



Australian Government

Department of Education

Funding Agreement

between the

COMMONWEALTH OF AUSTRALIA

as represented by the

Minister for Education

and

Charles Darwin University

regarding funding

**under the Commonwealth Grant Scheme in respect of the
2014, 2015 and 2016 grant years**

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Parties and Recitals

THIS AGREEMENT is made on the date on which it is executed by the Commonwealth of Australia

BETWEEN

THE COMMONWEALTH OF AUSTRALIA represented by the Minister for Education ('the Commonwealth')
[ABN 12 862 898 150]

AND

CHARLES DARWIN UNIVERSITY, DARWIN NT 0909 ('University') [ABN 54 093 513 649]

WHEREAS:

- A. The University meets the requirement of subparagraph 30-1(1)(a) of HESA.
- B. This funding agreement is made under subsection 30-25(1) of HESA in respect of the 2014, 2015 and 2016 grant years.
- C. Entering this agreement is a requirement under subparagraph 30-1(1)(a)(ii) of HESA for a Commonwealth Grant to be payable to the Provider under Part 2-2 of HESA.
- D. Subject to subsections 30-25(2A) and 30-25(2B) of HESA, this funding agreement specifies conditions to which the Commonwealth Grant is subject that are additional to the conditions that apply to the Commonwealth Grant under Division 36 of HESA.
- E. Under section 36-65 of HESA, the Provider must comply with this funding agreement.

NOW IT IS AGREED as follows:

Previous Agreement

1. The parties agree that the funding agreement made by them on 1 December 2013 for the Commonwealth to provide funding to the provider under the Commonwealth Grant Scheme in respect of the grant years 2014, 2015 and 2016 shall terminate on the date on which this Funding Agreement is made.

PART A: Introduction

Commonwealth Grant Scheme funding amount and payment arrangements

2. The Commonwealth will pay to the University the Commonwealth Grant Scheme (CGS) funding amount for the 2014, 2015 and 2016 grant years for the University, calculated in accordance with division 33 of HESA.
3. The Commonwealth will notify the University before the start of each grant year covered by this Agreement about the CGS advances in respect of amounts expected to be payable for:
 - 3.1. designated courses of study; and
 - 3.2. non-designated courses of study.
4. The Commonwealth will notify the University before the start of each grant year covered by this Agreement about the CGS amounts payable for:
 - 4.1. regional loading;
 - 4.2. enabling loading; and
 - 4.3. medical student loading.
5. Amounts payable as CGS advances may be adjusted throughout the grant year based on information provided to the Commonwealth by the University.
6. CGS advances made in respect of each grant year covered by this Agreement will be reconciled with CGS funding payable to the University for each grant year. This reconciliation will occur in the year following the grant year when actual student enrolment data for that grant year is finalised.

Non-designated courses of study and the Government's attainment target

7. The University acknowledges that a key objective of the Commonwealth in providing funding for non-designated courses of study is to achieve the attainment target of 40 per cent of the Australian population aged 25 to 34 years old having a bachelor level qualification or above by 2025.

Estimates of Commonwealth supported places

8. The University must provide accurate and timely estimates of Commonwealth supported places (EFTSL) for the current year and future years, as required by the Commonwealth.

PART B: Designated courses of study*Maximum basic grant amount for designated courses of study*

9. The maximum basic grant amount for designated courses of study is calculated in accordance with subparagraph 30-27(1)(a)(i) of HESA, and subject to the passage of the *Higher Education Support Amendment (Savings & Other Measures) Bill 2013*.
- 9.1. If the *Higher Education Support Amendment (Savings & Other Measures) Bill 2013* is passed by the Parliament without amendment and the legislation has effect for the 2014 grant year, the maximum basic grant amount for 2014 is \$13,146,700.
- 9.2. If the *Higher Education Support Amendment (Savings & Other Measures) Bill 2013* is not passed by the Parliament, the maximum basic grant amount for 2014 is \$13,415,023.
10. The maximum basic grant amount for designated courses of study for 2015 and 2016 will be calculated in accordance with subsection 30-27(2) of HESA and advised, in writing, by the Commonwealth to the University before the start of the relevant grant year.

Allocation of Commonwealth supported places for designated courses of study

11. The total number of Commonwealth supported places for designated courses of study allocated to the University under subsection 30-10(1)(a) for each Funding Cluster for each grant year covered by this agreement is shown below in Table 1a, Table 1b and Table 1c.
12. Any places allocated at the postgraduate level are for non-research Courses of Study and exclude any course which is subject to Ministerial determination under paragraph 36-15(2)(b) of HESA.
13. If the University is unable to deliver the places detailed in Table 1a, Table 1b and Table 1c it must notify the Commonwealth as soon as practicable and not later than at the next update of estimates of Commonwealth supported places required by the Commonwealth under clause 7.
14. The University is not to transfer any allocation of Commonwealth supported places for designated courses of study between undergraduate and postgraduate courses.
15. The University will receive enabling loading for each grant year covered by this Agreement for the number of Commonwealth supported places in enabling courses allocated to the University under subsection 30-10(1)(a) of HESA as shown below in Table 2.

Table 2: Allocation of Commonwealth supported places for enabling courses

2014	579
2015	579
2016	579

Table 1a: Allocation of Commonwealth supported places for designated courses of study for 2014¹

Cluster No.	Funding cluster	Number of designated undergraduate places (excluding medical places) for 2014 grant year (EFTSL) ²	Number of undergraduate medical places for 2014 grant year (EFTSL)	Number of non-research postgraduate places (excluding medical places) for 2014 grant year (EFTSL) ³	Number of postgraduate medical places for 2014 grant year (EFTSL)	Total number of Commonwealth supported places for 2014 grant year (EFTSL)
1	Law, accounting, administration, economics, commerce	12	0	4	0	16
2	Humanities	98	0	22	0	119
3	Mathematics, statistics, behavioural science, social studies computing, built environment, other health	304	0	72	0	375
4	Education	0	0	496	0	496
5	Clinical psychology, allied health, foreign languages, visual and performing arts	142	0	5	0	147
6	Nursing	0	0	61	0	61
7	Engineering, science, surveying	69	0	13	0	82
8	Medicine, dentistry, veterinary science, agriculture	0	0	1	0	1
	Total	624	0	673	0	1,297

NOTES:

1. Figures are rounded for display, however they may contain underlying decimal places.
2. Designated undergraduate places include places in associate degrees, advanced diplomas, diplomas, and enabling courses but not medical places.
3. The total number of medical places allocated to the university for the grant year is the sum of the number of undergraduate medical places and the number of postgraduate medical places.

Table 1b: Allocation of Commonwealth supported places for designated courses of study for 2015¹

Cluster No.	Funding cluster	Number of designated undergraduate places (excluding medical places) for 2015 grant year (EFTSL) ²	Number of undergraduate medical places for 2015 grant year (EFTSL)	Number of non-research postgraduate places (excluding medical places) for 2015 grant year (EFTSL) ³	Number of postgraduate medical places for 2015 grant year (EFTSL)	Total number of Commonwealth supported places for 2015 grant year (EFTSL)
1	Law, accounting, administration, economics, commerce	12	0	4	0	16
2	Humanities	112	0	21	0	133
3	Mathematics, statistics, behavioural science, social studies computing, built environment, other health	322	0	61	0	383
4	Education	0	0	393	0	393
5	Clinical psychology, allied health, foreign languages, visual and performing arts	187	0	36	0	223
6	Nursing	0	0	58	0	58
7	Engineering, science, surveying	72	0	12	0	84
8	Medicine, dentistry, veterinary science, agriculture	0	0	1	0	1
	Total	704	0	586	0	1,290

NOTES:

- 1.
2. diplomas, diplomas, and enabling courses but not medical places.
3. sum of the number of undergraduate medical places and the number of postgraduate medical places.

Figures are rounded for display, however they may contain underlying decimal places.
Designated undergraduate places include places in associate degrees, advanced

The total number of medical places allocated to the university for the grant year is the

Table 1c: Allocation of Commonwealth supported places for designated courses of study for 2016¹

Cluster No.	Funding cluster	Number of designated undergraduate places (excluding medical places) for 2016 grant year (EFTSL) ²	Number of undergraduate medical places for 2016 grant year (EFTSL)	Number of non-research postgraduate places (excluding medical places) for 2016 grant year (EFTSL) ³	Number of postgraduate medical places for 2016 grant year (EFTSL)	Total number of Commonwealth supported places for 2016 grant year (EFTSL)
1	Law, accounting, administration, economics, commerce	12	0	4	0	16
2	Humanities	112	0	21	0	133
3	Mathematics, statistics, behavioural science, social studies computing, built environment, other health	322	0	61	0	383
4	Education	0	0	393	0	393
5	Clinical psychology, allied health, foreign languages, visual and performing arts	187	0	36	0	223
6	Nursing	0	0	58	0	58
7	Engineering, science, surveying	72	0	12	0	84
8	Medicine, dentistry, veterinary science, agriculture	0	0	1	0	1
	Total	704	0	586	0	1,290

NOTES:

1. Figures are rounded for display, however they may contain underlying decimal places.
2. Designated undergraduate places include places in associate degrees, advanced diplomas, diplomas, and enabling courses but not medical places.
3. The total number of medical places allocated to the university for the grant year is the sum of the number of undergraduate medical places and the number of postgraduate medical places.

PART C: Other conditions and requirements

Closure of courses

16. Before Closing a Course to which this clause applies, the University must consult the Commonwealth and obtain the Commonwealth's approval for the closure.
 - 16.1. In this clause, 'Course' means a Course of Study, or a major within a Course of Study.
 - 16.2. This clause applies to Courses at the undergraduate and postgraduate levels in which Commonwealth supported students have been enrolled in either of the 2 preceding years.
 - 16.3. This clause does not apply to a Course for which the University has had an intake for less than four consecutive academic years.
 - 16.4. This clause applies to Courses in the following categories:
 - 16.4.1. Courses that prepare students for entry to any occupation that is experiencing a National Skill Shortage;
 - 16.4.2. Courses, the closure of which, would be likely to create a National Skill Shortage in an occupation because the University is a sole or dominant provider of the national skill base for that occupation;
 - 16.4.3. specialised Courses directed at the regional economy, the closure of which is likely, in the Commonwealth's opinion, to create serious detriment to the Skills Base of a Regional Economy; and
 - 16.4.4. Courses for a Nationally Strategic Language.
 - 16.5. In making a decision regarding a Course Closure, the Commonwealth will:
 - 16.5.1. seek to reach a mutually agreeable arrangement with the University regarding the Course Closure;
 - 16.5.2. have regard to student demand for the Course, the financial viability of the Course, the justification provided for a proposed Course Closure by the University and other relevant factors;
 - 16.5.3. assist the University to explore options to retain the Course, including through cooperation with another provider or the movement of Commonwealth supported places to another provider (where applicable); and
 - 16.5.4. not unreasonably withhold approval for a Course Closure so as to place an unreasonable financial burden on the University or place the University in a financially unviable position in regard to the University's overall financial status.
 - 16.6. For the purposes of subclause 16.4.1 and 16.4.3 the skill shortage lists published by the Department of Employment at State, Territory and National levels and the Department of Immigration and Border Protection's Skilled Occupation Lists must be taken into account in deciding if Closing a Course is likely, in the Commonwealth's opinion, to create serious detriment to the Skills Base of a Regional Economy.

New campuses and campus closures

17. The University must obtain the Commonwealth's prior written approval if the University proposes to enrol Commonwealth supported students in a course of study that is, or is to be undertaken, primarily at an educational facility, other than one of the following university campuses listed below or approved educational facilities listed in subclause 17.1.

Name of campus

Darwin / Casuarina

Alice Springs

Melbourne

Sydney

- 17.1. The University has approval to enrol Commonwealth supported students in courses of study at the following educational facilities.

Name of educational facility

Batchelor Institute of Indigenous Tertiary Education (BIITE)

18. The University must seek the Commonwealth's prior written approval before closing or otherwise disposing of a campus of the University at which students are enrolled in Commonwealth supported places.

Clinical placements and practicums

19. The Commonwealth Grant Scheme contribution amounts for a place in a nursing and education funding clusters include amounts in recognition of the costs of nursing clinical placement and teaching practicum (\$1,224 and \$840 per EFTSL respectively in 2014¹). The University must use these amounts only for those purposes.

- 19.1. The amounts for 2015 and 2016 will be advised, in writing, by the Commonwealth to the University before the start of the relevant grant year.

20. For a course that is accredited under section 49 of the National Law, the University must ensure that each student enrolled in a course has access to clinical placements in accordance with the approved accreditation standard for the profession.
21. For a course that is accredited by a State or Territory teacher regulatory authority as an initial teacher education course, the University must ensure that each student enrolled in that course has access to teacher practicums in accordance with the approved national accreditation standard.

Applicable law and jurisdiction

22. The laws of the Australian Capital Territory apply to the interpretation of this agreement.
23. The parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any courts which have jurisdiction to hear appeals from any of these courts in respect to any dispute under this agreement.

¹ If the *Higher Education Support Amendment (Savings & Other Measures) Bill 2013* is not passed by the Parliament, these amounts will be \$1,249 and \$857 per EFTSL respectively in 2014.

Entire agreement, variation and severance

24. This agreement and the Higher Education Support Act 2003 record the entire agreement between the parties in relation to its subject matter.
25. Except for action the Commonwealth is expressly authorised or required to take elsewhere in this agreement or HESA, no variation of this agreement is binding unless it is agreed in writing and signed by the parties.
26. If a court or tribunal says any provision of this agreement has no effect or interprets a provision to reduce an obligation or right, this does not invalidate, or restrict the operation of, any other provision.

Notices

27. A party giving notice under this agreement must do so in writing or by Electronic Communication:
 - a. if given by the University, marked for the attention of the Group Manager of the Funding and Implementation Group of the Department of Education or other person as notified in writing by the Commonwealth to the University; or
 - b. if given by the Commonwealth, marked for the attention of the Vice-Chancellor or other person as notified in writing by the University to the Commonwealth; and hand delivered or sent by pre-paid post or Electronic Communication to the address specified in subclause 27.1 of this agreement.

27.1. The address for notices to the Commonwealth is specified below:

Group Manager
Funding and Implementation Group
Department of Education
Level 3, 14 Mort Street
GPO Box 9880
CANBERRA ACT 2601
Email: cgs@education.gov.au

The address for notices to the University is specified below:

Vice-Chancellor
Charles Darwin University
DARWIN NT 0909

28. A notice given under clause 27 is taken to be received:
 - 28.1. if hand delivered, on delivery;
 - 28.2. if sent by pre-paid post, 5 business days after the date of posting; or
 - 28.3. if sent by Electronic Communication, at the time that would be the time of receipt under section 14A of the *Electronic Transactions Act 1999*.

Interpretation

29 In this agreement, unless the contrary intention appears:

'ABN' has the same meaning as it has in section 41 of the *A New Tax System (Australian Business Number) Act 1999*;

'CGS' means Commonwealth Grant Scheme

'Closing a Course' or **'Closure'** means the cessation of intake of students to a course by the University without its immediate replacement by a Course that leads to the same occupation or provides a similar specialised skill and includes any suspension of intake of students for more than one consecutive academic year;

'Commonwealth Grant' is the grant payable to the University under Part 2-2 of HESA;

'Course Completion' is the point at which an enrolled student satisfies the requirements for a particular qualification;

'Course of study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Designated course of study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'EFTSL' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Electronic Communication' has the same meaning as in the *Electronic Transactions Act 1999*;

'Enabling Course' has the same meaning as set out in Item 1 of Schedule 1 of HESA;

'Funding Clusters' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Grant Year' refers to the calendar year for which the University has entered into this funding agreement;

'HESA' means the *Higher Education Support Act 2003*, as amended;

'Maximum Basic Grant Amount' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'National Law' means (a) for a state or territory other than Western Australia – the Health Practitioner Regulation National Law as set out in the Schedule to the *Health Practitioner Regulation National Law Act 2009 (Qld)* as it applies (with or without modification) as a law of the State or Territory; and (b) for Western Australia – the legislation enacted by the *Health Regulation National Law (WA) Act 2010* that corresponds to the Health Practitioner Regulation National Law;

'Nationally Strategic Language' means Arabic, Indonesian, Chinese (Mandarin), Hindi, Japanese, Korean and any other language notified in writing by the Commonwealth;

'National Skill Shortage' refers to the skill shortage lists published by the Department of Employment at State, Territory and National levels and the Department of Immigration and Border Protection's Skilled Occupation Lists;

'Non-designated courses of study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Number of Commonwealth Supported Places' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Postgraduate Course of Study' has the same meaning as set out in item 1 of Schedule 1 of HESA;

'Skills Base of a Regional Economy' will be assessed on a case by case basis;

'Teacher Regulatory Authority' means the body responsible for the accreditation of initial teacher education courses in a State or Territory.

'Undergraduate Course of Study' has the same meaning as set out in item 1 of Schedule 1 of HESA.

- 30 In this agreement, unless the contrary intention appears:
- a. words in the singular include the plural and vice versa;
 - b. clause headings or words in bold format are inserted for convenience only, and have no effect in limiting or extending the language of provisions;
 - c. all references to dollars are to Australian dollars;
 - d. unless stated otherwise, a reference to legislation is to legislation of the Commonwealth, as amended from time to time;
 - e. an uncertainty or ambiguity in the meaning of a provision of this agreement will not be interpreted against a party just because that party prepared that provision; and
 - f. where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.
 - g. where a word or phrase is not specifically defined in this agreement and the word or phrase occurs in the *Higher Education Support Act 2003*, the word or phrase will have the same meaning as in that Act.

SIGNED for and on behalf of

THE COMMONWEALTH OF AUSTRALIA

by Mark Warburton the Acting Group Manager of the Funding and Implementation Group of the Department of Education as delegate of the Minister for Education.

Signed by
Mark Warburton

Date: 16 June 2014

In the presence of:
Signed by
Elke Dwyer

Position of witness
Executive Assistant

SIGNED for and on behalf of
CHARLES DARWIN UNIVERSITY

Signed by:
Simon Maddocks

Position
Vice-Chancellor

In the presence of:

Signed by:
Penny Szybiak

Position or profession of witness
Deputy Director of Marketing and Head of Planning
