

APR INTERN AGREEMENT

Capitalised terms are defined in clause 11.

Introduction

This agreement sets out the terms and conditions under which the Parties will carry out the APR Intern Program. The primary objective of the APR Intern Program is for the Intern to gain relevant professional training and skills within a workplace setting relating to their area of study and for the participants to gain familiarity with each other's expertise and interests, through the Intern carrying out a short self-contained project at the Industry Partner on a topic of mutual interest.

Terms and Conditions

1. PROGRAM MANAGEMENT

- 1.1 Each Party will carry out any specific tasks allocated to it in the Project Plan and perform its responsibilities under this agreement in a manner that facilitates the Intern applying theoretical and other knowledge gained from their study in a practical setting and producing the anticipated deliverables specified in the Project Plan.
- 1.2 The Parties agree that the Internship will:
 - (a) commence on the Start Date and end on the End Date, unless the Parties agree different dates in writing (in which event the Start Date and the End Date will be automatically amended accordingly); and
 - (b) be undertaken during the hours specified in Item 10 of the Schedule.
- 1.3 The Parties agree that there is no intention to create an employer/employee relationship between the Intern and the Industry Partner, between the Intern and the Student Institution, and/or between the Intern and AMSI during the course of the Intern undertaking the Internship and that the primary purpose of the Internship is for the Intern's education.
- 1.4 The Industry Partner will not require the Intern to carry out any functions or render any service as an employee of the Industry Partner.

Student Institution's role and responsibilities

- 1.5 The Student Institution will:
 - (a) organise for the Intern to undertake the research task set out in the Project Plan during the Internship;
 - (b) advise the Intern of any confidentiality, privacy and other obligations which may apply to the Intern during, and in some cases, after the Internship; and
 - (c) use its best endeavours to ensure that the Intern signs a deed substantially in the form provided in Annexure A and provide a copy of the signed deed to each of AMSI and the Industry Partner.

- 1.6 The Student Institution is responsible for ensuring that the Intern meets the eligibility requirements for the APR Intern Program. If for any reason the Intern ceases to be eligible for the APR Intern Program while undertaking the Internship the Student Institution must immediately notify the other Parties.
- 1.7 The Student Institution will remain responsible for the overall control and discipline of the Intern, apart from reasonable direction provided by the on a day to day basis by the Industry Partner to the intern while they are undertaking the Internship at the Industry Partner's Worksite.
- 1.8 The Student Institution will appoint the Academic Mentor and ensure that the Academic Mentor is reasonably available to provide the Intern with guidance regarding the Project. Such guidance will be limited to discussing the Intern's approach to the Project and other general aspects of the Internship, at times mutually convenient to the Academic Mentor and the Intern.
- 1.9 The Industry Partner and AMSI acknowledge that neither the Student Institution nor the Academic Mentor guarantees the Intern's attendance or the quality of the Intern's work or any deliverables arising from the undertaking of the Project.

Industry Partner's role and responsibilities

- 1.10 The Industry Partner will provide, at its cost, the necessary oversight, office space and equipment at one or more Industry Partner Worksites as necessary for the Intern to undertake the Project. Although the Intern will largely undertake the Project at the Industry Partner Worksite(s) and under the supervision of the Industry Partner, the Industry Partner will allow the Intern to consult with the Academic Mentor on a regular basis regarding the Project.
- 1.11 The Industry Partner:
- (a) is responsible for the supervision of the Intern while they are undertaking the Internship and will appoint appropriately qualified and experienced personnel to undertake the role of supervisor for the Intern; and
 - (b) will ensure the work undertaken by the Intern on the Internship and the level of supervision of the Intern is appropriate, taking into account their skills and level of experience and consistency with the Project Plan.
- 1.12 The Industry Partner has day-to-day duty of care of the Intern when the Intern is present at the Industry Partner Worksite(s). Neither the Student Institution nor the Academic Mentor will have any day-to-day duty of care for the Intern while he or she is on the Industry Partner Worksite(s) or otherwise carrying out the Internship.
- 1.13 The Industry Partner:
- (a) will, on request, provide AMSI and the Student Institution with evidence that the Industry Partner has appropriate policies and safe work procedures in place to govern the Internship;

- (b) will ensure that the health and safety of the Intern is not placed at risk while the Intern is present at the Industry Partner Worksite(s) and will comply with its obligations under applicable occupational, health and safety and equal opportunity and anti-discrimination laws in respect of the Intern;
- (c) will provide appropriate orientation and training for the Intern in relation to the Industry Partner's policies and safe work procedures, including providing information about the environmental, health and safety requirements at the Industry Partner Worksite(s) that are relevant to the Internship;
- (d) will promptly notify AMSI and the Student Institution of any occupational health and safety, equal opportunity or discrimination issues or incidents that arise in respect of the Intern during the Internship;
- (e) acknowledges and agrees that the Intern may notify AMSI and the Student Institution if the Intern is involved in any internal investigation at the Industry Partner; and
- (f) will allow the Student Institution and AMSI to inspect each Industry Partner Worksite, subject to meeting any reasonable security requirements of the Industry Partner, in order to assure itself that the Industry Partner is complying with clause 1.13(a) and (c).

AMSI's role and responsibilities

- 1.14 AMSI will procure that the APR Intern Facilitator:
- (a) maintains contact with the other Parties and the Intern, monitors the progress of the Internship and offers guidance that may assist in ensuring successful completion of the Internship; and
 - (b) assists the Parties in exploring opportunities for further collaboration in areas relevant to the scope of the Internship.
- 1.15 AMSI will convene a final presentation at the end of the Internship involving the Intern, the Industry Partner, AMSI and the Academic Mentor. The purpose of this workshop is to report on the results of the Internship and the Project and evaluate outcomes.

Reports

- 1.16 The Student Institution must use its best endeavours to ensure that within thirty days from the end of the Internship the Intern provides:
- (a) a confidential written report setting out the work undertaken through the Internship and the outcomes of the Internship and Project (**Final Report**). An example format for the Final Report is attached to the Project Plan; and
 - (b) a short written summary of the Internship and its outcomes in a form that is suitable for use and publication by AMSI and the Student's Institution to demonstrate the outcomes of the Internship (**Intern Executive Summary**). An example format for the Intern Executive Summary is attached to the Project Plan.

- 1.17 The Student Institution and the Academic Mentor will endeavour to ensure that the Intern provides the Industry Partner with a draft of the Final Report and the Intern Executive Statement by the date specified in the Project Plan. The Industry Partner shall have the right to remove any of its Confidential Information or any other information which it considers commercially sensitive from the Intern Executive Summary and Final Report and must provide the Intern with feedback on the draft Final Report and Intern Executive Summary within the applicable timeframe set out in the Project Plan.
- 1.18 Within 30 days from the end of the Internship, the Industry Partner must provide AMSI with a short written summary of the Internship and its outcomes in a form that is suitable for use and publication by AMSI (**Industry Impact Statement**).

2. **FINANCE**

- 2.1 The Industry Partner must pay AMSI the Industry Contribution as set out in Item 11 of the Schedule within thirty (30) days after the issue of an invoice by AMSI.
- 2.2 Subject to receiving the Industry Contribution from the Industry Partner, AMSI must pay a portion of the Industry Contribution to the Student Institution as set out in Item 12 of the Schedule.
- 2.3 Without any deduction for administrative or other costs, the Student Institution must use the Industry Contribution for:
- (a) a mentor fee, to be held or distributed by the Student's Institution in accordance with its own internal policies and regulations, but always with the primary intention of supporting the research of the Academic Mentor; and
 - (b) a payment to the student as a stipend payment (which is not recompense or reward for services rendered to the Student Institution or the Industry Partner and the Intern is not entitled to receive any remuneration or similar benefit for the Internship).
- 2.4 If any External Funding Contribution is available for the Internship, the Parties acknowledge that the External Funding Contribution is subject to any conditions listed in item 13 of the Schedule. The Parties will each use their best endeavours to meet the requirements of the provider of the External Funding Contribution. Subject to receiving the External Funding Contribution from the provider and the conditions of the External Funding Contribution being met, AMSI will distribute the External Funding Contribution as set out in Item 13 of the Schedule.
- 2.5 The Student Institution must use its best endeavours to make the initial payment to the Intern within 2 weeks of execution of this agreement.

3. **INTELLECTUAL PROPERTY**

- 3.1 Each Party:
- (a) agrees that it will not have any claim, ownership or interest in another Party's Background Intellectual Property; and

- (b) grants each other Party a non-exclusive, royalty-free licence for the use of any Background Intellectual Property made available by the granting Party but only for the duration of the Internship and to the extent necessary to carry out the Project and the Party's obligations under this agreement.
- 3.2 Ownership of any Project Intellectual Property will vest upon its creation in the Industry Partner. Accordingly, AMSI and the Student Institution hereby assign all of their respective right, title and interest in any Project Intellectual Property (and, in the case of the Student Institution, procure that any right, title or interest of the Academic Mentor be assigned, whether directly or through the Student Institution) to the Industry Partner on and from its creation (including by way of assignment of future Intellectual Property) and agree to sign any document or do anything reasonably necessary to enable the Industry Partner to secure or perfect such ownership.
- 3.3 Each of AMSI and the Student Institution agrees to use reasonable endeavours not to engage in any act or omission which will prejudice the grant of patent or similar rights in Project Intellectual Property that is capable of registration.
- 3.4 The Industry Partner grants AMSI, the Student Institution and the Intern a non-exclusive, irrevocable, perpetual, royalty free licence to use and disclose the Project Intellectual Property for research and teaching purposes (but not commercialisation) and for the purposes of any publications permitted under clause 4.3, which licence must be exercised consistently with clause 5.

4. **PUBLICATIONS**

- 4.1 The Industry Partner grants AMSI and the Student Institution a non-exclusive, non-transferable, irrevocable and royalty-free licence to reproduce, publish, communicate to the public and otherwise use the Intern Executive Summary and the Industry Impact Statement for publicity and marketing purposes and other purposes connected with running the APR Intern Program.
- 4.2 In order to encourage and recognize the academic endeavours of the Intern:
- (a) the Industry Partner agrees that it will acknowledge the Intern's contribution in any publication or public disclosure made in respect of the Project or the Project Intellectual Property; and
 - (b) the Industry Partner agrees that the Intern or the Student Institution may publish or otherwise publicly disclose papers, abstracts and other materials regarding or referring to the Project or the Project Intellectual Property in accordance with clause 4.3.
- 4.3 If either the Intern or the Student Institution wishes to publish or otherwise publicly disclose papers, abstracts and other materials regarding or referring to the Project or the Project Intellectual Property, he, she or it must provide a copy of the proposed publication to the Industry Partner and must not publish (or allow the publication of) that publication unless and until the Industry Partner grants its approval or the publication is permitted (and made in accordance with) paragraph (c)(i), (iii) or (iv). The Industry Partner agrees:

- (a) to reply to the Intern or the Student Institution (as may be applicable) in writing within one (1) month of receiving a copy of the proposed publication stating whether it approves or does not approve the publication and, if it withholds approval, include in its response the basis for such withholding;
- (b) to give reasonable consideration to any request for approval of a publication made by the Intern or the Student Institution;
- (c) without limiting paragraph (b), not to withhold such approval unless:
 - (i) it reasonably believes that such publication would harm, prejudice or in any other way injure the interest which it has in the Project Intellectual Property, in which case publication may only proceed after a period of 12 months (in order to give the Industry Partner time to seek patent or other registered protection for the relevant Project Intellectual Property);
 - (ii) the publication includes any of the Project Intellectual Property and the Project Plan specifies that the Intern and the Student Institution will not seek to publish the outcomes of the Project;
 - (iii) it reasonably believes that such publication would harm, prejudice or in any other way injure the interest which it has in any other Intellectual Property Rights or any of its Confidential Information, in which case the Student Institution or Intern shall remove from the proposed publication the content that gives rise to that belief; or
 - (iv) where the Industry Partner is the Commonwealth of Australia, it reasonably believes that such publication would harm or prejudice the Commonwealth's national security interests, in which case the Intern or the Student Institution (as may be applicable) will amend the proposed publication to remove the content that gives rise to that belief; and
- (d) to notify and consult with AMSI and the Student Institution prior to making a decision to withhold approval under this clause 4.3.

4.4 If the Internship is an assessable component of the Intern's course of study at the Student Institution and the Intern's Thesis refers to the Project or the Project Intellectual Property, the Industry Partner acknowledges that the Intern owns the Intellectual Property in his or her Thesis and agrees that nothing in this agreement will inhibit the right of an Intern to have his or her Thesis examined and a copy of their Thesis lodged in the Student Institution's library (including a digital copy), except that:

- (a) the Student Institution must ensure that the Intern provides a copy of the Thesis to the Industry Partner at least one month in advance of the Thesis being submitted for examination;
- (b) if one of the grounds set out in clause 4.3(c)(i) to (iv) applies to the Thesis, the Industry Partner may notify the Student Institution that it requires the examination of the Thesis to be undertaken by examiners bound by obligations of confidentiality, in which event the Student Institution must comply with that requirement; and

- (c) the Industry Partner may require that publication of the Thesis be delayed or otherwise withheld for the maximum allowable period in accordance with the Student Institution's policies for publication of theses containing confidential information, in which event the Student Institution must comply with that requirement.

5. CONFIDENTIAL INFORMATION

- 5.1 The Parties recognise that Confidential Information may be disclosed by one Party (**Disclosing Party**) to another Party (**Receiving Party**) for the purposes of the Project or be created, developed or discovered by the Intern as a direct result of the Intern carrying out the Project (in which event the Industry Partner is considered to be the Disclosing Party in respect of that Confidential Information for the purposes of this agreement).
- 5.2 The Receiving Party will keep the Confidential Information of the Disclosing Party confidential unless strictly required otherwise by law and will not use the Disclosing Party's Confidential Information except as required to perform its obligations and exercise its rights under this agreement.
- 5.3 The obligation of confidentiality survives the conclusion of the Internship and continues until the Confidential Information lawfully becomes part of the public domain.
- 5.4 At the termination or end of the Internship the Receiving Party must return to the Disclosing Party or destroy any material forms of the Confidential Information of the Disclosing Party in the Receiving Party's possession or control including any documents originating from the Receiving Party to the extent they embody the Confidential Information of the Disclosing Party and the Receiving Party must not keep any copies in any form, except to the extent that:
 - (a) the Receiving Party has an ongoing licence to continue to use that Confidential Information under this agreement; or
 - (b) any copy is retained for the purpose of complying with the Receiving Party's legal obligations or in accordance with the Receiving Party's usual back-up procedures.
- 5.5 This clause 5 does not limit or supersede any confidentiality obligations under any separate agreement between any of the Parties and/or the Intern except to the extent expressly agreed in writing.

6. INSURANCE

- 6.1 Each Party shall effect and maintain adequate and appropriate insurances in respect of any liability or damage that it may suffer arising as a result of its participation in the Internship as contemplated in this agreement. The Student Institution will arrange for the Intern to be covered by the public liability and professional indemnity insurance policies of the Student Institution.

7. DISPUTES

- 7.1 If any dispute or difference arises in connection with the Internship between two or more of the Parties, the representative of those Parties must meet as soon as possible to negotiate in good faith using their best endeavours to resolve the dispute or difference.
- 7.2 If the Parties are unable to resolve any dispute or difference in accordance with clause 7.1 within thirty (30) days after any Party giving notice of the dispute or difference to the other party or parties to the dispute or difference, then the matter may be submitted by a Party to a person agreed by the parties to the dispute or difference (or failing agreement within a further ten (10) days, to a person appointed by the President of the Law Institute of Victoria or any similar or successor organisation) for determination. The costs of submission to the person appointed pursuant to this clause 7.2 will be met equally by the parties to the dispute or difference.
- 7.3 Nothing in this clause 7 will prevent a Party from seeking interlocutory relief from a court of appropriate jurisdiction. However, a Party shall not otherwise commence legal action in the event of a dispute or difference unless it has first complied with this clause 7.

8. **TERMINATION**

- 8.1 A Party may terminate the Internship and this agreement with immediate effect by giving notice to each other Party if another Party has materially breached this agreement and that Party fails to remedy that breach within 14 days of receiving notice requesting it to do so.
- 8.2 Where termination is for reasons other than breach by the Industry Partner, the Party that invoiced the Industry Partner for the Industry Contribution will pay to the Industry Partner a pro-rata refund of the Industry Contribution in respect of the time between the date of termination and the End Date.
- 8.3 Where the Industry Partner is entitled to a refund by AMSI under clause 8.2 and termination is for reasons other than breach by AMSI, the Student Institution will pay to AMSI a pro rata refund of the payment made to it by AMSI in respect of the time between the date of termination and the End Date. The Student Institution is solely responsible for advance payments made to the Intern in respect of the period after the termination date.

9. **GST**

- 9.1 If GST is payable on a Taxable Supply made under, by reference to or in connection with this agreement, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 9.2 The recovery of the Consideration for any Taxable Supply made under this agreement is subject to the supplying Party issuing to the Party liable to pay for the Taxable Supply a valid tax invoice in respect of the supply.
- 9.3 Any reference to a cost or expense incurred by a Party in this agreement excludes any amount of GST forming part of the relevant cost or expense when incurred by the Party for which the Party can claim an Input Tax Credit.

9.4 Unless the context indicates otherwise, capitalised terms in this clause 9 have the meaning given to those terms in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

10. GENERAL

10.1 Any Special Conditions forms part of this agreement. Any Special Conditions take priority over the remaining terms and conditions of this agreement to the extent of any inconsistency between them.

10.2 The Parties are independent contracting parties and nothing in this agreement shall make a Party the agent, partner, employee or legal representative of another Party for any purpose whatsoever, nor does it grant a Party any authority to assume or to create any obligation on behalf of or in the name of another Party on any account whatsoever.

10.3 Any modification, variation, amendment or change to this agreement must be in writing and signed by each of the Parties.

10.4 This agreement may be executed in counterparts. All counterparts taken together will be taken to constitute one agreement. Delivery of a signed electronic counterpart of this agreement, including by email attachment, will be an effective mode of delivery of a party's signed counterpart of this agreement.

10.5 The rights, duties, obligations and liabilities of the Parties will in every case, be several and not joint, nor joint and several.

10.6 The terms of this agreement constitute the entire agreement of the Parties with respect to the Internship and supersedes all prior oral and written representations and agreements.

10.7 This agreement is governed by the law applicable in Victoria. Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.

10.8 Waiver of any provision of or right under this agreement must be in writing signed by the Party entitled to the benefit of that provision or right, and is effective only to the extent set out in such a written waiver.

10.9 Clauses 3, 4, 5, 8, 10.9 of this agreement and any other clause which by its nature survives this agreement survive the termination or expiry of this agreement.

11. DEFINITIONS

Academic Mentor means the person specified in Item 4 of the Schedule or any replacement academic appointed by the Student Institution to provide mentoring to the Intern in relation to the Internship.

AMSI means the Australian Mathematical Sciences Institute of Monash Road, The University of Melbourne.

APR Facilitator means the person specified in Item 1 of the Schedule or any replacement person appointed by AMSI from time to time to be responsible for monitoring the progress of the Internship and for providing technical or administrative assistance to the Parties and the Intern in relation to the Internship.

Background Intellectual Property of a Party means Intellectual Property owned or controlled by that Party that has been developed prior to or independently of this agreement, which that Party determines, in its sole discretion, to make available for the carrying out of the Project, as set out in Item 15 of the Schedule or otherwise designated in writing signed by an authorised representative of that Party.

Confidential Information, in relation to a Party, means all inventions, ideas, know-how, concepts, data, knowledge, analysis, technology, trade secrets, financial information and other commercially valuable information of that Party, of whatever description and in whatever form, which:

- (a) by its nature is confidential;
- (b) is designated by that Party in writing as confidential; or
- (c) a receiving Party knows or ought reasonably to have known is confidential,

but does not include information in the public domain, other than that which is in the public domain due to a breach of this agreement.

End Date means the last day of the Internship as specified in Item 9 of the Schedule, as varied under clause 1.2(a).

External Funding Contribution means any external funding to be paid towards the costs of the Internship, as specified in Item 13 of the Schedule.

Final Report has the meaning given in clause 1.16(a).

Industry Contribution means the amount specified in Item 11 of the Schedule.

Industry Impact Statement has the meaning given in clause 1.18.

Industry Partner means the industry partner set out in Item 5 of the Schedule with whom the Intern will undertake the Internship.

Industry Partner Worksite means any premises (whether controlled by the Industry Partner or a third party) which the Industry Partner makes available to the Intern to access for the purposes of the Internship.

Intern means the student at the Student Institution specified as the Intern in Item 2 of the Schedule.

Intern Executive Summary has the meaning given to it in clause 1.16(b).

Internship means the internship to be undertaken by an Intern with an Industry Partner facilitated by AMSI pursuant to this agreement.

Intellectual Property means all rights resulting from intellectual activity whether capable of protection by statute, common law or in equity and including copyright, patent rights, registered and unregistered trade marks, design rights, the right to have confidential information kept confidential, circuit layouts and plant varieties and all rights and interests of a like nature, together with the right to apply for any such protection, but excludes moral rights.

Party means each of AMSI, Industry Partner and the Student Institution and **Parties** means more than one or all of them, as the context requires.

Project means the research project described in the Project Plan.

Project Intellectual Property means any Intellectual Property which is created, developed or discovered by the Intern as a direct result of the Intern carrying out the Project, including copyright and other Intellectual Property subsisting in the Final Report and the Impact Statement (excluding copyright in an Intern's Thesis if the Internship is an assessable component of the Intern's course of study at the Student Institution).

Project Plan means the document set out in Annexure B, as varied by the written agreement of the Parties and the Intern from time to time.

Special Conditions means any conditions specified in Item 16 of the Schedule.

Start Date means the date the Internship commences as specified in Item 8 of the Schedule, as varied under clause 1.2(a).

Student Institution means the Australian education provider set out in Item 3 of the Schedule that appoints the Academic Mentor and is the institution of which the Intern is a student.

Thesis means any thesis which is permitted or required to be submitted to the Student Institution by the Intern to fulfill the Student Institution's requirements for the degree in which the Intern is enrolled with the Student Institution.