreement to abide by the terms and conditions of the MOU.

3. RELATIONSHIP BETWEEN THE PARTIES

The Parties agree that:

- 3.1. With the exception of clause 9 on confidentiality, this MOU is not intended to be legally enforceable nor is it intended to create a binding legal relationship between the Parties.
- 3.2. This MOU does not make any Party a contractor, agent, or partner of any other Party.

4. GOVERNANCE

- 4.1. The Parties agree to establish a management committee to oversee the terms of this MOU and, in particular, the development and implementation of:
 - 4.1.1. the capital acquisition program described in clause 5; and
 - 4.1.2. the access and pricing scheme described in clause 7.
- 4.2. The management committee will comprise representatives of the Parties through their membership on the Queensland Major Research Infrastructure Alliance which will fill the role as the management committee.

- 4.3. All decisions of the Management Committee will be by consensus wherever possible.
- 4.4. The management committee shall meet quarterly to receive reports in relation to the progress and implementation of the capital acquisition program described in clause 5 and the access and pricing scheme described in clause 7, and will make recommendations to address any issues arising, including appropriate amendments to the program and scheme.

5. CAPITAL ACQUISITIONS

- 5.1. The Parties agree to develop and commit to a long-term capital acquisition program for research infrastructure in Queensland. This includes working collaboratively to identify and secure funds for the procurement of equipment and construction of facilities, including ARC LIEF and State and Federal Government funding generally.
- 5.2. The Parties agree to work collaboratively to secure funding to support the operational costs of the research infrastructure capabilities.

6. OWNERSHIP AND CONTROL OF ASSETS

- 6.1. All Assets identified by a Party for inclusion in this MOU and listed in the Schedule must either be owned by that Party or the subject of an agreement with a third party for access and will be controlled and managed according to that Party's policies and procedures.
- 6.2. An Asset owner may agree to have an Asset located on the premises of another Party.
- 6.3. All Assets acquired under the capital acquisition program (as agreed under clause 5 from time to time) will be automatically included under this MOU.
- 6.4. A Party may at its absolute discretion remove an Asset nominated in the Schedule by providing three (3) months written notice to all other Parties.

7. ACCESS AND PRICING

The Parties agree to develop and adhere to a scheme for access and pricing to the Assets owned or controlled by each Party to permit access to those Assets by all other Parties and their Personnel based on the following key principles:

- 7.1. Asset owners will use reasonable endeavours to determine whether there is excess availability of its Assets and to notify the other Parties of that availability.
- 7.2. All Parties will have access to an Asset on equivalent terms with respect to availability and pricing structure.
- 7.3. Access fees and conditions for each item of equipment will be set at the sole discretion of the Asset owner, based on the transparent Direct Costs of operating and maintaining the Asset.
- 7.4. Access costs for use of an Asset will be charged to a Party¹ (other than the Party that owns the Asset) in line with the policy for access for users of the Party owning the Asset.

¹ It would usually be the case that charges are invoiced quarterly in arrears to a nominated contact of each Party, and that this invoice would include detail of individual researcher usage to enable user charges to be recovered.

7.5. Parties may apply differential pricing regimes in respect of different categories of access (for example for collaborative research versus commercial work where the price of usage of the latter is based on the recovery of both Direct Costs and Indirect Costs), however no Party will be charged different rates for the access of the same category.

7.6. If the Personnel of a Party are provided access to another Party's premises for the purposes of accessing the Asset:

7.6.1 The hosting Party will ensure that those individuals are:

- (i) Provided with a safe work environment; and
- (ii) Properly inducted and instructed on the use of the Asset(s), and informed of all relevant health and safety issues, as well as operating and security procedures.

7.6.2 The Party whose Personnel are permitted to access the host Party's premises will ensure that its Personnel:

- (i) Comply with all reasonable directions given by the host Party with respect to relevant health and safety issues, as well as operating and security procedures;
- (ii) Exercise all due care and skill in accessing the host Party's premises and Asset(s) so as to avoid causing or contributing to any personal injury (including to themselves) or property damage; and
- (iii) Adhere to the host Party's Code of Conduct for research through all use of infrastructure and subsequent use and analysis any data obtained.

8. PUBLICATION

8.1. The Parties agree that all public or media announcements arising from the activities of the MOU will appropriately acknowledge each of the Parties.

8.2. Unless otherwise agreed, the Parties agree that any research publications relating to projects where access has been granted to an Asset will acknowledge the Party who owns the Asset.

9. CONFIDENTIALITY

9.1. A Party shall treat all Confidential Information owned by another Party as confidential and shall not without the prior written consent of the disclosing Party disclose or permit the same to be disclosed to any third party. All research information is by default considered confidential.

9.2. The confidentiality obligations under this provision shall survive the expiration or termination of this MOU.

10. RESOLUTION OF DISPUTES

The Parties agree to co-operate and to use all reasonable endeavours to resolve any disputes or differences between them. Disputes which remain unresolved for thirty (30) days or more will be referred to the Parties' chief executives (or equivalent) or authorised nominees for binding resolution.