



## RESEARCH CONTRACT – TWO PARTY

REFERENCE: <CONTRACT CODE>

Grains Research and Development Corporation (GRDC)

<Full legal name of researcher>  
(Research Organisation)

# Contents

<b>Research Contract</b>	<b>3</b>
<b>Operative provisions</b>	<b>3</b>
1 INTERPRETATION	3
2 PAYMENTS BY GRDC	9
3 CONTRIBUTIONS	10
4 CONDUCT OF PROJECT	11
5 RESEARCH ORGANISATION PERSONNEL	13
6 WARRANTIES AND UNDERTAKINGS	14
7 FINANCIAL PROVISIONS	15
8 REPORTING OBLIGATIONS	16
9 PROJECT OUTPUTS	17
10 CONFIDENTIAL INFORMATION	25
11 CAPITAL ITEMS	26
12 INSURANCE	27
13 CONFLICT OF INTEREST AND OVERLAPPING PROJECTS	27
14 CONDUCT OF RESEARCH	28
15 RELATIONSHIP BETWEEN PARTIES	30
16 NOTICES	30
17 DISPUTE RESOLUTION	30
18 TERMINATION	31
19 GOODS AND SERVICES TAX	34
20 MODERN SLAVERY	34
21 GENERAL	35
<b>Schedule 1</b>	<b>37</b>
<b>Schedule 2</b>	<b>39</b>
<b>Schedule 3</b>	<b>42</b>
<b>Schedule 4</b>	<b>43</b>
<b>Execution page</b>	<b>44</b>

# Research Contract

## PARTIES

GRAINS RESEARCH AND DEVELOPMENT CORPORATION ABN 55 611 223 291  
 (GRDC)

AND

<FULL LEGAL NAME OF RESEARCHER> ACN/ABN <Researcher ACN/ABN>  
 (Research Organisation)

## RECITALS

- A. GRDC has agreed to provide the Research Funds to the Research Organisation and the Research Organisation has agreed to provide its Contributions, in order for the Research Organisation to carry out the Project.
- B. The Research Organisation has agreed to carry out the Project in accordance with the terms and conditions in this Contract.

# Operative provisions

## 1 INTERPRETATION

### 1.1 Definitions

In this Contract:

**Accountant** means a person who is:

- (a) registered as an auditor under the *Corporations Act 2001*(Cth); or
- (b) a member of the Institute of Chartered Accountants in Australia or CPA Australia.

**Approved MTA** means a template material transfer agreement available from the GRDC website or otherwise approved by GRDC.

**Approved Sub-contractor** means a sub-contractor specified in Item 16 of Schedule 1 or approved by GRDC in accordance with clause 4.2.

**Approved Repository** means a secure data storage repository where data and metadata are managed and maintained which meets the requirements specified in Schedule 4.

**Australian Grains Industry** means production in Australia of wheat, coarse grains, grain legumes and oil seeds, leviable under the *Primary Industries (Excise) Levies Act 1999* (Cth) as amended from time to time.

**Background Data** means all Data which has been captured, produced or otherwise developed independently of this Contract and made available by a Party for the Project, but does not include Third Party Data.

**Background IP** means all Intellectual Property (including Intellectual Property in Items) and Confidential Information that has been developed independently of this Contract and made available by a Party for the Project but does not include Third Party IP.

**Background Material** means Background Data, Background IP and Items owned and made available by a Party for the Project.

**Beneficial Interest** means a Party's right to a share in the financial benefits of Commercialisation of Project Outputs in accordance with the terms and conditions of this Contract, as specified in Item 13 of Schedule 1, or if not so specified, in the same share as the Party's ownership of Project Outputs in accordance with clause 9.3(a).

**Capital Item** means any real or personal property acquired by the Research Organisation wholly or in part with Research Funds which costs in excess of \$7,500 (including land, buildings, improvements, yards, fencing, roads, irrigation facilities, plant and equipment) provided that where a number of substantially similar items are acquired at or near the same time (for example, laboratory equipment), it is the total cost of the group of items and not the unit cost which must be taken into consideration in determining whether the \$7,500 threshold has been reached.

**Code** means the [Australian Code for the Responsible Conduct of Research](#).

**Commencement Date** means the date specified in Item 6 of Schedule 1, or if no date is specified, the date on which this Contract was signed by the last Party to sign it.

**Commercialisation** means, in relation to the Project Outputs:

- (a) to manufacture, sell, hire, publish or otherwise exploit the Project Outputs for commercial gain;
- (b) if a product or process incorporates or is derived from the Project Outputs, to manufacture, sell, hire or otherwise use the product or process for commercial gain;
- (c) if a service uses Project Outputs, to provide that service for commercial gain; or
- (d) to license a third party to do any of those things,

and **Commercialised** has the same meaning.

**Commercialisation Party** means:

- (a) the Party (if any) identified in Item 17 of Schedule 1; or
- (b) if no Party is identified on the Commencement Date, the Party appointed by written agreement between the Owning Parties,

as the Party to lead the Commercialisation of Project Outputs on behalf of the Owning Parties under clause 9.4.

**Completion Date** means the date for the completion of the Project specified in Item 7 of Schedule 1.

**Confidential Information** means all information disclosed by or on behalf of one party (**Discloser**) to the other party (**Recipient**):

- (a) which is indicated in writing by the Discloser to be confidential; or
- (b) which might otherwise reasonably be regarded by the Discloser as confidential,

including technical and commercial information and information the disclosure of which could prejudice the registration, exploitation or value of any Intellectual Property, but does not include information that:

- (a) is in the public domain, or comes into the public domain, other than as a result of a breach of this Contract;
- (b) is rightfully known by the Recipient and is not subject to an obligation of confidentiality before the date of receipt; or
- (c) has been independently developed or acquired by the Recipient.

**Contract** means this document including the Schedules and any annexures or attachments to it or incorporated by reference.

**Contribution** means the:

- (a) cash contributions (including Research Funds contributed by GRDC); and
- (b) in-kind contributions (personnel, equipment, facilities services and access to premises), of a Party or a third party to the Project, as set out in Items 8-11 of Schedule 1 (and includes any cash value equivalent for in-kind contributions agreed, but does not include Intellectual Property unless otherwise specified in Schedule 1).

**Data** means information, including information in raw or unorganised form which may be used for analysis, including (but not limited to):

- (a) numerical, written, descriptive, visual or audible;
- (b) durable records such as assays, test results, transcripts, and laboratory and field notes;
- (c) raw or analysed, experimental or observational;
- (d) other documents or media containing information associated with the research process; and, can include post-analysis information.

**Data Management Plan** means the plan prepared in accordance with clause 9.12 in accordance with the requirements set out in Schedule 3 to this Contract as updated from time to time in accordance with this Contract.

**Depreciation Rate** means, in relation to a Capital Item, the depreciation rate nominated by GRDC from time to time for items of that type (Australian Tax Office rate unless advised otherwise).

**Discovery** means a Project Output that is likely to be sufficiently novel as to be eligible for patent protection or eligible for registration under the *Plant Breeders Rights Act 1994* (Cth) (as advised by a patent attorney), or that is otherwise likely to offer commercial value if Commercialised.

**Electronic Communication** has the same meaning as in the *Electronic Transactions Act 1999* (Cth).

**Existing Biological or Genetic Material** means Items comprising biological or genetic material (germplasm etc) developed prior to or independently of this Contract and made available by a Party for the Project.

**Financial Year** means the period commencing on 1 July in each calendar year and finishing on 30 June in the next calendar year.

**Force Majeure Event** means a circumstance beyond the reasonable control of a Party which results in a Party being unable to observe or perform on time an obligation under this Contract, including:

- (a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires, and any other natural disaster;

- (b) epidemics or pandemics and any requirements of a government agency in response to an epidemic or pandemic;
- (c) failures of or faults in telecommunications systems or electricity supply or similar infrastructure or service; and
- (d) acts of war, acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage and revolution, and labour strikes.

**Fraud** means dishonestly obtaining a benefit from GRDC or causing a loss to GRDC by deception or other means.

**Genetically Modified (or GM)** means an organism where the genome has been manipulated by Gene Technology.

**Gene Technology** means tools and techniques which enable direct manipulation of an organism's genome.

**GRDC Attribution Model** means the attribution and logo to be used for different levels of GRDC investment in accordance with the GRDC Brand Style Guide as in force from time to time and available from the GRDC Brand Centre <https://grdc.com.au/brand>.

**GRDC Portal** means the portal at <https://access.grdc.com.au> or as advised by GRDC from time to time.

**Group Members** means a Party and its related bodies corporate (as that term is defined in the *Corporations Act 2001*(Cth)) and any of their respective Personnel.

**Intellectual Property (or IP)** means any registered or unregistered intellectual property rights including any:

- (a) patents or rights concerning any discovery, invention, process, process improvement, procedure, manufacturing method, technique or information regarding the chemical or genetic composition of materials (whether patentable or not);
- (b) trade marks, business names or trading styles (whether registered or not);
- (c) copyright material and similar or neighbouring rights;
- (d) registered or registrable designs;
- (e) plant breeder rights or other proprietary information concerning genetic or biological material or engineering processes;
- (f) trade secrets and know how; and
- (g) eligible layouts or protectable computer programs,

as well as any right to seek registration of, or to take action for infringement of, any such rights.

**IP and Project Outputs (IPPO) Register** means the table prepared in accordance with clause 9.2 in the form set out in Schedule 2 to this Contract as updated from time to time in accordance with this Contract.

**Items** means primary materials such as equipment, assets and other materials, including biological and genetic material (germplasm etc), as applicable.

**Laws** means any applicable law, statute, rule, regulation, directive, direction, treaty, judgment, order, guideline, decree, interpretation, permit, injunction of any government agency, or rule of any public stock exchange, in any jurisdiction, and in each case, as amended from time to time.

**Milestone Report** means a report demonstrating how a Milestone has been met.

**Milestones** means the key delivery and decision points in the performance of the Project described in Item 21 of Schedule 1.

**Modern Slavery** has the meaning given to that term in the Modern Slavery Legislation, which includes, among other things, any activity, practice or conduct that would constitute an offence in relation to slavery, forced labour, involuntary servitude, debt bondage, human trafficking, and any other slavery-like exploitation as prohibited under all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time.

**Modern Slavery Legislation** means the *Modern Slavery Act 2018* (Cth) and any other modern slavery act that is in force, and their respective regulations and codes from time to time.

**Net Commercialisation Income** means:

- (a) royalties, licence fees and other income received from the Commercialisation of Project Outputs;
- (b) less the costs of protection, prosecution or maintenance of formal Intellectual Property rights and reasonable costs of commercialisation incurred in connection with the Project Outputs,

as agreed by the Owning Parties.

**Owning Party** means a Party in which ownership of Project Outputs vests in accordance with clause 9.3(a).

**Party** means a party to this Contract.

**Personnel** means a person's employees, representatives, agents, officers, contractors and subcontractors.

**PIRD Act** means the *Primary Industries Research and Development Act 1989* (Cth), as amended from time to time.

**Project** means the research and development project named and described in Schedule 1.

**Project Confidential Information** means any Confidential Information arising from the Project.

**Project Data** means Data captured, generated, produced or otherwise developed by the Research Organisation or any Approved Sub-contractor during the Term in the course of conducting the Project, including any post analysis Data.

**Project Data Retention Period** means the period specified in Item 22 of Schedule 1.

**Project IP** means any Intellectual Property developed by the Research Organisation or any Approved Sub-contractor during the Term in the course of conducting the Project but does not include copyright in Milestone Reports.

**Project Metadata** means information defining and describing the Project Data in a format compatible with GRDC requirements, including information about the purpose, processes, and methods involved in collecting the Project Data.

**Project Outcome** means the outcomes the Parties will aim to achieve in conducting the Project as described in Item 4 of Schedule 1.

**Project Outputs** means Project IP, Project Confidential Information, Project Data and all results or Items produced as part of the Project including those identified in Item 5 of Schedule 1 but does not include copyright in Milestone Reports.

**Research Funds** means all monies payable to the Research Organisation by GRDC specified in Item 8 of Schedule 1.

**Research Organisation Personnel** means officers, employees, Students, sub-contractors (including Approved Sub-contractors) and agents of, and consultants to, the Research Organisation whose duties relate wholly or in part to the conduct of the Project as specified in Item 15 of Schedule 1 or approved in writing by GRDC.

**Special Conditions** means any terms and conditions specified in Item 22 of Schedule 1.

**State Records Legislation** means legislation of the Commonwealth, a State or a Territory which governs the management of records by a government department, agency or statutory entity.

**Term** means the period commencing on the Commencement Date and ending on the earlier of the Completion Date or the date of termination of this Contract (including termination under clause 18).

**Third Party Data** means Data obtained from a person or entity that is not a Party to this Contract and that is made available to the Project.

**Third Party IP** means Intellectual Property (including Intellectual Property in Items) owned by a person or entity that is not a Party to this Contract and that is made available to the Project, but does not include widely available non-specialised commercial off-the-shelf software.

**Third Party Material** means Third Party Data, Third Party IP and Items owned by a person or entity that is not a Party to this Contract and made available by a Party for the Project.

## 1.2 General

In this Contract unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust or government;
- (c) a reference to any gender includes all genders;
- (d) a reference to a Party includes that Party's executors, administrators, substitutes, successors and permitted assigns;
- (e) where an expression is defined, another part of speech or grammatical form has a corresponding meaning;
- (f) a reference to any organisation, committee or body includes a reference to any successor of that organisation, committee or body;
- (g) where any Party is constituted by more than one legal entity, they will be, unless otherwise expressly stated, jointly and severally liable in respect of all obligations arising under this Contract and jointly entitled to enjoy any rights granted by this Contract;
- (h) a reference to any document or agreement includes a reference to that document or agreement as properly amended, novated, supplemented, varied or replaced from time to time;



- (i) a reference to any legislation or regulation includes a reference to any amendment, modification or replacement to that legislation or regulation which may be made from time to time;
- (j) “includes” or “including” are not words of limitation;
- (k) approval means approval in writing;
- (l) all monetary amounts are in Australian currency;
- (m) it is to be interpreted in accordance with the rules for the interpretation of Acts set out in the *Acts Interpretation Act 1901* (Cth);
- (n) all references are to be interpreted in accordance with relevant Commonwealth, State or Territory interpretation of acts legislation; and
- (o) all references to a Department, Government agency and statutory bodies are to be interpreted in accordance with the applicable Commonwealth, State or Territory interpretation of acts legislation.

### 1.3 Headings

In this Contract, headings are for convenience only and do not affect interpretation.

### 1.4 Constitution of Contract and inconsistency

- (a) This Contract will be constituted by:
  - (i) any Special Conditions;
  - (ii) these terms;
  - (iii) Schedule 1 (other than any Special Conditions); and
  - (iv) any other Schedules, annexures or attachments to this Contract.
- (b) If there is any inconsistency amongst the provisions in any of the documents listed in clause 1.4(a)(i) to 1.4(a)(iv) above, the provision in the earlier listed document will prevail, over the provision in the later listed document to the extent of the inconsistency.

## 2 PAYMENTS BY GRDC

### 2.1 Research Funds

- (a) During the Term GRDC must provide to the Research Organisation the Research Funds by way of payments in accordance with this clause 2.
- (b) The Research Organisation must use the Research Funds for the sole purpose of carrying out the Project in accordance with this Contract.
- (c) The Research Organisation must not use Research Funds to acquire a Capital Item unless a description of, the details of the need for, and costs of, the Capital Item are included in Item 14 of Schedule 1, or unless it has obtained GRDC’s prior written approval and Item 14 of Schedule 1 has been updated accordingly.

### 2.2 Payment procedure

Subject to clause 2.3, during the Term GRDC will make a payment associated with a Milestone specified in Item 21 of Schedule 1 to the Research Organisation on acceptance of the Milestone Report in accordance with clause 8.3 of this Contract.

## 2.3 GRDC obligation to make payments

GRDC has no obligation to pay the Research Organisation each part of the Research Funds under this Contract unless:

- (a) the Research Organisation has complied with:
  - (i) all material obligations arising prior to the date of payment under any agreement between the Research Organisation and GRDC; and
  - (ii) all of its obligations arising under this Contract, including acceptance of all previous Milestone Reports by GRDC, acting reasonably, and has not been relieved under 21.4 from failure or delay in performance of such obligations;
 provided that GRDC:
  - (iii) will not withhold payment without giving reasonable consideration to any reasons put forward by the Research Organisation for any failure to comply with its obligations; and
  - (iv) will identify any payment being withheld under this clause 2.3(a) and provide reasons;
- (b) GRDC has received sufficient funding in relation to the Financial Year in which the payment is to be made to enable it both to make the payment and to make payments during that Financial Year under all other research agreements entered into by GRDC, provided that if it has not received sufficient funding, GRDC has provided the Research Organisation with at least 3 months' written notice of reduction in funds or termination in accordance with clause 18.2; and
- (c) the payment is consistent with, and designed to give effect to, GRDC's Annual Operational Plan and R&D Plan prepared under Part 2 of the PIRD Act, provided that if GRDC relies on clause 2.3(c) to stop payments of the Research Funds:
  - (i) it must promptly notify the Research Organisation that clause 2.3(c) applies; and
  - (ii) unless otherwise agreed in writing by the Parties, the Research Organisation must stop performing the Project until GRDC notifies the Research Organisation that GRDC will resume payment of the Research Funds.

## 3 CONTRIBUTIONS

### 3.1 Other Contributions

- (a) In respect of all Contributions other than the Research Funds, the Research Organisation must:
  - (i) provide the Research Organisation's Contributions for the Project at the times and in the manner specified in Schedule 1;
  - (ii) ensure that any third parties identified in Item 11 of Schedule 1 as providing Contributions for this Project, provide and make available their third party Contributions for the Project at the times and in the manner specified in Schedule 1; and
  - (iii) within 14 days after a written request from GRDC to do so, provide to GRDC satisfactory written evidence that confirms that the Contributions referred to in clauses 3.1(a)(i) and 3.1(a)(ii) have been provided and used for the Project in accordance with this Contract.
- (b) If, for any reason, the Research Organisation fails to provide its Contributions or is not able to obtain any third party Contributions (including any part thereof) as required under this Contract:
  - (i) the Research Organisation must notify GRDC as soon as practicable after it becomes aware of any likely failure to provide or obtain such Contributions; and
  - (ii) GRDC may (irrespective of whether it has received notice under clause 3.1(b)(i)):

- (1) suspend payment of the Research Funds (or an instalment) until such Contributions are provided or obtained by the Research Organisation; or
- (2) terminate this Contract for default in accordance with clause 18.1.

## 4 CONDUCT OF PROJECT

### 4.1 Carrying out of Project

The Research Organisation must:

- (a) carry out the Project using all necessary and appropriate professional skill and diligence during the Term;
- (b) use its best endeavours to achieve all Project Outcomes, Project Outputs, Milestones and any other activities allocated to it in Schedule 1 by their due date;
- (c) except as otherwise expressly provided in this Contract, provide at its own expense all funds, personnel, Items, facilities, services and premises specified in Schedule 1 or otherwise required to carry out the Project;
- (d) except as otherwise expressly provided in this Contract, obtain at its own expense all third party assistance specified in Schedule 1 or as required to carry out the Project;
- (e) take all reasonable steps to ensure that its Research Organisation Personnel enable it to comply with its obligations under this Contract including, in particular, those obligations which relate to Project Outputs, Background Material and Third Party Material;
- (f) ensure that the Project is conducted by its Research Organisation Personnel and that its Research Organisation Personnel spend the amount of time working on the Project that is specified in Schedule 1 or as otherwise approved in writing by GRDC;
- (g) be responsible for the safekeeping and maintenance of any GRDC Background Material that is made available for the Project and must ensure that it is used, copied, supplied or reproduced only for the purposes as permitted under this Contract; and
- (h) comply with all applicable Laws in carrying out the Project, including (as applicable) those specified in clause 14.

### 4.2 Sub-contracting

- (a) The Research Organisation may only sub-contract the conduct of the Project (in whole or in part) if the sub-contract is with an Approved Sub-contractor or if GRDC has provided the Research Organisation with prior written approval.
- (b) GRDC may impose any conditions or restrictions it considers appropriate in giving its approval under clause 4.2(a).
- (c) Subject to clause 4.2(a), the Research Organisation:
  - (i) must provide GRDC with a copy of any executed sub-contract on request;
  - (ii) remains fully responsible for the conduct of the Project including any act or omission of any sub-contractor engaged by the Research Organisation;
  - (iii) must ensure that all rights in relation to any Intellectual Property created by a sub-contractor in the performance of any part of the Project are assigned to the relevant persons, to be owned as provided for in this Contract; and
  - (iv) acknowledges and agrees that GRDC may disclose the name of any sub-contractor engaged to undertake the Project under this Contract. The Research Organisation must inform its

sub-contractors that their participation in undertaking the Project under this Contract may be publicly disclosed.

#### 4.3 Achievement of Milestones

- (a) If the Research Organisation repeatedly fails to meet one or more Milestones, or is delayed in delivering any Milestone by more than one-quarter of the Term, without limiting any of GRDC's other rights or remedies, GRDC may by written notice to the Research Organisation:
  - (i) reduce the scope of the Project;
  - (ii) reduce the Research Funds;
  - (iii) require repayment of some or all Research Funds paid to the Research Organisation that have been wrongly expended or not irrevocably committed; and/or
  - (iv) terminate this Contract in accordance with clause 18.1.
- (b) GRDC is not entitled to exercise any of the rights set out in this clause 4.3 to the extent that the failure to meet, or delay in delivering, each relevant Milestone is caused by a breach of this Contract by GRDC or its Personnel.

#### 4.4 Additional funding

The Research Organisation must:

- (a) promptly notify GRDC:
  - (i) if it receives funds or other support in relation to the Project from any source, other than the Contributions as specified in Schedule 1; and
  - (ii) of the terms upon which those funds or other support are provided; and
- (b) ensure that their provision does not have any impact on the ownership of Project Outputs unless pre-approved in writing by GRDC.

#### 4.5 Fraud

The Research Organisation must take all reasonable steps to prevent and detect Fraud in carrying out the Project.

#### 4.6 Safety

- (a) The Research Organisation must ensure that its activities in carrying out the Project comply, and that any site at which it carries out any part of the Project (**Site**) complies, with all applicable:
  - (i) work health and safety Laws and applicable industry codes of practice and Australian Standards, including in relation to consultation, representation and participation; and
  - (ii) all applicable policies and procedures relating to work health and safety, when conducting those activities or when on the Site.
- (b) Without limiting its obligations under clause 4.6(a), the Research Organisation must ensure that any person involved in the Project or attending a Site is:
  - (i) properly trained, informed, supervised and instructed in the use of the facilities and Items involved in conducting any activities in relation to the Project or whilst on Site;
  - (ii) provided with any other assistance that is required to ensure their health and safety in conducting the Project or whilst on Site; and
  - (iii) provided with all necessary personal protective equipment.

- (c) The Research Organisation is solely responsible for all preparation and co-ordination required for carrying out the Project at a Site in accordance with the requirements of this Contract.

#### **4.7 Responsible conduct of research**

The Research Organisation agrees to:

- (a) comply, and ensure compliance by its Personnel, with the Code in conducting the Project;
- (b) notify GRDC promptly in the event that it becomes aware of any actual or suspected noncompliance with the Code in connection with the Project or any of its Personnel; and
- (c) cooperate with any reasonable directions of GRDC in handling any such noncompliance.

### **5 RESEARCH ORGANISATION PERSONNEL**

#### **5.1 Not employees of GRDC**

- (a) No Research Organisation Personnel will, by reason of this Contract or the conduct of the Project, be considered to be in the service or employ of, or to be the partner or agent of, GRDC.
- (b) The Research Organisation must comply, or require its Personnel to comply, with all obligations to pay tax instalment deductions, fringe benefits tax, superannuation guarantee levy, training guarantee levy, payroll tax and any other taxes or levies, and associated record keeping and lodgement obligations, imposed on an employer which apply to the Research Organisation or its Personnel.

#### **5.2 No funding of statutory entitlements of Research Organisation Personnel or other employment related expenses**

The Research Organisation must not use Research Funds to fund any statutory entitlements of its Research Organisation Personnel or any other employment related expenses (including parental leave or long service leave) unless they are disclosed in Schedule 1 or are otherwise pre-approved in writing by GRDC.

#### **5.3 Changes to Research Organisation Personnel**

- (a) If any key members of the Research Organisation Personnel listed in Item 15 of Schedule 1 (being the Project Supervisor or other senior researchers from the Research Organisation with key roles in the Project) are unable to undertake work in respect of the Project to the extent required by this Contract, the Research Organisation must promptly notify GRDC in writing. The Research Organisation must, if requested in writing by GRDC, use reasonable endeavours to promptly provide replacement Research Organisation Personnel acceptable to GRDC.
- (b) The Research Organisation acknowledges that GRDC requires the ability to ensure the quality, suitability, and cooperation of Research Organisation Personnel. GRDC may, acting reasonably, give written notice to the Research Organisation requiring the Research Organisation to remove any Research Organisation Personnel from performing the Project. The Research Organisation must promptly arrange for the removal of those Personnel from performing the Project and use reasonable endeavours to promptly provide replacement Research Organisation Personnel acceptable to GRDC.
- (c) If the Research Organisation is unable to provide acceptable replacement Research Organisation Personnel, GRDC may:
  - (i) suspend payment of the Research Funds (or an instalment) until acceptable replacement Research Organisation Personnel are provided by the Research Organisation; or

- (ii) terminate this Contract in accordance with clause 18.1 (Termination for default).

## 6 WARRANTIES AND UNDERTAKINGS

### 6.1 Capacity and legality

The Research Organisation warrants that:

- (a) it has the power to enter into this Contract and to carry out the Project;
- (b) it has or will obtain all necessary approvals, consents, licenses and authorisations to enable it to carry out the Project; and
- (c) except as specified in this Contract, that Research Organisation is not a party to any agreement that could limit or constrain any reasonably foreseeable dissemination or Commercialisation activities involving Project Outputs.

### 6.2 Intellectual Property

- (a) The Research Organisation warrants that except as disclosed in the IPPO Register in Schedule 2, to the best of its knowledge at the date of this Contract having made all reasonable enquiries, all Background Material and Third Party Material contributed to the Project by it will be able to be used royalty-free for the conduct of the Project and all reasonably foreseeable dissemination or Commercialisation of Project Outputs in accordance with this Contract. GRDC acknowledges that reasonable enquiries in respect of patents does not extend to public prior art searches, but the Research Organisation will notify GRDC as soon as practicable after becoming aware of any third party patent rights which may prevent the use of Background Material or Third Party Material as contemplated by this clause 6.2(a).
- (b) The Research Organisation provides the same warranty as described in clause 6.2(a) in relation to any additional Background Material or Third Party Material it provides in accordance with clause 9.1(b) of this Contract at the time of providing that Material.
- (c) The Research Organisation warrants that, in carrying out the Project, it will not knowingly breach any Intellectual Property rights of any person.

### 6.3 Information provided will be correct

- (a) Subject to clause 6.2, the Research Organisation warrants that at the time it is provided, all information provided by the Research Organisation to GRDC:
  - (i) in Schedule 1;
  - (ii) in the IPPO Register in accordance with clause 9.2; and
  - (iii) in relation to the Project,
 is correct, complete and not misleading in any significant respect.
- (b) If at any time during the Project Term, the Research Organisation becomes aware that any information provided by the Research Organisation to GRDC is incorrect, incomplete or misleading in any significant respect, then the Research Organisation must immediately notify GRDC in writing and, where applicable or requested by GRDC, correct such information at its own cost.

## 7 FINANCIAL PROVISIONS

### 7.1 Payments into account

Upon receipt, the Research Organisation must immediately pay all Research Funds it receives from GRDC into an account maintained by the Research Organisation with an Australian bank or a non-Australian bank approved by GRDC in writing. The Research Organisation must establish and maintain a separate bank account or a separate account code within a general ledger account for the Project to enable use of the Research Funds to be identified.

### 7.2 Retention of records

The Research Organisation must obtain invoices, receipts or other appropriate records for all expenditure relating to the Project and must retain such invoices, receipts and records for at least 7 years after the end of the Term.

### 7.3 Inspection by GRDC

The Research Organisation must permit GRDC (including any agent of GRDC) from time to time and at all reasonable times during the Term and for at least 7 years after the end of the Term:

- (a) to inspect work being carried out in connection with the Project, including the use by the Research Organisation of any GRDC Background Material provided as part of the Project (subject to GRDC or its agent complying with any reasonable directions of the Research Organisation in respect of safety or the security of its premises);
- (b) to examine and copy all accounts and other records required to be kept or maintained by the Research Organisation under this Contract; and
- (c) to examine and copy all other documents relating to the Project including records of Project Outputs discovery and development (except for data provided to the Research Organisation by a third party on a confidential basis).

### 7.4 Audit

GRDC may from time to time during the Term and for at least 7 years after the end of the Term at its expense arrange for the accounts and other relevant documents maintained by the Research Organisation in relation to this Project to be audited. The Research Organisation must give all reasonable assistance to GRDC and its auditor in relation to any such audit. Nothing in this Contract derogates from the powers of the Auditor-General of the Commonwealth of Australia.

### 7.5 Third party obligations

- (a) GRDC acknowledges that any information or documents provided or made available to it under clauses 7.3 or 7.4 might contain Confidential Information or personal information of or concerning a third party, or be subject to legal professional privilege (**Specific Information**).
- (b) The Research Organisation must use reasonable endeavours to:
  - (i) obtain the consent of the third party to; or
  - (ii) to the extent it is not reasonably possible to obtain consent under clause 7.5(b)(i), or the information is subject to legal professional privilege, redact any relevant information prior to, disclosure of such Specific Information to GRDC.
- (c) GRDC agrees, in relation to any Specific Information disclosed or made available to it under clauses 7.3 or 7.4, to:

- (i) keep that information confidential; and
- (ii) not to use or disclose that information without the written permission of the relevant third party.

## 8 REPORTING OBLIGATIONS

### 8.1 Milestone Reports

- (a) The Research Organisation must submit a Milestone Report to GRDC in relation to each Milestone:
  - (i) by the relevant due date specified in Item 21 of Schedule 1; and
  - (ii) unless otherwise notified by GRDC, via the GRDC Portal. The Research Organisation must notify GRDC immediately if there are any technical issues or otherwise that would prevent the submission of a Milestone Report via the GRDC Portal.
- (b) If the Milestone Report contains Confidential Information the Research Organisation must mark the Milestone Report accordingly on its cover and at those parts of the Milestone Report which may reasonably be viewed as containing Confidential Information.

### 8.2 Additional information

The Research Organisation must, from time to time, promptly provide such information or reports to GRDC regarding the progress and results of the Project as GRDC may reasonably require.

### 8.3 Acceptance of Milestone Reports

- (a) Upon receipt of a Milestone Report submitted in accordance with this Contract, GRDC will conduct a review of the Milestone Report to determine whether the Milestone Report does demonstrate that the Milestone has been met.
- (b) Unless otherwise specified in Item 21 of Schedule 1, within 28 days of the date GRDC receives the Milestone Report or within 28 days of the due date of the Milestone Report, whichever is the later, GRDC will:
  - (i) if satisfied that the Milestone Report does demonstrate that the Milestone has been met, accept the Milestone Report and notify the Research Organisation in writing of its acceptance; or
  - (ii) if not satisfied that the Milestone Report does demonstrate that the Milestone has been met, give the Research Organisation written notice that it does not accept the Milestone Report, including the reasons why.
- (c) If the Research Organisation receives a notice under clause 8.3(b)(ii) that GRDC has not accepted the Milestone Report, it must:
  - (i) address the issues identified by GRDC and submit a revised Milestone Report for GRDC's consideration in accordance with this clause 8.3. The process in this clause 8.3 will apply to the re-submitted Milestone Report; or
  - (ii) give GRDC notice of a dispute under clause 17,

within the timeframe specified in the notice or within 28 days from the date the Research Organisation receives the notice under clause 8.3(b), whichever is the later.

### 8.4 Ownership and use of Reports

Subject to this Contract:



- (a) the Research Organisation will own the copyright in Milestone Reports submitted by the Research Organisation under this Contract and any additional reports provided by the Research Organisation in accordance with clause 8.2 of this Contract; and
- (b) the Research Organisation grants to GRDC a perpetual, irrevocable, fully paid, royalty-free, worldwide non-exclusive licence, including a right to sub-licence, to use the copyright and information in the Milestone Reports and any additional reports provided in accordance with clause 8.2 for GRDC's purposes (including reporting to its stakeholders, including the government) or in pursuance of the functions of GRDC arising under the PIRD Act.

## 9 PROJECT OUTPUTS

### 9.1 Background Material and Third Party Material

- (a) Each Party must provide Background Material and Third Party Material to the Project, as specified in the IPPO Register.
- (b) A Party may provide additional Background Material and Third Party Material to the Project during the Term if:
  - (i) that Party provides the other Party with details of the Background Material and Third Party Material and any restrictions on its use for dissemination or Commercialisation of Project Outputs;
  - (ii) the other Party consents in writing to the provision of those Background Materials and Third Party Materials with the disclosed restrictions; and
  - (iii) that Party updates the IPPO Register accordingly and provides a copy to the other Party.
- (c) Where Background Material and Third Party Material is made available by a Party for the Project in accordance with clauses 9.1(a) and (b), that Party grants the other Party an irrevocable royalty-free, non-exclusive licence to use the Background Material and Third Party Material contributed by it:
  - (i) for the purposes of the Project during the Term; and
  - (ii) where the Background Material or Third Party Material:
    - (1) is embodied in the Project Outputs or the Project Outputs have been developed using it; and
    - (2) is required for dissemination or Commercialisation of the Project Outputs in accordance with this Contract,
 to then disseminate or Commercialise the Project Outputs in accordance with this Contract, subject to any limitations or restrictions disclosed in the IPPO Register in Schedule 2, and the other Party must not use, disclose, reproduce, communicate or otherwise deal with that Background Material or Third Party Material except as expressly permitted under this Contract or as otherwise agreed in writing between the Parties.
- (d) Nothing in this Contract affects the ownership of Background Material and Third Party Material made available by a Party to the Project, unless agreed otherwise between the Parties in writing.

### 9.2 IP and Project Outputs (IPPO) Register

The Research Organisation must during the Term:

- (a) produce and maintain as part of the Project the IPPO Register that, as a minimum, sets out:

- (i) all Background Material and Third Party Material provided to the Project in accordance with clause 9.1, including details of any such Background Material and Third Party Material that is incorporated in the Project Outputs;
- (ii) the owner or authorised licensor of that Third Party Material and where applicable, the arrangements under which Third Party Material is being made available for the purposes of the Project;
- (iii) any limitations, impediments or restrictions on the use of the Background Material and Third Party Material referred to in clause 9.2(a)(i), including any restrictions on the royalty-free use of that Material for all reasonably foreseeable dissemination or Commercialisation activities involving the Project Outputs;
- (iv) all Project Outputs created under this Project; and
- (v) the terms under which any Project Outputs are provided to a third party in accordance with this Contract;
- (b) regularly review and update the IPPO Register as necessary to reflect all changes from time to time in respect of the items listed under clause 9.2(a);
- (c) provide up-to-date copies of the IPPO Register to GRDC:
  - (i) as required under any Milestone in this Contract; and
  - (ii) at any other time within 28 days after a written request from GRDC to do so; and
- (d) provide such evidence as GRDC may reasonably request from time to time in order to confirm the ownership and other arrangements on which Background Material and Third Party Material is made available for the Project or reasonably foreseeable dissemination or Commercialisation of the Project Outputs.

### 9.3 Ownership of Project Outputs

- (a) Ownership of all right, title and interest in the Project Outputs (including Project IP created by a Student in accordance with clause 9.11) vests on and from creation in:
  - (i) the parties specified in Item 12 of Schedule 1; or
  - (ii) if ownership of Project Outputs is not specified in Item 12 of Schedule 1, the Parties as tenants in common in equal shares.
- (b) The Parties acknowledge that:
  - (i) the owner/s of Project Outputs and the holder/s of a Beneficial Interest in a share of the Net Commercialisation Income from those Project Outputs may not be the same;
  - (ii) the two concepts described in clause 9.3(b)(i) are dealt with separately under this Contract;
  - (iii) other entities may own the Project Outputs in recognition of their contribution to the Project, but only if the Parties have agreed in writing and those entities are listed in Item 12 of Schedule 1 as being an owner of Project Outputs;
  - (iv) if the Parties or any other entity are listed in Item 12 of Schedule 1 as being an owner of the Project Outputs in shares, those shares relate to the Parties' respective Beneficial Interest in relation to the Project Outputs.
- (c) The Research Organisation warrants that to the best of its knowledge, having made reasonable enquiries:
  - (i) no person other than the Owing Parties and any third parties specified in Item 12 of Schedule 1 owns or will own a share of the Project Outputs; and

- (ii) use by the Owing Parties of the Project Outputs created by the Research Organisation will not infringe the rights of any third party, or breach any obligation of confidence owed to a third party.

In respect of any third party patent rights, the warranty under this clause 9.3(c) is given only as at the date of the Contract and GRDC acknowledges that reasonable enquiries do not extend to public prior art searches. The Research Organisation will notify GRDC as soon as practicable after becoming aware of any third party patent rights that may be infringed by the Owing Parties' use of the Project Outputs.

- (d) Whilst it is recognised that the ownership of Project Outputs may be changed during the course of the Project, such an agreed change will only be effective if it is the subject of a formal variation to this Contract in accordance with clause 21.6.
- (e) Each Party irrevocably:
  - (i) assigns such of its right, title and interest in any existing and future Project Outputs as is necessary to comply with this clause 9.3; and
  - (ii) undertakes to execute any documents and do any things that are necessary to give effect to that assignment.

#### 9.4 Protection of Project Outputs (including Discoveries)

- (a) Without limiting its other obligations under this Contract, the Research Organisation must notify GRDC in writing of any Discovery in connection with the Project within 28 days of first becoming aware of the Discovery.
- (b) If an Owing Party considers that it would be appropriate to seek registration of any Project Outputs (including Discoveries), it must notify the other Owing Party (if any) of the details of a proposed registration strategy including details of:
  - (i) the type of registration;
  - (ii) the countries in which registration is to be sought; and
  - (iii) the anticipated costs and benefits of the registration.
- (c) The Owing Parties must after receipt of a notice under clause 9.4(a) or 9.4(b) in good faith seek to agree in writing (as applicable) appropriate arrangements for protection (including registration) for the Project Outputs.
- (d) The Owing Parties must protect the Project Outputs in accordance with any written agreement reached under clause 9.4(c). Subject to any alternative agreement between the Owing Parties, costs of protection of Project IP will be borne by the Owing Parties in proportion to their share of ownership.
- (e) If:
  - (i) an Owing Party wishes to register Project IP but the other Owing Party (if any) is unable to agree on registration under clause 9.4(c) within 2 months of an Owing Party proposing in writing that it be registered; or
  - (ii) having agreed to commence registration, the Owing Parties are unable to agree on continuation or maintenance of the registration, by 3 months before the deadline for continuation or maintenance of registration,
 then:
  - (iii) an Owing Party (**Continuing Party**) may at its own cost arrange registration or maintenance;

- (iv) the Continuing Party may require that the other Owing Party (**Withdrawing Party**) promptly assign its share of that Project IP in the relevant country to the Continuing Party and take all steps reasonably required to transfer its share of that Project IP to the Continuing Party;
- (v) despite anything to the contrary in this Contract, the Withdrawing Party:
  - (1) waives any rights in relation to that Project IP in that country other than the licence-back in clause 9.4(e)(vi); and
  - (2) forfeits its Beneficial Interest in respect of any Commercialisation in that country; and
- (vi) the Continuing Party must grant back to the Withdrawing Party a perpetual, non-exclusive royalty-free licence to use the assigned Project IP for education, research and other non-commercial purposes, but only to the extent that the use does not prejudice the future registration or Commercialisation of any Project Outputs.

## 9.5 Commercialisation of Project Outputs

- (a) The Parties acknowledge that the primary aim of the Project is to benefit the Australian Grains Industry and that maximisation of commercial returns is a secondary aim which will not be pursued to the detriment of the primary aim. Accordingly, the Parties undertake to work together, in good faith, to seek adoption, dissemination and Commercialisation of Project Outputs which maximises the benefit to the Australian Grains Industry.
- (b) If an Owing Party considers on reasonable grounds that any Project Outputs may be Commercialised, it must notify the other Owing Party (if any) in writing accordingly, identifying the relevant Project Outputs.
- (c) Any Commercialisation of Project Outputs will be led by the Commercialisation Party subject to the Parties entering into a separate written agreement.
- (d) The Parties will share the Net Commercialisation Income derived from Commercialisation of Project Outputs in proportion to their Beneficial Interest in the Project Outputs. GRDC will be responsible for notifying and distributing such shares of Net Commercialisation Income to non-Owing Parties as and when they arise, subject to receiving a tax invoice from the non-Owing Party in accordance with GRDC's notice.

## 9.6 Notification of infringements

A Party must notify the other Party within 14 days if it:

- (a) becomes aware of or suspects an infringement or threatened infringement of Project IP or a misuse of Project Data, Project Confidential Information or Items; or
- (b) becomes aware of any claim that carrying out the Project or the dissemination, Commercialisation or other use of the Project Outputs infringes or is likely to infringe the Intellectual Property rights or other legal rights of a third party.

## 9.7 Acts to defend Project Outputs

- (a) Where an Owing Party believes that action should be taken to defend Project Outputs because they are, or are likely to be, infringed or misused by a third party:
  - (i) it must notify the other Owing Party (if any) of details of a proposed defence strategy including details of the anticipated costs and benefits of the action; and
  - (ii) the Owing Parties must seek to agree on a defence strategy.
- (b) If the Owing Parties agree on a defence strategy they will proceed according to that defence strategy.

- (c) If the Owning Parties do not agree on a defence strategy within 28 days of the notice under clause 9.7(a), then:
  - (i) an Owning Party (**Active Party**) may proceed to take that action in its own name and at its own expense;
  - (ii) the other Owning Party (**Passive Party**) must execute any documents and do any things necessary to enable the Active Party to prosecute the action;
  - (iii) the Active Party must, pay for any reasonable expenses incurred by the Passive Party for providing the assistance referred to in clause 9.7(c)(ii); and
  - (iv) the Active Party may retain any damages recovered in taking the action.

## 9.8 Limitation on use of Project Outputs

- (a) Except as provided in clauses 4 or 9, neither Party may use, disseminate, assign, license or otherwise exploit or deal with any Project Outputs without the prior written consent of the other Party.
- (b) If a Party (**the Transferor**) intends to transfer Items constituting Project Outputs to a third party, the Transferor must use an Approved MTA, unless otherwise agreed in writing by GRDC.
- (c) Prior to transferring the Items the Transferor must:
  - (i) comply with clause 9.8(a); and
  - (ii) execute an Approved MTA with the third party.
- (d) The Transferor must:
  - (i) record any transfer of Items constituting Project Outputs on the IPPO Register;
  - (ii) immediately notify the other Party to this Contract if the third party breaches any term of the Approved MTA.

## 9.9 Internal Research and Education

- (a) Each Party grants the other Party an irrevocable, royalty-free, non-exclusive licence to use the Project Outputs for the purposes of internal research or education subject to clauses 9.9(b) and (c) and any restrictions or encumbrances specified in the IPPO Register.
- (b) Where a Party has provided Background Material and Third Party Material for the Project, that Party grants the other Party, subject to any restrictions or encumbrances specified in the IPPO Register, an irrevocable royalty-free, non-exclusive licence to use the Background Material and Third Party Material contributed by it for the purpose of internal research or education.
- (c) Where a Party uses Project Outputs or the Background Material or Third Party Material made available by the other Party in accordance with clause 9.9(a) or (b):
  - (i) it must not do so in a manner which might prejudice the future registration, value or commercial exploitation of any Project Outputs unless that Party has the prior written consent of the Owning Parties to do so;
  - (ii) where Commercialisation of Intellectual Property or Data arising out of the internal research requires access to the Project Outputs, it may only be used on terms agreed between the Owning Parties; and
  - (iii) where Commercialisation of Intellectual Property or Data arising out of the internal research requires access to the Background Material or the Third Party Material, it may only be used on terms agreed between the Party contributing the Background Material or Third Party Material.

- (d) If the Research Organisation wishes to grant a sub-contractor a licence to use some or all of the Project Outputs, the Research Organisation must seek GRDC's prior written consent by submitting a written request to GRDC specifying the Project Outputs, the purpose and any conditions of the proposed licence.
- (e) GRDC must consider any request submitted in accordance with clause 9.9(d) and respond to the Research Organisation within 28 days of the date GRDC received the request.

#### 9.10 Publication and acknowledgement

- (a) A Party (**Publishing Party**) may publish any information relating to the Project or otherwise publicly disclose any Project Outputs without the prior written consent of the other Party, except where the publication or disclosure may:
  - (i) disclose any Project Confidential Information;
  - (ii) disclose Project Data that is reasonably considered by a Party to be sensitive;
  - (iii) disclose the other Party's Background Data or Confidential Information or any Third Party Data;
  - (iv) prejudice the future registration, value or Commercialisation of any Project Outputs or the other party's Background IP; or
  - (v) prejudice the best interests of the Australian Grains Industry,
 (together **Disclosure or Prejudice**).
- (b) Where the proposed publication may cause Disclosure or Prejudice:
  - (i) the Publishing Party must:
    - (1) notify the other Party and provide a copy of the proposed publication and explanation of the likely effect of the Disclosure or Prejudice; and
    - (2) request in writing that the other Party approve publication of the Project Output;
  - (ii) the other Party must advise the Publishing Party in writing whether:
    - (1) it consents to publication;
    - (2) it consents to publication with alterations to minimise the Disclosure or Prejudice; or
    - (3) it does not consent to publication.
  - (iii) if altering the publication is impractical or if the other Party does not consent to publication, the Publishing Party must delay publication:
    - (1) in the case of Project Data:
      - (I) until that Project Data is otherwise published in a manner which does not breach this Contract; or
      - (II) where a Party reasonably considers that the Project Data is sensitive, until such time as the Parties have reached an agreement in writing, or otherwise in accordance with the requirements of clause 17; or
    - (2) otherwise:
      - (I) until such time as the Parties have reached an agreement in writing, or otherwise in accordance with the requirements of clause 17; or
      - (II) failing agreement in accordance with clause 9.10(b)(iii)(2)(I) above, for a stipulated period in GRDC's sole discretion; and

- (iv) the other Party will be deemed to have agreed to publication under clause 9.10(b)(ii)(1) unless it notifies the Publishing Party otherwise within 28 days of receiving notice under clause 9.10(b)(i).
- (c) Each Party must prominently acknowledge the contribution of the other Party to the Project at all reasonable and appropriate opportunities, including in any document or dataset published, presentation made or at any field and trial sites used, by the Party in relation to the Project.
- (d) The Research Organisation must comply with the GRDC Attribution Model or any reasonable specific additional requirements provided by GRDC when referring to GRDC's contribution to the Project.
- (e) The Research Organisation must promptly provide a copy of all publications relating to the Project to GRDC.
- (f) Nothing in this clause 9.10 limits GRDC's ability to deal with Project Data pursuant to clause 9.13(f).

### 9.11 Students

- (a) The Parties acknowledge and agree that students of the Research Organisation or other educational institution (**Student**) may be involved in the Project.
- (b) The Parties agree that the Student may publish the results of their research work:
  - (i) without restriction, where it will not cause Disclosure or Prejudice; or
  - (ii) where it may cause Disclosure or Prejudice:
    - (1) after 12 months from the end of the Term; or
    - (2) at any earlier time agreed by the Parties, and on any conditions agreed by the Parties (such as allowing deposit in the Research Organisation's library subject to confidentiality obligations).
- (c) The copyright in the Student's work towards their higher research degree, including any thesis (**Student Work**), will remain with the Student.
- (d) Unless otherwise agreed, the Research Organisation must enter into an agreement with the Student to ensure that:
  - (i) the Student assigns all Project IP created by the Student (other than copyright in the Student Work) to the Research Organisation and licenses the Parties to reproduce any Student Work for the purposes of the Project and Commercialisation of the Project Outputs;
  - (ii) the Parties are entitled to use, reproduce and disseminate any Project Data generated by the Student for the purposes of the Project and Commercialisation of the Project Outputs or any other purpose permitted by this Contract; and
  - (iii) the Student observes the confidentiality requirements set out in this Contract and which apply to the Project.
- (e) The Student and the Research Organisation may give the Student Work to external supervisors and examiners for assessment.
- (f) GRDC may request that the Research Organisation arrange for a supervisor or examiner to enter into an agreement to protect any Confidential Information.

### 9.12 Data Management Plan

- (a) The Research Organisation must during the Term:
  - (i) produce and maintain as part of the Project the Data Management Plan;



- (ii) comply at all times with the Data Management Plan (including as amended from time to time in accordance with this Contract);
- (iii) regularly review and update the Data Management Plan as necessary to reflect all changes from time to time in respect of the Project Data as it comes into existence;
- (iv) provide up-to-date copies of the Data Management Plan to GRDC:
  - (1) as required under any Milestone in this Contract; and
  - (2) at any other time within 28 days after a written request from GRDC to do so; and
- (v) provide such evidence as GRDC may reasonably request from time to time in order to confirm any of the matters specified in the Data Management Plan.

### 9.13 Project Data

- (a) The Research Organisation must:
  - (i) during the Term; and
  - (ii) for at least the Project Data Retention Period thereafter,
 store the Project Data:
  - (iii) in an Approved Repository; and
  - (iv) otherwise in accordance with the Data Management Plan.
- (b) The Research Organisation must:
  - (i) provide GRDC with Project Metadata in respect of all categories of Project Data captured, generated, produced or otherwise developed by it (or any of its Approved Sub-contractors) promptly upon such Project Data coming into existence;
  - (ii) follow all reasonable directions issued by GRDC regarding the recording or cataloguing of Project Metadata; and
  - (iii) on written request from GRDC, promptly provide GRDC with a copy of the Project Data or any part thereof requested by GRDC.
- (c) Except as expressly permitted under this Contract, the Research Organisation must not:
  - (i) use any Project Data for any purpose; or
  - (ii) publish any Project Data, or otherwise disclose any Project Data to any third party.
- (d) The Research Organisation must take all reasonable steps to ensure that Project Data it holds is protected against:
  - (i) misuse, interference and loss; and
  - (ii) unauthorised access, modification or disclosure.
- (e) If the Research Organisation proposes to cease storing the Project Data in an Approved Repository, it must:
  - (i) provide GRDC with no less than 60 days prior written notice; and
  - (ii) take any steps directed by GRDC in order to transition storage of the Project Data to an alternative repository hosted by GRDC or its nominee.



- (f) In addition to any rights under any other clause of this Contract and subject to any restrictions or limitations noted in the IPPO Register, GRDC may use, disclose, reproduce, modify or publish any Project Data in any manner as it sees fit, provided that:
  - (i) it must first seek the approval of the Research Organisation in any instance where the Parties have agreed, or GRDC reasonably considers, that:
    - (1) such step may have a significantly detrimental impact on the ability of the Parties to Commercialise any Project Output; or
    - (2) disclosure or publication of the Project Data may tend to disclose the Research Organisation's Confidential Information or Background Material,
 and the Research Organisation must not unreasonably withhold its approval in this respect; and
  - (ii) where Project Data is published, the Research Organisation is provided with appropriate attribution.

#### **9.14 Access to Project Outputs, Background Material and Third Party Material**

Each Party must give the other Party all information and material reasonably required by the other Party to fully enjoy all rights of access to, and use and exploitation of, Project Outputs, Background Material and Third Party Material that the other Party is granted under this clause 9.

## **10 CONFIDENTIAL INFORMATION**

### **10.1 Confidential treatment**

The Recipient must, subject to this Contract:

- (a) treat as confidential the Confidential Information disclosed to it by or on behalf of the Discloser;
- (b) only use or copy Confidential Information for the purposes of fulfilling its obligations under this Contract;
- (c) take reasonable steps to protect the Confidential Information and keep it secure from misuse, interference, loss and unauthorised access, modification or disclosure; and
- (d) promptly notify the other Party if it becomes aware of, or suspects, any unauthorised copying, use or disclosure of any Confidential Information.

### **10.2 Permitted disclosure**

The Recipient must not, without the prior written consent of the Discloser, disclose the Confidential Information except to the extent required to:

- (a) disclose Confidential Information to its Personnel and legal and financial advisors who have a need to know for the purposes of this Contract (and only to the extent that each has a need to know), provided that the Recipient uses reasonable efforts to ensure that:
  - (i) its Personnel and advisors who require access to Confidential Information keep the Confidential Information confidential and only use the Confidential Information for the purpose for which it was disclosed; and
  - (ii) any of the abovementioned Personnel and advisors who cease to be Personnel or advisors must continue to be bound by such obligations of confidentiality;

- (b) comply with requirements of a court, governmental or administrative authority or any parliamentary authority or by applicable Law to disclose Confidential Information, provided that the Recipient must:
  - (i) promptly notify the Discloser and consult with it about the form and content of any disclosure required; and
  - (ii) only disclose that part of the Confidential Information as is necessary to comply with the relevant requirements; or
- (c) in the case of GRDC or a Research Organisation that is a government agency, disclose the Confidential Information in response to parliamentary questions, ministerial inquiries, reporting obligations and inquiries conducted by or on behalf of the Auditor General of the relevant State or Territory government or the Auditor General of the Commonwealth of Australia.

## 11 CAPITAL ITEMS

### 11.1 Maintenance and repairs

The Research Organisation must, at its own expense unless included in Schedule 1, maintain all Capital Items in good condition for the Term, and effect all necessary repairs.

### 11.2 Ownership

The Research Organisation will own all Capital Items that it acquires.

### 11.3 No securities to be given

The Research Organisation must not, without the prior written consent of GRDC, grant, or permit to arise, any security interest (including mortgages, charges or liens but excluding security interests given in respect of circulating assets in the ordinary course of business) over any Capital Item, during the Term.

### 11.4 Replacement

The Research Organisation must, at its own expense, promptly replace or repair any Capital Item in its possession or control, that is lost, damaged or destroyed during the Term, unless that damage or destruction is caused by reasonable wear and tear.

### 11.5 Sale of Capital Item during or after the Term

If:

- (a) the Research Organisation sells or otherwise disposes of a Capital Item during or after the Term; and
- (b) at the time of the sale or disposal, the Capital Item has not been fully depreciated at applicable Depreciation Rates,

the Research Organisation must advise GRDC of the sale or disposal and, if GRDC requests it, pay to GRDC within 28 days of the date of the sale or disposal of the Capital Item:

- (c) an amount equal to the proportion of the undepreciated value of the Capital Item owned by it (calculated at the applicable Depreciation Rate) that is equivalent to the proportion of the purchase price of the Capital Item that was funded from Research Funds; or
- (d) the proceeds of the sale or disposal, less an amount equal to the sum of the Research Organisation's proportionate contribution to the purchase price of the Capital Item and the Research Organisation's reasonable costs of disposal of the Capital Item.

## 12 INSURANCE

### 12.1 Government Self Insurer

The Research Organisation is not subject to clauses 12.2 (excluding clause 12.2(b)) and 12.3 if it is a Commonwealth, State or Territory government department, agency or statutory entity and holds a relevant licence, approval or is registered to manage an appropriate self-insurance scheme that covers the risks and liabilities of a Research Organisation contemplated under this Contract.

### 12.2 Insurance required

Subject to clause 12.1 or any alternative insurance requirements specified in Item 18 of Schedule 1, the Research Organisation must:

- (a) maintain all appropriate insurances for the Project including:
  - (i) workers' compensation insurance as required by law;
  - (ii) public liability insurance in the amount of at least \$10 million for each claim;
  - (iii) professional indemnity insurance in the amount of at least \$5 million per claim that covers key activities to be undertaken by the Research Organisation in connection with the Project; and
  - (iv) insurance in respect of loss or damage to Capital Items; and
- (b) ensure that any Approved Sub-contractors engaged by the Research Organisation maintain appropriate insurances for the relevant Project activities, including the insurances specified in subclauses 12.2(a)(i) to (iii) above.

### 12.3 Documentation

The Research Organisation must, on request by GRDC, provide evidence of the currency of the insurance policies required under clause 12.2 and any other information reasonably required by GRDC to demonstrate that the Research Organisation satisfies the requirements of this clause 12.

## 13 CONFLICT OF INTEREST AND OVERLAPPING PROJECTS

### 13.1 Warranties regarding conflict of interest

The Research Organisation warrants to GRDC, that:

- (a) except as disclosed in writing to GRDC prior to execution of this Contract, the Research Organisation and Research Organisation Personnel did not, or will not, at the Commencement Date, hold any rights or property or have any obligations; and
- (b) except as disclosed under clause 13.2, the Research Organisation agrees not to, at any time while the Project is being carried out, acquire any rights or property or undertake any obligations,

that might limit the Research Organisation's ability to meet its obligations under this Contract.

## 13.2 Notice of conflict of interest

The Research Organisation agrees to:

- (a) give notice to GRDC of any matter, event or circumstance by reason of which any such conflict of interest is created, or might reasonably be expected to arise, as soon as reasonably possible after becoming aware of the matter, event or circumstance; and
- (b) comply with any reasonable direction from GRDC to deal with the conflict of interest.

## 13.3 Limitation of clauses

GRDC agrees that clauses 13.1 and 13.2, to the extent that they apply to Research Organisation Personnel, are limited to Research Organisation Personnel engaged on or reasonably having knowledge of the Project sufficient to protect the interest of either Party in the Project and its results.

## 13.4 Notice of overlapping project

The Parties acknowledge the need for efficient use of the Australian Grains Industry's limited research resources. Accordingly:

- (a) the Research Organisation must promptly advise GRDC of any research project it commences which utilises similar scientific approach or methodology to achieve the same or similar objectives as the Project; and
- (b) the Parties must negotiate in good faith about whether this Project should be amended or terminated.

# 14 CONDUCT OF RESEARCH

## 14.1 Animals

If the Project involves the use of animals, the Research Organisation must comply with all requirements set out in the "Australian code of practice for the care and use of animals for scientific purposes" endorsed by the National Health and Medical Research Council, as amended from time to time.

## 14.2 Gene Technology

- (a) If the Project involves the use of any Gene Technologies or similar techniques, the Research Organisation must:
  - (i) comply with all applicable State, Territory and Federal Laws relevant to the activity, including the *Gene Technology Act 2000* (Cth) as amended from time to time;
  - (ii) comply with any safety guidelines established from time to time by the Gene Technology Regulator or any other similar body established by the Commonwealth or (as applicable) State or Territory governments;
  - (iii) implement industry best practice stewardship procedures consistent with 'Excellence Through Stewardship' guides in force from time to time and available from <http://www.excellencethroughstewardship.org/>;
  - (iv) immediately notify GRDC on becoming aware of any suspected breach of the requirements in clauses 14.2(a)(i)– (iii) including details of the nature of the breach.
- (b) If the Project is not intended to involve the use of any Gene Technologies but GM material is inadvertently introduced into the Project, the Research Organisation must immediately:

- (i) notify GRDC in writing of the GM material and the circumstances surrounding its introduction; and
- (ii) manage the Project in accordance with clause 14.2(a) of this Contract and any reasonable directions of GRDC to minimise any negative impacts.

### 14.3 Environment

The Research Organisation must carry out the Project in accordance with any relevant environmental legislation and must not (except as fully disclosed to GRDC) adversely affect the environment to a significant extent.

### 14.4 Defence Trade Controls

If the Project involves the use of any '**DSGL technology**' (as defined in the *Defence Trade Controls Act 2012* (Cth)), the Research Organisation:

- (a) is responsible for ensuring compliance with the *Defence Trade Controls Act 2012* (Cth) and related export control laws and regulations, including by obtaining any necessary permits or approvals relating to the supply or publishing of DSGL technology in connection with the Project; and
- (b) must ensure that any DSGL technology made available to GRDC in connection with the Project is clearly identified as such, and that any restrictions on the use or disclosure by GRDC of that technology under the *Defence Trade Controls Act 2012* (Cth) are disclosed to GRDC in writing.

### 14.5 Import and export

The Research Organisation is responsible for ensuring compliance with any applicable laws and regulations relating to the import or export of goods, and to cross-border transfers of information, by the Research Organisation in connection with the Project, including any relevant requirements concerning tariffs, duties, clearances, treatments, chemical registrations and quarantine.

### 14.6 Privacy

- (a) GRDC is an 'agency' for the purposes of the *Privacy Act 1988* (Cth) (**Privacy Act**) and is required to comply with the *Australian Privacy Principles* (**APPs**) set out in Schedule 1 of that Act. GRDC's privacy policy is available at: <https://grdc.com.au/About-Us/Policies/Legal/Privacy/Privacy-Policy>.
- (b) The following clauses apply to the Research Organisation if it is a '**contracted service provider**' as defined in the Privacy Act:
  - (i) the Research Organisation must not do an act, or engage in a practice, in connection with undertaking this Contract, that would breach an APP if done or engaged in by GRDC as an 'agency';
  - (ii) the Research Organisation must not authorise its sub-contractors (if any) to do an act, or engage in a practice in connection with undertaking a sub-contract under this Contract, that would breach an APP if done or engaged in by GRDC as an 'agency'; and
  - (iii) as soon as reasonably practicable and in any event within three business days after becoming aware, the Research Organisation must notify GRDC of any breach of any of the obligations on the Research Organisation or its sub-contractors under this clause 14.6.
- (c) Nothing in this Contract should be taken as authorising the Research Organisation to do or engage in an act or practice that is prohibited under clause 14.6(b).

*Note: this is a requirement on GRDC under section 95B of the Privacy Act.*

## 15 RELATIONSHIP BETWEEN PARTIES

### 15.1 No employment, joint venture or partnership

This Contract does not give rise to any employment, joint venture or partnership relationship between the Parties.

### 15.2 No agency

Neither Party to this Contract has, except as otherwise specified in this Contract, any right to act on behalf of, represent itself as agent for, or otherwise bind, any other Party.

## 16 NOTICES

### 16.1 Writing

All notices given under this Contract must be in writing, must be signed by the Party giving the notice and must be delivered, sent by pre-paid post or transmitted by Electronic Communication to the other Party.

### 16.2 Address

All notices to be given to a Party under this Contract may be sent to the address of that Party set out in Item 19 of Schedule 1, or such other address as may be advised by that Party in writing from time to time. Notices must be addressed for the attention of the receiving Party's authorised representative under clause 21.3.

### 16.3 Receipt of notice

A notice given in accordance with this clause 16 is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by pre-paid post, 5 business days after the date of posting; or
- (c) if sent by Electronic Communication, at the time that would be the time of receipt under the *Electronic Transactions Act 1999* (Cth),

but any notice that would be deemed to have been received on a non-business day, will instead be deemed received on the next business day. For the purpose of this clause 16, reference to a "business day" means Monday to Friday (excluding public holidays) in the place where the recipient of the notice resides as determined by the address of that Party specified under clause 16.2.

## 17 DISPUTE RESOLUTION

### 17.1 Process

If a Party gives the other Party notice of a dispute arising out of, or relating to, this Contract, a dispute will be deemed to have arisen (**Dispute**), and the Parties must resolve the Dispute in accordance with the provisions of this clause 17. Compliance with the provisions of this clause 17 is a condition precedent to seeking relief in any court or tribunal in respect of the Dispute.

### 17.2 Negotiations in good faith

The Parties agree to negotiate in good faith and to use their best endeavours to resolve the Dispute.

### 17.3 Reference to management

If the Dispute is not resolved within 28 days of the receipt of the notice referred to in clause 17.1, the Dispute must be immediately referred in the first instance to the Managing Director of GRDC and the Chief Executive Officer (or equivalent) of the Research Organisation, or their nominees, for the purposes of negotiating a resolution to the Dispute.

### 17.4 Assistance of third party mediator

- (a) If the Dispute is not resolved within 28 days of the commencement of the process of negotiation referred to in clause 17.3, the Parties agree to then co-operate in seeking the assistance of a third party mediator conversant with the issues concerned to assist in resolving the Dispute.
- (b) If the Parties cannot agree on a third party mediator within 7 days the Parties agree that the Dispute must be immediately referred to the Australian Dispute Centre (**ADC**) for mediation.

### 17.5 Courts

- (a) If the Dispute is not resolved within 60 days of referral to a third party mediator or the ADC in accordance with clause 17.4, either Party is entitled to commence proceedings in a court of appropriate jurisdiction.
- (b) Nothing in this clause 17 will prevent a Party from seeking interlocutory relief through courts of appropriate jurisdiction.

## 18 TERMINATION

### 18.1 Termination for default

- (a) Either Party (**Terminating Party**) may terminate this Contract with immediate effect by written notice to the other Party (**Defaulting Party**), if the Defaulting Party:
  - (i) breaches any provision of this Contract and the breach continues unremedied for 28 days after the Terminating Party has served the Defaulting Party with written notice of the breach;
  - (ii) breaches a material provision of this Contract which is not capable of remedy;
  - (iii) persistently breaches a material provision of this Contract despite notice of the breach;
  - (iv) breaches a provision of this Contract that expressly provides for termination under this clause 18.1; or
  - (v) subject to the *Treasury Laws Amendment (2017 Enterprise Incentives No 2) Act 2017* (Cth), becomes an “externally-administered body corporate” as defined in section 9 of the *Corporations Act 2001* (Cth) (or an equivalent circumstance arises if the Defaulting Party is not a body corporate) or is unable to pay its debts as they fall due.
- (b) GRDC may terminate this Contract with immediate effect by written notice to the Research Organisation if, in the reasonable opinion of GRDC, the Research Organisation is not conducting the Project in a competent and diligent manner.
- (c) The withholding of payment by GRDC pursuant to any express right to do so under this Contract (including clauses 2.2, 2.3, 3.1 or 5.3) does not constitute a breach of this Contract.

## 18.2 Termination by notice

GRDC may terminate this Contract by 3 months' written notice to the Research Organisation if, in the reasonable opinion of GRDC:

- (a) the Project is unlikely to produce the Project Outputs anticipated by GRDC from the Project at the time of entering this Contract;
- (b) GRDC's finances do not enable it to continue to fund the Project whilst maintaining a prudent level of reserves;
- (c) the Project is not, or has ceased to be, relevant to the objectives or functions of GRDC or otherwise ceases to be of value to the Australian Grains Industry;
- (d) it would be in the best interests of the Australian Grains Industry for GRDC to cease to fund the Project so as to enable GRDC to fund one or more proposed research projects that may, in the opinion of GRDC, be of exceptional benefit to the industry; or
- (e) the Research Organisation is prevented by a Force Majeure Event from undertaking its obligations under this Contract for a period of 60 days or more.

## 18.3 Consequences of termination

- (a) If this Contract is terminated under clause 18.1 or 18.2:
  - (i) GRDC, the Research Organisation and any third party that owns Project Outputs under clause 9.3, retain:
    - (1) their respective ownership proportions of Project Outputs, recalculated according to each Party's Contribution actually provided to the Project at the date of termination; and
    - (2) any Beneficial Interest in the Project Outputs at the date of termination,
  - (ii) GRDC may continue to deal with Project Data in the manner permitted by clause 9.13(f);
  - (iii) termination will not affect the enforceability of any rights or obligations accrued under this Contract which survive termination;
  - (iv) from the date of termination GRDC will cease to be liable to pay or provide to the Research Organisation any further Research Funds or Contributions;
  - (v) from the date of termination, the Research Organisation will cease to be liable to make any of its further Contributions to the Project; and
  - (vi) any licences of Background Material, Third Party Material and copyright in Milestone Reports and other rights and obligations of the Parties remain in force to the extent they are expressed to survive termination of this Contract.
- (b) If this Contract is terminated under clause 18.1, then (in addition to clause 18.3(a)), GRDC may require repayment of some or all Research Funds paid to the Research Organisation that have been wrongly expended or not irrevocably committed.
- (c) If this Contract is terminated under clause 18.1, then (in addition to clause 18.3(a)) the Defaulting Party grants to the Terminating Party a world-wide, royalty-free, non-exclusive licence, including the right to sub-licence, to use the Project Outputs to the extent necessary to:
  - (i) conduct research work consistent with the Project Outcomes; and
  - (ii) disseminate or Commercialise the Project Outputs or the results of any further research, and the Terminating Party must not use the Project Outputs for any other purpose unless expressly authorised to do so by:



- (iii) the Defaulting Party; or
  - (iv) an express provision of this Contract which is stated to survive termination.
- (d) If this Contract is terminated by GRDC under clause 18.2, then (in addition to clause 18.3(a)):
- (i) GRDC may (but is not obliged to) reimburse the Research Organisation for any reasonable additional costs incurred and substantiated by the Research Organisation as a result of the early termination of the Project;
  - (ii) each Party grants to the other Party a world-wide, royalty-free, non-exclusive licence, including a right to sub-licence, to use the Project Outputs to the extent necessary to:
    - (1) conduct research and development work (excluding Commercialisation) consistent with the Project Outcomes; and
    - (2) continue any dissemination or Commercialisation of Project Outputs that has already commenced at the date of termination; and
  - (iii) where a Party:
    - (1) uses Project Outputs to conduct further research work consistent with the Project Outcomes; and
    - (2) wants to use Project Outputs to disseminate or Commercialise the results of that further research work,

the Parties must negotiate in good faith, to agree on the terms under which the Project Outputs can be used; and
  - (iv) the Parties must not use the Project Outputs for any purpose except as expressly permitted by:
    - (1) clause 18.3(d)(ii) or (iii); or
    - (2) another express provision of this Contract which is stated to survive termination.
- (e) On expiry or termination of this Contract (for any reason), the Research Organisation must, unless instructed otherwise by GRDC in writing:
- (i) repay to GRDC any Research Funds not already spent or irrevocably committed for expenditure;
  - (ii) subject to clause 18.3(f), promptly deliver-up to GRDC all GRDC Background Material and all GRDC Confidential Information provided to the Research Organisation in connection with this Contract; and
  - (iii) make available (including by granting reasonable access to) all the Project Outputs and related information in order for GRDC to fully enjoy the ongoing benefit of its rights to those Project Outputs and related information as granted pursuant to this Contract.
- (f) If the Research Organisation is subject to State Records Legislation, the Research Organisation may retain one copy of GRDC Background Material and one copy of GRDC Confidential Information for the purposes of complying with the applicable State Records Legislation.

#### 18.4 Reduction in scope

- (a) Where GRDC has a right to terminate this Contract, it may elect instead to reduce the scope of the Project by giving notice as required to exercise the relevant termination right (but no less than 30 days' prior notice).
- (b) Within 30 days after receiving notice from GRDC under clause 18.4(a), the Research Organisation may provide GRDC with notice of variations to the Contract it considers, acting reasonably, to be

required in order to facilitate the reduction in scope of the Project. Following receipt of such notice, GRDC may negotiate with the Research Organisation to agree such variations and the date on which the reduction in Project scope takes effect.

- (c) If the Research Organisation does not provide notice under clause 18.4(b) within the specified time period, the scope of the Project will be reduced in accordance with GRDC's notice on and from the effective date of that notice.
- (d) Any election by GRDC to reduce the scope of the Project or agree to variations proposed by the Research Organisation under this clause 18.4 is at GRDC's absolute discretion and does not prejudice its right to terminate or any other rights or remedies available to GRDC under this Contract.

## 18.5 Survival of Clauses

The provisions of clauses 4.2(c)(ii), 6, 7.2, 7.3, 7.4, 7.5, 8.4, 9, 10, 11.5, 14.6, 15, 18.3, 18.5, 20(b), 20(c), 21.7 and 21.8 and any other term which, by its nature, is intended to survive expiry or termination of this Contract will survive expiry or termination of this Contract.

## 19 GOODS AND SERVICES TAX

### 19.1 Definitions

Terms used in this clause 19 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning as in that Act.

### 19.2 Research Funds do not include GST

Unless otherwise indicated, the Research Funds specified in Item 8 of Schedule 1 do not include GST.

### 19.3 If GST is payable

In relation to any GST payable on a taxable supply by a Party under this Contract, the recipient of the supply must pay the GST subject to:

- (a) the supplier providing a tax invoice; or
- (b) if the Research Organisation is the supplier, at the option of GRDC (that may be varied from time to time at GRDC's discretion), the supplier either:
  - (i) issues to GRDC a tax invoice; or
  - (ii) agrees to the issue by GRDC of a recipient created tax invoice (**RCTI**),
 and provides any other documentation required by GRDC to claim any input tax credits claimable in relation to the supply.

## 20 MODERN SLAVERY

- (a) The Research Organisation represents and warrants that:
  - (i) it does not, and will not, engage in any activity that constitutes or involves Modern Slavery in the performance of its obligations under this Contract or otherwise; and
  - (ii) it has investigated its practices and those of its Group Members and is satisfied that there are no activities that constitute or could constitute or involve Modern Slavery anywhere in its (and each of its Group Members') business, operations or supply chains.

- (b) The Research Organisation must, on the receipt of a written request from GRDC, provide GRDC with all information reasonably requested by GRDC to assist GRDC to comply with its requirements under the Modern Slavery Legislation.
- (c) The Research Organisation agrees that GRDC may take any reasonable actions to monitor, assess, audit and verify the Research Organisation's compliance with its obligations under this clause 20.
- (d) If the Research Organisation or its Group Member is in breach of any part of this clause 20, or GRDC reasonably suspects a breach, without prejudice to any other remedy which GRDC may have, GRDC may immediately terminate this Contract by written notice.

## **21 GENERAL**

### **21.1 Further assurances**

Each Party must do all things necessary or desirable to give effect to the provisions of this Contract including by signing all documents and performing of all acts.

### **21.2 Assignment**

Except as otherwise expressly specified in this Contract, neither Party may assign, novate, charge, transfer, encumber or otherwise deal with its rights under this Contract without the prior written consent of the other Party.

### **21.3 Authorised Representatives**

Each Party hereby authorises its representative(s) as specified in Item 20 of Schedule 1 to exercise that Parties' rights under this Contract. Either Party may change its nominated representative by notice in writing to the other at any time.

### **21.4 Force Majeure**

A Party will not be liable for any delay or failure to perform its obligations under this Contract to the extent it is affected by a Force Majeure Event, subject to the affected Party:

- (a) notifying the other Party as soon as practicable upon becoming aware of any possible delay or failure to perform; and
- (b) outlining in a notice the particulars of the Force Majeure Event, including an estimate of the length of delay or failure to perform is likely to subsist; and
- (c) mitigating the impact of the Force Majeure Event to the extent, and resuming performance of this Contract as soon as, reasonably practicable.

### **21.5 Waiver**

The non-exercise of or delay in exercising any power or right conferred on a Party by this Contract does not operate as a waiver of that power or right.

### **21.6 Amendment**

Except as expressly provided for by this Contract, a term of this Contract may not be varied except in writing and signed by the Parties.

### 21.7 Severance

If a provision in this Contract is wholly or partly void, illegal or unenforceable in any relevant jurisdiction that provision or part must, to that extent, be treated as deleted from this Contract for the purposes of that jurisdiction. This does not affect the validity or enforceability of the remainder of the provision or any other provision of this Contract.

### 21.8 Governing Law and jurisdiction

This Contract is governed by the laws in force in the Australian Capital Territory and the Parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Contract.

### 21.9 Entire Contract

This Contract constitutes the entire agreement between the Parties, and supersedes any and all prior to representations, conduct and agreements, as to its subject matter.

### 21.10 Relationship

This Contract does not create any partnership, agency (except to the extent expressly stated in this Contract) or trust relationship or confer on any Party the authority to bind the other Party in any way.

### 21.11 Costs

Each Party must pay its own legal and other costs in connection with the negotiation, preparation and signing of this Contract.

### 21.12 Remedies cumulative

The rights, powers and remedies provided to a Party under this Contract are in addition to, and do not exclude or limit, any right, power or remedy provided by Law or equity.

### 21.13 Discretion

Unless otherwise expressly contemplated, where a provision of this Contract contemplates that a Party may exercise its discretion then that Party is entitled to exercise that discretion absolutely, with or without conditions and without being required to act reasonably or give reasons.

### 21.14 Counterparts

- (a) This Contract may be executed in counterparts and in accordance with the *Electronic Transactions Act 1999* (Cth). Both executed counterparts constitute one document.
- (b) Executed counterparts of this Contract may be exchanged by email or other means of Electronic Communication.

## Schedule 1

Item	Topic	Details			
1	GRDC Contract Code	<Contract code>			
2	Project Name	<Enter information>			
3	Project Description	<Enter information>			
4	Project Outcome	<Enter information>			
5	Project Outputs	Title		Description	
		<Enter information>		<Enter information>	
		<Enter information>		<Enter information>	
		<Enter information>		<Enter information>	
		<Enter information>		<Enter information>	
6	Commencement Date	<Choose date>			
7	Completion Date	<Choose date>			
8	GRDC Contributions: Research Funds (GST exclusive)	<\$0.00>			
9	GRDC Contributions in kind	<Enter information>			
10	Research Organisation Contributions	<\$0.00>			
11	Third Party Contributions	<Enter information>			
12	Owner/s of Project Outputs	GRDC <Other entity (or delete this placeholder)>			
13	Holders of Beneficial Interest in Project Outputs	Organisation		Percentage	
		GRDC		<#>%	
		<Other entity (or delete row)>		<#>%	
		Total		100%	
14	Capital Items	<Enter information>			
15	Research Organisation Personnel	Name	Role	Time dedicated to the Project (FTE)	GRDC Funded(%)
		<Name>	<Role>	<Time>	<%>%
		<Name>	<Role>	<Time>	<%>%

Item	Topic	Details			
		<Name>	<Role>	<Time>	<%>%
		<Name>	<Role>	<Time>	<%>%
16	Approved Sub-contractors	<Enter information>			
17	Commercialisation Party	<Enter information>			
18	Alternate insurance requirements	<Enter information>			
19	Address for Notices	GRDC	<Select office from dropdown>		
		Research Organisation	Post: <Enter information> Email: <Enter information>		
20	Authorised Representative(s)	GRDC	<GRDC contract manager(s)>		
		Research Organisation	<Research organisation contract manager(s)>		
21	Milestones	No.	Description	Due Date	Amount payable (GST exclusive)
		<#>	<Enter information>	<Pick>	\$<#>
		<#>	<Enter information>	<Pick>	\$<#>
		<#>	<Enter information>	<Pick>	\$<#>
		<#>	<Enter information>	<Pick>	\$<#>
		<#>	<Enter information>	<Pick>	\$<#>
22	Project Data Retention Period	7 years, unless otherwise agreed by GRDC in writing.			
23	Special Condition	<Enter information>			

## Schedule 2

### IP AND PROJECT OUTPUTS (IPPO) REGISTER

GRDC Contract Code	<Contract code>
GRDC Project name and reference:	<Enter information>
Version:	<Enter information>
Date	<Choose date>

#### 1. Background Material – Research Organisation

Note: This Table 1 must include all Intellectual Property, Data, Items (including Existing Biological and Genetic Material) and Confidential Information that has been developed by the Research Organisation independently of this Contract and is required / being made available the Project.

No	Description Provide a clear description of the Research Organisation Background Material required / being brought into the Project. Include all relevant details e.g. the type of Background Material and to the extent that any such Research Organisation Background Material will be incorporated, attached to or embedded in the Project Outputs	Date made available to Project	Restrictions / limitations on use for dissemination or Commercialisation of Project Outputs
		<Choose date>	
		<Choose date>	
		<Choose date>	

## 2. Background Material – GRDC

Note: This Table 2 must include all Intellectual Property, Data, Items (including Existing Biological and Genetic Material) and Confidential Information that has been developed by GRDC independently of this Contract that is required by the Research Organisation for the purposes of conducting the Project.

No	Description Provide a clear description of the GRDC Background Material required for the Project. Include all relevant details e.g. the type of Background Material, and to the extent that any such GRDC Background Material will be incorporated, attached to or embedded in the Project Outputs	Date made available to Project	Restrictions / limitations on use for dissemination or Commercialisation of Project Outputs
		<Choose date>	
		<Choose date>	
		<Choose date>	

## 3. Third Party Material

Note: This Table 3 must include all third party Intellectual Property, Data and *Items (including Existing Biological and Genetic Material)* being made available the Project.

No	Owner/s Provide details of owner(s) including legal entity name and ABN	Description Provide a clear description of the Third Party Material required / being brought into the Project. Include all relevant details e.g. the type of Third Party Material and to the extent that any such Third Party Material will be incorporated, attached to or embedded in the Project Outputs	Date made available to Project	Name of party making Third Party Material available (if not the owner(s))	Arrangements applicable to the provision of Third Party Material for the Project Provide details of the relevant arrangements that the Research Organisation has entered into with the owner(s) of the Third Party Material that is required / being made available to the Project e.g. licence, MTA etc	Restrictions / limitations on use for dissemination or Commercialisation of Project Outputs
			<Choose date>			
			<Choose date>			
			<Choose date>			



#### 4. Project Outputs

Note: This Table 4 must include all Project IP, Project Data, Project Confidential Information, and all results or Items produced as part of the Project including those identified in Item 5 of Schedule 1 (but does not include Milestone Reports)

No	Description Provide a clear description of the Project Outputs. Where applicable, provide references to the relevant Milestone(s) (including Milestone numbers).	Date created and reported	BIP / TIP incorporated  Note: Where applicable, this section should align to the relevant item no. in Tables 1, 2 and 3 above	Restrictions / limitations on use for dissemination or Commercialisation of Project Outputs
		<Choose date>		
		<Choose date>		
		<Choose date>		

#### 5. Project Outputs provided to a third party

No	Third party recipient	Project Outputs The reference to Project Outputs in this section should be consistent with the descriptions in Table 4 above	Arrangements applicable to the transfer of the Project Outputs to the third party Provide details of the relevant arrangements that the Research Organisation has entered into with the third party for the transfer e.g. licence, MTA etc	Purpose of transfer Provide details of the purpose of the transfer; e.g. evaluation, internal research, Commercialisation	Date prior written approval granted by GRDC and Research Organisation for transfer	Date of transfer
					<Choose date>	<Choose date>
					<Choose date>	<Choose date>
					<Choose date>	<Choose date>

## Schedule 3

The Data Management Plan must:

1. be in the form provided on the GRDC website from time to time; and
2. describe the data to be acquired or generated during the Project and how the data will be managed, safely stored and protected, including:

### Investment details

- GRDC Contract code
- Contract title
- Prepared by
- Date prepared
- Principal investigator (Research Organisation Personnel responsible for delivering the Project Outputs)
- Responsible party (Research Organisation Personnel responsible for managing and storing the data referenced in the Data Management Plan)

### Investment data management

- Data organisation
- Ethical, confidentiality or privacy considerations
- Access and security
- Backup
- Management of GRDC Background Data

### Data storage

- Dataset name
- Approved Repository
- Milestone Number (to correspond to contract milestone number where the data will be generated)
- Data format
- Metadata standard/s
- Access permissions (open/closed/restricted/embargoed)

## Schedule 4

### Approved Repository Requirements

Requirement	Explanatory Notes
Fit-for-purpose	The purpose of the repository must be to facilitate long-term storage of research data and to provide access to it.
Discovery and identification	<p>The repository:</p> <ul style="list-style-type: none"> <li>• provides a publicly facing web-based search tool for data discovery;</li> <li>• assigns a persistent identifier to each dataset and provides it as a URI as part of the associated metadata;</li> <li>• provides API endpoints for metadata harvesting that return metadata according to the RIF-CS metadata standard.</li> </ul>
Technical infrastructure	The repository must operate on reliable and stable core infrastructure that can support the expected usage load and storage requirements.
Access management, licensing, and rights	The dataset must be findable to a third party, but access by third parties can be blocked or restricted. Access to data can be granted by the custodian of the dataset. Metadata fields associated with the dataset include information on licensing and rights for use of the dataset.
Continuity of service	The repository must have a plan to ensure ongoing access to and preservation of its data and metadata, including regular backups. Disaster recovery and succession plans must be in place.
Guidance and assistance	Guidance on the use of the repository must be available in the form of both documentation for end-users, and human assistance.
Compatibility with GRDC Data Catalogue	RIF-CS metadata records exported from an Approved Repository include mandatory metadata fields as defined by GRDC, such that the metadata entry in the GRDC data catalogue is a high-quality and complete metadata record.

## Execution page

EXECUTED BY THE PARTIES AS AN AGREEMENT ON  
THE            DAY OF            20

**Signed** for and on behalf of the

**GRAINS RESEARCH AND DEVELOPMENT  
CORPORATION**

ABN 55 611 223 291

by its duly authorised representative, in the  
presence of

---

Signature of witness

---

Signature of representative

---

Name of witness (print)

---

Name of representative (print)

---

Date

---

Date

<Choose provider entity from dropdown>