



THE UNIVERSITY OF  
MELBOURNE

31 March 2005

Professor Glyn Davis  
Vice-Chancellor  
The University of Melbourne

Dear Professor Davis

The Faculty of Medicine, Dentistry and Health Sciences, proposes that a formal affiliation be established between the University of Melbourne and the Brain Research Institute (BRI). This affiliation proposal has been drafted by the Legal and Compliance Office and has been discussed with representatives of the BRI.

The proposed affiliation agreement is attached.

I would be grateful if this could be considered at the next meeting of Planning and Budgets Committee.

Richard Frampton  
General Manager

**Office of the Dean**

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## AFFILIATION AGREEMENT

THIS AGREEMENT is made on

2005

### BETWEEN:

**THE UNIVERSITY OF MELBOURNE**

(ABN 84 002 705 224)

of Grattan Street, Parkville, Vic, 3010

("the University")

### AND:

**THE BRAIN RESEARCH INSTITUTE PTY LTD**

(ACN 087 682 880)

of Neurosciences Building, Austin Health, Banksia Street, Heidelberg West, Victoria,  
3081

("the BRI")

### RECITALS:

- A. The University is by the *Melbourne University Act 1958* (Vic) ("the University Act") established as a University. Section 18 of the University Act confers power on Council of the University to make and alter statutes for the affiliation to or connection with the University of any educational, commercial, cultural, sporting or other institution, organisation or body, subject to certain conditions therein set out.
- B. Pursuant to the provisions of the *Corporations Law*, there is established in the State of Victoria a proprietary company limited by shares by the name of the Brain Research Institute Pty Ltd ("BRI"), the objects of which include the following:
- (a) to establish and maintain a world class magnetic resonance neuroscience centre –
- (i) developing and researching the physics of magnetic resonance and various methods of brain imaging;
- (ii) encouraging, stimulating and aiding research in all branches of neurosciences;
- (iii) developing and enhancing medical programmes utilising magnetic resonance and other advanced imaging techniques for the research, investigation and diagnosis of neurological disorders such as epilepsy, stroke, human cognition, multiple sclerosis and Alzheimer's disease; and for the following ancillary purposes –
- arranging or providing monetary assistance for establishing scholarships and making outright donations or grants to student, medical practitioners, scientists and other persons engaged in the development of magnetic response neurosciences.

- C. The BRI has such powers as are necessary to achieve its objects and to act in association with any organisation having objects similar to the objects of the BRI.
- D. By effluxion of time, a Recognition Agreement dated 3 November 1999 between the University and the BRI has come to an end and the parties desire that the BRI be affiliated for the purposes of –
- (a) promoting and assisting the teaching and supervision of undergraduate and postgraduate students and students undertaking other courses of the University and providing facilities for these purposes
  - (b) facilitating and encouraging the conduct of collaborative clinical research among students and the sharing of resources for these purposes;
  - (c) promoting a co-operative effort between members of staff of the BRI and members of staff of the University towards teaching by the University and research in areas of common interest; and
  - (d) promoting and encouraging appropriate research between members of staff of the BRI and members of staff of the University and providing facilities for these purposes.
- E. The BRI and the University wish to procure the enactment of a statute by the University in accordance with the University's statutes and regulations and subject to such amendments as may be required by Legislation and Trusts Committee of the University in the form of the draft affiliation statute annexed hereto and marked "A".

**OPERATIVE PROVISIONS:**

**1. AGREEMENT TO AFFILIATE**

- 1.1 The BRI agrees to be affiliated to and connected with the University on the terms and conditions contained in this Agreement.
- 1.2 The University, pursuant to section 18 of the University Act, agrees to be affiliated to and connected with the BRI on the terms and conditions contained in this Agreement.

**2. PERIOD OF AGREEMENT**

- 2.1 This Agreement remains in full force until it is terminated or has expired in accordance with clause 3.

**3. TERMINATION**

- 3.1 This Agreement may be terminated as follows
  - 3.1.1 by agreement in writing at any time.
  - 3.1.2 by notice in writing by one party to the other provided that the period of notice must not be less than one calendar year and must expire on 31 December of a year ("the first notice").

- 3.1.3 a party serving the first notice under clause 3.1.2 must include in the first notice its reasons for termination of the affiliation, which must be genuine, and may include legislative imperatives, or changed circumstances which make continuation of the affiliation impossible or impractical.
- 3.1.4 if the party receiving the first notice considers the reasons given for termination are not valid, that party may in turn serve written notice on the other party giving reasons for its opinion (“the second notice”) within three months of service of the first notice.
- 3.1.5 if a second notice is served, the parties must enter into good faith negotiations to resolve their differences and the party serving the first notice may at any time up to three months before expiration of the period of the first notice, withdraw that first notice and this Agreement consequently will not be terminated.
- 3.1.6 if the party serving the first notice does not withdraw that first notice pursuant to clause 3.1.5, and the other party still considers the reasons given for termination are not valid, that other party may require that the validity of the reasons given be determined under clause 11.1, and the first notice will be confirmed or withdrawn on the basis of that determination;

and on revocation of the affiliation statute.

#### **4. ACCESS TO FACILITIES**

- 4.1. So as to fulfil the purposes of the affiliation, members of staff and students of the University may be offered facilities for teaching and research work in the premises of the BRI, and staff members of the BRI may be offered facilities for teaching and research work in the University. Any such interchange must, in the case of members of staff and students of the University, be upon the recommendation of the Vice-Chancellor of the University (the “Vice-Chancellor”) or his or her nominee and in the case of members of staff of the BRI upon the recommendation of the Director of BRI (the “Director”) or his or her nominee.

#### **5. REQUIREMENTS OF THE BRI**

- 5.1 Students of the University, whether undergraduate, postgraduate or otherwise, and members of staff of the University, whilst on the premises of the BRI, are subject to the BRI’s rules whether made by the BRI or any other body having authority to make rules pertaining to the BRI, or its buildings or appurtenances, or governing conduct, security, and treatment of materials. Such students and members of staff must comply with the express directions of the Director, or in the absence of the Director, the Acting Director, relating to their conduct whilst on BRI premises or whilst in charge of any property of the BRI. If the Director contemplates action which will in the view of the Vice-Chancellor seriously affect the progress of a student in a course, the matter will be dealt with on the recommendation of a committee consisting of a nominee of BRI and a nominee of the University.

#### **6. REQUIREMENTS OF UNIVERSITY**

- 6.1. Members of staff of the BRI, whilst on the premises of the University, are subject to the University's statutes, regulations, rules, policies and procedures ("rules") whether made by the University or by any other body having authority to make rules pertaining to the University or its buildings or appurtenances, or governing conduct, security and treatment of materials. Such members of staff must comply with the express directions of a senior officer of the University, relating to their conduct whilst on University premises or whilst in charge of any property of the University.
- 6.2. In the event that an issue arises where a staff member of the BRI is involved in a situation relating to unlawful discrimination, misconduct, sexual harassment or bullying, with a staff member or a student of the University, the Vice-Chancellor and the Director (or their nominees) will determine an appropriate process to resolve the issues.

## **7. PARTIES' AUTHORISED OFFICERS**

- 7.1. For the purposes of this Agreement, the Director is authorised to exercise the powers of the BRI in respect of matters required to be proved, effected or sanctioned by the BRI under the provisions of this Agreement, and the Dean of the Faculty of Medicine, Dentistry and Health Sciences ("the Faculty") is authorised to exercise the powers of the University (other than the Council of the University) in respect of matters to be proved, effected or sanctioned by the University under the provisions of this Agreement.

## **8. PARTY NOT LIABLE FOR OTHER PARTY'S COSTS**

- 8.1. Nothing in this Agreement requires the University to bear any part of the cost of the provision of facilities for teaching or research work in the BRI, or requires the BRI to bear any part of the cost of the provision of facilities for teaching or research work in the University.

## **9. APPOINTMENT AS HONORARY MEMBER OF THE UNIVERSITY**

- 9.1. A member of staff of the BRI may, on the recommendation of the Director, and with the approval of the Council of the University, be eligible for appointment as an honorary member of the University under the statutes and regulations of the University and subject to agreed terms and conditions of appointment.

## **10. ENACTMENT OF AFFILIATION STATUTE**

- 10.1. The University, subject to such amendments as may be required by the Legislation and Trusts Committee of the University, must use its best endeavours to procure the enactment as soon as practicable after the date of this Agreement of a statute of the University in the form of the draft affiliation statute annexed hereto and marked "A".

## **11. DISPUTE RESOLUTION**

- 11.1. If a dispute between the parties as to the breach, termination, validity or subject matter of this Agreement cannot be resolved within 28 days of notice

of the dispute being given to either party, the dispute will be referred to the Vice-Chancellor or his or her nominee and the Director or his or her nominee, and if unable to be resolved between them, to a mediator appointed by agreement and in default of agreement, by the President of the Institute of Arbitrators, Victorian Division and which person is an expert in the field in which the dispute arises. The decision of the person appointed to determine the dispute is final and binding on the parties.

**GIVEN** under the **COMMON SEAL of** )  
**THE UNIVERSITY OF MELBOURNE** )  
by direction of an officer authorised for the )  
purpose under Statute 1.5.4 of The University )  
of Melbourne Statute:

.....  
Lennard Currie  
University Secretary

.....  
Witness

.....  
Name of Witness (print)

**SIGNED for and on behalf of**  
**THE BRAIN RESEARCH INSTITUTE PTY LTD**  
**(ACN 087 682 880)**

by its duly authorised officer  
under Section 127 of the Corporations Act 2001:

.....  
Authorised Officer

.....  
Name

.....  
Position

“A”

Enactment of Statute recommended by the Planning and Budget Committee – To affiliate the Brain Research Institute (...../05)

Explanatory Note

*The Planning and Budget Committee at its meeting on ..... recommended to Council that an Affiliation Agreement be entered into. This was approved by Council on .... and the Affiliation Agreement was signed on.....2005.*

*Accordingly, the following statute is proposed.*

Proposed Statute

**“STATUTE XXX – THE BRAIN RESEARCH INSTITUTE**

**Recitals**

1. By section 18(3) of the **Melbourne University Act 1958** power is conferred on the University to make or alter statutes for the affiliation with the University of any educational, commercial, cultural, sporting or other institution or body if -
  - (a) the affiliation would assist in attaining any of the objects of the University; and
  - (b) the governing body of the institution, organisation or body has consented to the affiliation.
  
2. Pursuant to the provisions of the **Corporations Law** there is established in the State of Victoria a proprietary company limited by shares by the name of the Brain Research Institute (“BRI”) the objects of which include the following–
  - (a) to establish and maintain a world class magnetic resonance neuroscience centre –
    - (i) developing and researching the physics of magnetic resonance and various methods of brain imaging;
    - (ii) encouraging, stimulating and aiding research in all branches of neurosciences;
    - (iii) developing and enhancing medical programmes utilising magnetic resonance and other advanced imaging techniques for the research, investigation and diagnosis of neurological disorders such as epilepsy, stroke, human cognition, multiple sclerosis and Alzheimer’s disease; and for the following ancillary purposes –
      - arranging or providing monetary assistance for establishing scholarships and making outright donations or grants to student, medical practitioners, scientists and other persons engaged in the development of magnetic response neurosciences.

3. By an agreement dated ....., the University and the BRI have agreed to the affiliation of the BRI to the University.
4. The BRI has consented to the provisions of this statute.

#### **Affiliation of the Brain Research Institute**

- 9.X.1 (1) The BRI is an educational establishment affiliated to the University for the purposes of –
- (a) promoting and assisting the teaching and supervision of undergraduate and postgraduate students and students undertaking other courses of the University and providing facilities for these purposes;
  - (b) facilitating and encouraging the conduct of collaborative clinical research among students and the sharing of resources for these purposes;
  - (c) promoting a co-operative effort between members of staff of the BRI and members of staff of the University towards teaching by the University and research in areas of common interest; and
  - (d) promoting and encouraging appropriate research between members of staff of the BRI and members of staff of the University and providing facilities for these purposes.
- (2) Nothing in this statute requires the University to bear any part of the cost of the provision of facilities for teaching or research work at any of BRI's premises.
- (3) This affiliation ceases on the termination of the Agreement referred to in recital 3 and on revocation of this statute whichever is the later.”