



**GRDC™**

GRAINS RESEARCH  
& DEVELOPMENT  
CORPORATION

## CONSULTANCY CONTRACT

REFERENCE: <CONTRACT CODE>

Grains Research and Development Corporation (GRDC)

<Full legal name of consultant>

# Contents

<b>Consultancy Contract</b>	<b>3</b>
<b>Execution page</b>	<b>4</b>
<b>Operative provisions</b>	<b>5</b>
1 Interpretation	5
2 Services	10
3 Warranties	12
4 Sub-contracting	13
5 Consultant’s personnel	13
6 Party Representatives	14
7 Payments	14
8 Confidentiality	16
9 Intellectual property	17
10 GRDC Material	19
11 Term and termination	20
12 Right of set-off	21
13 Nature of relationship	21
14 Liability	22
15 Insurance	22
16 Taxation, rates, levies and charges	23
17 Work health and safety	23
18 Privacy	24
19 Defence Trade Controls	25
20 Assignment of this Contract	25
21 Audit and access	26
22 Notices	26
23 Disputes	27
24 Modern Slavery	27
25 National Anti-corruption	28
26 Miscellaneous	28
<b>Schedule</b>	<b>31</b>

# Consultancy Contract

## PARTIES

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

AND

<FULL LEGAL NAME OF CONSULTANT> ACN/ABN <Consultant ACN/ABN>  
(Consultant)

## RECITALS

- A. GRDC requires the Services.
- B. The Consultant is a supplier of the Services and has represented it has the skills, training, qualifications and experience necessary to perform the Services.
- C. The Consultant agrees to provide the Services to GRDC in accordance with the terms and conditions of this Contract.

## 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

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Name of witness (print)

---

Name of representative (print)

---

Date

---

Date

<Choose provider entity from dropdown>

# Operative provisions

## 1 INTERPRETATION

### 1.1 Definitions

In this Contract unless the context otherwise requires:

**Accept** means accepted by GRDC in accordance with clause 2.6 and **Acceptance** has a corresponding meaning.

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

**Background IP** means all Intellectual Property, other than Third Party IP, that is acquired, created or owned by a Party prior to the commencement of this Contract, or developed by a Party independently of this Contract, and made available by that Party for the Permitted Use.

**Background Material** means Background Data and Background IP.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the Australian Capital Territory.

**Commencement Date** means the date specified at Item 2 of the Schedule, or if no date is specified, the date this Contract was executed by the last Party to do so.

**Completion Date** means the date specified at Item 3 of the Schedule.

**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; or
- (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.

**Conflict of Interest** means any actual, potential or perceived commercial, private, or financial interest or duty, that interferes or conflicts with the Consultant's obligations or duties to GRDC under this Contract or otherwise.

**Consequential Loss** means:

- (a) loss of business revenue or profit;

- (b) loss of reputation or good will;
- (c) loss of customers, business or any contract;
- (d) loss of opportunity;
- (e) loss of productivity;
- (f) loss arising from exchange rate fluctuation; and
- (g) special, exemplary, contingent, incidental or punitive damages; and

includes any costs or expenses in relation to the items described in paragraphs (a) to (g) above, but does not include the following types of Loss that may be suffered or incurred by GRDC:

- (h) costs of obtaining alternate services to the extent that such cost exceeds the amount that would have been payable to the Consultant; and
- (i) costs of implementing remedial measures to work-around or compensate for any breach by the Consultant of this Contract.

**Consultant** means the Party identified in this Contract and, where appropriate, includes the Personnel of the Consultant.

**Consultant Material** means:

- (a) the material identified in Item 6 of the Schedule; and
- (b) any other Background Material provided by or on behalf of the Consultant to perform the Services.

**Consultant Representative** means the Consultant's Personnel specified at Item 12 of the Schedule, or any other Consultant Personnel nominated by the Consultant from time to time for the purposes of clause 6.3 and notified to GRDC in writing.

**Contract** means this document, the Schedule and any attachments or other documents expressly incorporated by reference.

**Contract Data** means Data captured, produced or otherwise developed by the Consultant and/or any of its Personnel in the course of providing the Services.

**Contract IP** means the Intellectual Property in the Contract Material and any other Intellectual Property created or generated by the Consultant and/or any of its Personnel (whether alone, with GRDC or with any of GRDC's Personnel) in the course of providing, or otherwise in connection with, the Services.

**Contract Material** means all work product of whatever nature arising in relation to the performance of the Services and includes the Milestones, Contract Data, documents, equipment, software (including source and object code versions), biological and genetic material (for example, germplasm), goods, information and data stored by any means including all copies and extracts.

**Data** means information, including information in raw or unorganised form which may be used for analysis.

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

**Expenses** means any reasonable direct out of pocket expenses or similar expenses incurred by the Consultant in the performance of the Services that have been pre-approved by GRDC in writing and in accordance with clause 7.2 and Item 8 of the Schedule.

**Fees** means the amount specified in Item 7 of the Schedule.

**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.

**GRDC Authorised Representative** means the person specified at Item 12 of the Schedule, or any other person nominated by GRDC from time to time for the purposes of clause 6.1 and notified to the Consultant in writing.

**GRDC Material** means the material identified in Item 5 of the Schedule and any other Background Material provided to the Consultant by or on behalf of GRDC for the Permitted Use.

**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.

**GST** has the meaning in the GST Act.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**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;
- (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.

**Invoice** means a correctly rendered tax invoice in respect of the Services that complies with the requirements of clause 7.3.

**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.

**Loss** means any liability, loss, action, claim, damage, injury, cost, charge, penalty, expense or diminution in value, including:

- (a) legal costs (on a solicitor and own client basis) and other costs incurred in connection with investigating, defending or settling any action or claim; and
- (b) that arising from damage or destruction to, or any loss of use of, any property or injury to or death of any person.

**Milestone** means an activity, item or thing that the Consultant must complete or deliver as part of the Services in accordance with the Schedule.

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

**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.

**Moral Rights** means:

- (a) the right of attribution of authorship;
- (b) the right not to have authorship falsely attributed;
- (c) the right of integrity of authorship; and
- (d) any other rights of an analogous nature which now exist or which may exist in the future, including, without limitation, moral rights under Part IX of the *Copyright Act 1968* (Cth).

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

**Permitted Use** means use for the purpose of performing the Services.

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

**Resolution Institute** means the Resolution Institute organisation which provides alternative dispute resolution services.

**Schedule** means the schedule to this Contract.

**Services** means the consultancy services set out in the Schedule and includes the Milestones which are required for the effective completion of the Services.

**Specified Personnel** means the Personnel of the Consultant, if any, specified in Item 9 of the Schedule.

**Term** means the period commencing on the Commencement Date and ending on the Completion Date.



**Third Party Data** means Data obtained from a person other than GRDC and the Consultant that is embodied in, or attached to, the Services or are otherwise necessarily related to the Services.

**Third Party IP** means all Intellectual Property and any material owned by a person other than GRDC and the Consultant that is embodied in, or attached to, the Services or are otherwise necessarily related to the Services, but does not include widely available non-specialised commercial off-the-shelf software.

**Third Party Material** means Third Party Data and Third Party IP.

**WHS Legislation** means any applicable State, Territory or Commonwealth legislation, including Acts, Regulations and Codes of Practice, relating to work or occupational health and safety.

## 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) 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;
- (h) 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;
- (i) a reference to an agreement other than this Contract includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (j) a reference to a document includes any agreement or contract in writing, or any certificate, notice, deed, instrument or other document of any kind;
- (k) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause, Party, annexure, exhibit and Schedule to, this Contract and a reference to this Contract includes any clause, annexure, exhibit and the Schedule;
- (l) "includes" or "including" are not words of limitation;
- (m) all monetary amounts are in Australian currency;
- (n) it is to be interpreted in accordance with the rules for the interpretation of Acts set out in the *Acts Interpretation Act 1901* (Cth);
- (o) all references to Minister are to be interpreted in accordance with the relevant Commonwealth, State or Territory interpretation of acts legislation; and
- (p) 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.

- (q) a reference to time is to time in Canberra in the Australian Capital Territory;
- (r) a promise, agreement, representation or warranty by two or more persons binds them jointly and severally;
- (s) a reference to a day is to the period of time commencing at midnight and ending 24 hours later;
- (t) if a period of time is specified and dates from a day or the day of an act, event or circumstance, that period is to be determined exclusive of that day;
- (u) if an act or event must occur or be performed on or by a specified day and occurs or is performed after 5.00 pm on that day, it is taken to have occurred or been done on the next day; and
- (v) if anything under this Contract is required to be done by or on a day that is not a Business Day that thing must be done by or on the next Business Day.

### 1.3 Headings

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

### 1.4 Inconsistent terms

If there is any inconsistency between the provisions of this Contract, the provision in the higher ranked document listed below will prevail to the extent of the inconsistency:

- (a) these terms and conditions;
- (b) the Schedule;
- (c) any attachments (and, as between them, in the order they appear); and
- (d) any document expressly incorporated by reference.

## 2 SERVICES

### 2.1 Provision of the Services

The Consultant must provide the Services in accordance with the terms and conditions of this Contract.

### 2.2 Conduct of the Services

The Consultant must:

- (a) perform the Services to the reasonable satisfaction of GRDC;
- (b) without limiting clause 2.2(a), carry out the Services with the professional skill, care, competence and diligence that would be expected of a person experienced in the provision of the relevant or similar type of services;
- (c) comply with the requirements of this Contract including completing all Milestones by the relevant due dates in accordance with this Contract;
- (d) provide any reports or updates about the Services that GRDC may request from time to time;
- (e) provide the Services without breaching any obligation to any other person or infringing the Intellectual Property or Moral Rights of any other person;
- (f) rectify any defects or omissions in carrying out the Services at its own cost and to the reasonable satisfaction of GRDC;

- (g) comply with all relevant GRDC policies and procedures relating to the Services as notified by GRDC from time to time;
- (h) comply with all applicable Laws in performing the Services; and
- (i) not have, or after the date of this Contract accept, any obligations to any person that will or may interfere with the Consultant's ability to perform the Services in accordance with this Contract.

### **2.3 Non-exclusive supply**

Nothing in this Contract prevents GRDC from obtaining services the same as or similar to the Services from any other supplier.

### **2.4 Conflicts**

- (a) The Consultant warrants that neither the Consultant nor its Personnel have, at the date of signing this Contract, any Conflict of Interest.
- (b) During the Term, the Consultant must:
  - (i) promptly notify GRDC of any actual, potential or perceived Conflict of Interest; and
  - (ii) comply with any written or oral direction from GRDC, including any general procedures notified to the Consultant from time to time, to manage that Conflict of Interest.

### **2.5 Consultant's office and secretarial facilities**

The Consultant must, at its own cost, provide all office and secretarial facilities, office machines and stationery required to perform the Services. For the avoidance of doubt, where documentation prepared by the Consultant needs to be widely circulated, the Consultant will provide the facilities and meet the costs of transmitting the material by mail or by Electronic Communication.

### **2.6 Review and Acceptance of Milestone Reports**

- (a) The Consultant must submit a Milestone Report:
  - (i) unless otherwise notified by GRDC, via the GRDC Portal; and
  - (ii) in accordance with, and by the dates specified in, this Contract.
- (b) The Consultant must notify GRDC immediately if there are any technical issues or otherwise that would prevent the submission of any Milestone Report via the GRDC Portal.
- (c) Within 14 days of receiving a Milestone Report GRDC must determine, in its absolute discretion acting reasonably, whether or not to Accept the Milestone Report by assessing whether it adequately demonstrates that the Milestones have been met.
- (d) GRDC must notify the Consultant in writing as to whether GRDC has or has not Accepted the Milestone Report, including reasons for any non-acceptance.
- (e) If GRDC notifies the Consultant under clause 2.6(d) that it has not Accepted a Milestone Report, the Consultant must address the reasons for non-acceptance and resubmit the Milestone Report, at the Consultant's cost, to GRDC for further review as soon as possible but no later than 14 days of receiving the notice of non-acceptance.

## 2.7 Achievement of Milestones

If the Consultant 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 Consultant:

- (a) reduce the scope of the Services;
- (b) reduce the Fees;
- (c) require repayment of some or all of the Fees paid to the Consultant that have been wrongly expended or not irrevocably expended; and/or
- (d) terminate any licence granted to the Consultant to use the Contract Material and Contract IP under this Contract.

## 3 WARRANTIES

### 3.1 General

The Consultant warrants that:

- (a) the Consultant and its Personnel have the necessary skills, training, qualifications, and experience to perform the Services to the standards required under this Contract;
- (b) the information provided to GRDC by the Consultant about the Consultant's work experience and qualifications, and those of the Consultant's Personnel, is true and correct;
- (c) it has the capacity and all authorisations to enter into this Contract;
- (d) it has and will maintain any licences, permits, approvals, consents or registrations necessary to perform the Services;
- (e) the Services will be fit for the purpose stated in Item 4 of Schedule 1;
- (f) each Milestone will be met by the dates specified in this Contract;
- (g) it is unaware of any actual or potential grievance, complaint, proceeding or action that could have a material adverse effect on the Consultant, its Personnel or their ability to comply with the Consultant's obligations under this Contract;
- (h) it will promptly notify GRDC after becoming aware of a matter described in clause 3.1(g);
- (i) it will, and it will ensure that its Personnel will, if required to access or use GRDC's premises, facilities or equipment, comply with any directions, policies or procedures notified by GRDC (including security requirements);
- (j) to the best of its knowledge, all Consultant Material and Third Party Material used by or on behalf of the Consultant, or provided to GRDC, in connection with the Services will be able to be used royalty-free for all reasonably foreseeable dissemination or use of Contract Material and Contract IP in accordance with this Contract;
- (k) it will promptly remedy any errors or defects in the Services at its own cost that are notified to the Consultant by GRDC; and
- (l) in carrying out the Services, it will not knowingly breach any Intellectual Property rights of any person.

## **4 SUB-CONTRACTING**

### **4.1 Prior written approval**

The Consultant must not, without the prior written approval of GRDC, sub-contract the performance of any part of the Services.

### **4.2 Conditions**

GRDC may impose any conditions or restrictions it considers appropriate if giving its approval under clause 4.1.

### **4.3 Consultant responsible**

- (a) The Consultant is fully responsible for meeting its obligations under this Contract and the performance of the Services even if GRDC has provided prior written approval for the Consultant to sub-contract the performance of any part of those Services.
- (b) The Consultant must, in addition to any conditions or restrictions imposed by GRDC under clause 4.2, ensure the terms of its contract with the sub-contractor enables the Consultant to meet its obligations to GRDC, including imposing equivalent obligations on its sub-contractors to those imposed on the Consultant in relation to privacy, confidentiality, work health and safety and audit and access.

## **5 CONSULTANT'S PERSONNEL**

### **5.1 Removal at GRDC's discretion**

GRDC may, at its absolute discretion acting reasonably, give notice requiring the Consultant to remove any Personnel (including Specified Personnel) from performing the Services. The Consultant must promptly arrange for the removal of those Personnel from performing the Services and their replacement with Personnel acceptable to GRDC.

### **5.2 Specified Personnel named**

Clauses 5.3 and 5.4 apply only if a name or names have been inserted in Item 9 of the Schedule.

### **5.3 Specified Personnel to perform**

Unless otherwise agreed in writing by GRDC, the Consultant must ensure that only the Specified Personnel perform the Services.

### **5.4 Replacement of Specified Personnel**

Where Specified Personnel are unable to perform the Services, the Consultant must:

- (a) notify GRDC immediately; and
- (b) if requested to do so by GRDC, provide at the earliest opportunity and at no additional charge replacement Personnel having the equivalent skills, experience and qualifications acceptable to GRDC.

## 6 PARTY REPRESENTATIVES

### 6.1 Administration

The GRDC Authorised Representative will be responsible for administration of this Contract and supervision of the Consultant on behalf of GRDC and has authority to issue and receive any written notice under this Contract.

### 6.2 Liaison

The Consultant must liaise with and report to the GRDC Authorised Representative as reasonably required by the GRDC Authorised Representative.

### 6.3 Authorised Representative

The Consultant Representative has authority to receive and sign notices for the Consultant under this Contract and accept any request or direction in relation to the Services.

## 7 PAYMENTS

### 7.1 Fees

- (a) Unless stated otherwise, the Fees are inclusive of GST.
- (b) The Fees include all other taxes, duties (including any customs duty) and government charges imposed or levied in Australia or overseas and are fixed for the term of this Contract.
- (c) Subject to this Contract, GRDC will pay the Consultant the Fees.
- (d) GRDC's obligation to pay the Consultant the Fees is subject to the performance of the Services (and where applicable, Acceptance of the Milestone Reports) to GRDC's reasonable satisfaction.

### 7.2 Expenses

- (a) GRDC will only pay for Expenses if specified in the Schedule or GRDC has provided prior written approval, and the Consultant complies with this clause 7.2.
- (b) Until approved by GRDC in accordance with clause 7.2(a), the Consultant agrees and acknowledges that the cost of all Expenses is at the risk of the Consultant.
- (c) To claim a pre-approved Expense, the Consultant must provide relevant certification, evidence or supporting documentation in relation to the payment of the Expense at the time of submitting an Invoice.
- (d) When incurring Expenses, the Consultant must:
  - (i) take advantage of any preferential purchase rates for products and services that are available to it; and
  - (ii) demonstrate to GRDC that the Expenses are reasonable and represent best value for money in the circumstances.
- (e) Any Expenses incurred under this Contract must not exceed any cap identified in the Schedule without GRDC's prior written consent.

### 7.3 Invoices

- (a) The Consultant must submit an Invoice to GRDC detailing the Fees and any Expenses for the Services in accordance with the requirements of this clause 7.3.
- (b) An Invoice is correctly rendered if:
  - (i) it includes the following information:
    - 1 the relevant details of this Contract (including the name and the GRDC project number as applicable);
    - 2 the correct Invoice amount;
    - 3 details of the Fees, the Services that are the subject of the Invoice (including the relevant Milestones), and the period of time during which the Services were performed;
    - 4 details of any Expenses, actually incurred and substantiated by supporting material to the reasonable satisfaction of GRDC;
    - 5 payment method details; and
    - 6 the name and phone number of the GRDC Authorised Representative; and
  - (ii) it is a valid tax invoice in accordance with the GST Act.
- (c) Subject to this Contract, GRDC will pay an Invoice which complies with the requirements of this clause 7.3 within 30 days of receipt of the Invoice.

### 7.4 Withholding payment

Where the Consultant's Invoice does not comply with clause 7.3, or GRDC is not reasonably satisfied with the performance of the Services or has not Accepted a Milestone Report, GRDC may withhold payment of part or all of the relevant Invoice until those matters have been rectified to the reasonable satisfaction of GRDC.

### 7.5 Financial records

The Consultant must maintain and make available to GRDC (or its authorised agents) any financial records necessary to enable GRDC to confirm that the Consultant has complied with the terms and conditions of this Contract.

### 7.6 GST

- (a) In this clause 7.6, a word or expression defined in the GST Act has the meaning given to it in the GST Act.
- (b) GRDC is not liable to pay the Consultant to cover any GST liability of the Consultant on any Supply made under this Contract unless:
  - (i) the Consultant is registered for GST purposes;
  - (ii) the Consultant has rendered an Invoice in relation to such GST component and has provided any additional documentation required by GRDC to claim any input tax credits claimable in relation to the Supply; and
  - (iii) such GST component is either:
    - 1 specified in Item 7 of the Schedule as a liability of GRDC in addition to the Fees; or
    - 2 is included in the Fees.

## 8 CONFIDENTIALITY

### 8.1 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 of the Discloser 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.

### 8.2 Permitted disclosure

The Recipient must not, without the prior written consent of the Discloser disclose the Confidential Information of the Discloser 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 acquire access to Confidential Information of the Discloser keep the Confidential Information confidential and only use the Confidential Information for the purposes for which it was disclosed;
  - (ii) any of the abovementioned Personnel and advisors who cease to be Personnel or advisors continue to be bound by such obligations of confidentiality; and
  - (iii) the Recipient enforces such obligations of confidentiality;
- (b) comply with requirements of a court, governmental or administrative authority or any parliamentary authority or by applicable law or regulation to disclose Confidential Information of the Discloser, 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, disclose the Confidential Information in response to reporting obligations, parliamentary questions, ministerial inquiries 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.

### 8.3 Written undertaking

- (a) GRDC may at any time request the Consultant to give, and to arrange for its Personnel engaged in the performance of the Services to give, written undertakings in a form required by GRDC, relating to the non-disclosure of Confidential Information.
- (b) If the Consultant receives a request under this clause 8.3 it must arrange promptly for all such undertakings to be given.



## 8.4 Notification to GRDC

The Consultant must:

- (a) immediately notify GRDC if the Consultant:
  - (i) suspects or becomes aware of any unauthorised copying, use or disclosure in any form; or
  - (ii) is required by law to disclose any Confidential Information;
- (b) comply with any reasonable direction regarding a suspected or actual breach; and
- (c) not alter, modify, tamper with or reverse engineer any part of the Confidential Information that is software or attempt to do so.

## 8.5 Actions on termination

On termination of this Contract, or earlier on reasonable request by the Party disclosing the Confidential Information, the Party who has received the Confidential Information must promptly return to that Party or destroy any or all copies of Confidential Information, in which case (subject to any continuing licences) any right to use, copy and disclose that Confidential Information ceases. However, a Party may retain records as required under statutory record keeping obligations, and the obligation of confidentiality continues beyond the termination or expiry of this Contract.

# 9 INTELLECTUAL PROPERTY

## 9.1 Background Material

- (a) Nothing in this Contract affects a Party's ownership of its Background Material.
- (b) The Consultant grants to GRDC a perpetual, irrevocable, non-exclusive, world-wide, royalty-free licence (including the right to sublicense) to use, reproduce, adapt, modify, communicate and exploit the Consultant's Background Material for the purpose of receiving the full benefit of the Services, including to the full extent necessary in order for GRDC to enjoy the Contract Material without limitation.
- (c) GRDC grants to the Consultant a revocable, royalty free, non-exclusive licence to use GRDC's Background Material solely for the Permitted Use. The Consultant must not use GRDC's Background Material for any other purpose.

## 9.2 Contract Material

- (a) Ownership of the Contract Material and Contract IP vests in GRDC upon creation.
- (b) GRDC grants to the Consultant a revocable, royalty free, non-exclusive licence to use the Contract Material and Contract IP solely for the Permitted Use. The Consultant must not use the Contract Material or Contract IP for any other purpose.

## 9.3 Third Party Material

To the extent that the Contract Material contains any Third Party Material, the Consultant must obtain for GRDC either an assignment or licence in favour of GRDC to use that Third Party Material to enable GRDC to deal with the Contract Material and Contract IP without limitation, including either an assignment or licence in favour of GRDC of Intellectual Property in that Third Party Material.

#### 9.4 Moral rights

- (a) To the extent permitted by Law and for the benefit of GRDC, the Consultant must, at GRDC's request:
- (i) give, where the Consultant is an individual; and
  - (ii) ensure that each of the Personnel used by the Consultant in the production or creation of the Contract Material gives, genuine consent in writing, to the Specified Acts, even if such an act would otherwise be an infringement of the Moral Rights of the consenting individual.
- (b) In this clause 9.4, Specified Acts means:
- (i) materially altering the style, format, colours, content or layout of the Contract Material and dealing in any way with the altered Contract Material (including without limitation literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
  - (ii) reproducing, communicating, adapting, publishing or exhibiting any Contract Material, without attributing authorship; and/or
  - (iii) adding any additional content or information to the Contract Material,
- where it is reasonable in the circumstances to deal with the Contract Material in such a way, but does not include false attribution.

#### 9.5 Warranty

The Consultant warrants that:

- (a) it is entitled, or will be entitled to, or will ensure it will be entitled, at the relevant time, to deal with the Intellectual Property or Moral Rights in respect of any Contract Material, Contract IP and Consultant Material in the manner provided for in this clause 8.4.
- (b) in performing the Services, it will not infringe the Intellectual Property rights or Moral Rights of any person; and
- (c) the Contract Material and Contract IP (or their use by GRDC) will not infringe the Intellectual Property rights or Moral Rights of any person, or otherwise breach any obligations of confidence or other legal obligations.

#### 9.6 Protection and restriction of Contract Materials

- (a) The Consultant agrees to do all things reasonably necessary, including signing any documents to:
  - (i) give effect to this clause 8.4; and
  - (ii) enforce and protect the Contract IP and associated Intellectual Property,but does not include applying for the registration of any Contract IP and any costs associated with such registration.
- (b) The Consultant must notify GRDC immediately after becoming aware of any suspected or actual infringement, or unauthorised use or distribution, by any person of any of the Contract Materials or Contract IP.
- (c) The Consultant must provide (at its cost, unless otherwise agreed in writing by GRDC) all assistance and documents reasonably requested by GRDC in relation to any proceedings that

GRDC may take against any person for infringement, unauthorised use or unauthorised distribution of any of the Contract Materials or Contract IP.

- (d) The Consultant must not apply for or attempt to acquire any intellectual property that is the same as, or substantially identical or deceptively similar to the Contract IP, without the prior written consent of GRDC.

## 9.7 Contract Data

- (a) The Consultant must provide GRDC with all Contract Data captured, generated, produced or otherwise developed by it promptly upon such Contract Data coming into existence.
- (b) Except as expressly permitted under this Contract, the Consultant must not:
  - (i) use any Contract Data for any purpose;
  - (ii) publish any Contract Data, or otherwise disclose any Contract Data to any third party; or
  - (iii) retain any Contract Data following the expiration or termination of this Contract.
- (c) The Consultant must take reasonable steps to ensure that Contract Data it holds is protected against:
  - (i) misuse, interference and loss; and
  - (ii) unauthorised access, modification or disclosure.
- (d) In addition to any rights under any other clause of this Contract, GRDC may use, disclose, reproduce, modify or publish any Contract Data in any manner as it sees fit.

## 10 GRDC MATERIAL

### 10.1 Use of GRDC Material

GRDC excludes all warranties regarding the accuracy, completeness or suitability for any purpose of the GRDC Material and the Consultant uses that GRDC Material at its own risk.

### 10.2 Custody

The Consultant:

- (a) is responsible for the GRDC Material (including any loss or damage to it) for as long as the GRDC Material is in the possession or control of the Consultant;
- (b) must take reasonable steps to ensure that GRDC Material it holds is protected against:
  - (i) misuse, interference and loss; and
  - (ii) unauthorised access, modification or disclosure; and
- (c) must promptly return all GRDC Material as soon as:
  - (i) the Services for which the GRDC Material was being used have been completed; or
  - (ii) this Contract ends.

## 11 TERM AND TERMINATION

### 11.1 Term

This Contract remains in force for the Term, unless GRDC ends it earlier:

- (a) at any time by giving the Consultant 30 days written notice;
- (b) by 3 months' written notice to the Consultant if the Consultant is prevented by a Force Majeure Event from undertaking its obligations under this Contract for a period of 60 days or more; or
- (c) in accordance with clause 11.2.

### 11.2 Termination for default

GRDC may immediately terminate this Contract by giving notice to the Consultant if:

- (a) the Consultant commits a breach of any other provision of this Contract which is capable of remedy and fails to remedy the breach within 14 days after receiving notice requiring it to do so;
- (b) the Consultant commits a breach of any other provision of this Contract which is not capable of remedy;
- (c) the Consultant disposes of the whole or any part of its assets, operations or business other than in the normal course of business;
- (d) any step is taken to enter into any arrangement between the Consultant and its creditors;
- (e) subject to the *Treasury Laws Amendment (2017 Enterprise Incentives No 2) Act 2017* (Cth), the Consultant becomes an "externally-administered body corporate" as defined in section 9 of the *Corporations Act 2001* (Cth) (or an equivalent circumstance arises if the Consultant is not a body corporate) or is unable to pay its debts as they fall due;
- (f) the Consultant ceases to carry on business;
- (g) a warranty given by the Consultant in this Contract is or becomes untrue;
- (h) in GRDC's reasonable opinion, something happens that is likely to have a material adverse effect on the Consultant or its ability to comply with its obligations to GRDC;
- (i) a Conflict of Interest arises in relation to the Consultant or any of its Personnel that cannot be promptly resolved to GRDC's reasonable satisfaction;
- (j) the Consultant has been named as a person or organisation under the *Charter of United Nations (Terrorism and Dealing with Assets) Regulations 2008* on the list of proscribed persons and entities;
- (k) any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of the Consultant's assets or business; or
- (l) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator or other like person of the whole or any part of the Consultant's assets or business.

### 11.3 Consequences of termination

- (a) If this Contract is terminated under clause 11.1(a) or 11.1(b), GRDC is only liable for:
  - (i) payments under clause 7 rendered in accordance with this Contract before the effective date of termination; and

- (ii) reasonable costs actually incurred by the Consultant and directly attributable to the termination provided that:
  - 1. the Consultant substantiates these costs to the satisfaction of GRDC; and
  - 2. any amounts claimed under this clause 11.3(a) must not exceed the total Fees payable under this Contract.
- (b) If this Contract is terminated under clauses 11.1(c) or 11.2, without limiting any other right or remedy of GRDC, the Consultant must pay any Loss incurred by GRDC directly in relation to the termination including to procure replacement services.
- (c) After termination or expiration of this Contract:
  - (i) the Consultant must:
    - 1. cease using all Contract Material, Contract IP and GRDC Material;
    - 2. promptly deliver all Contract Material and Contract IP to GRDC that have been created by, or for, the Consultant but not previously delivered to GRDC; and
    - 3. stop providing the Services and minimise its loss; and
  - (ii) the Consultant must return all GRDC Material to GRDC.
- (d) Any accrued rights or remedies of either Party are not affected by termination under this clause 11.

#### 11.4 Survival

The provisions of clauses 1 (Interpretation), 3 (Warranties), 4.3(a) (Sub-contracting), 8 (Confidentiality), 8.4 (Intellectual Property), 10 (GRDC Material), 11.3 (Consequences of termination), 12 (Right of set-off), 13.3 (Publicity material), 14 (Liability), 15 (Insurance), 16 (Taxation, Rates, Levies and Charges) 18 (Privacy), 21 (Audit and access), 24(b) and 24(c) (Modern Slavery), 26.5 (Severance) and 26.6 (Governing Law and jurisdiction) 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.

## 12 RIGHT OF SET-OFF

Upon expiration or termination of this Contract GRDC may, without prior notice to the Consultant, withhold an amount of money not exceeding the amount which GRDC reasonably believes to be owed by the Consultant to GRDC under this Contract or otherwise.

## 13 NATURE OF RELATIONSHIP

### 13.1 Independent contractor

- (a) Notwithstanding any implication of law to the contrary, the Consultant is an independent contractor and is not an employee or partner of GRDC.
- (b) The Consultant must not take any steps which may lead the relationship between GRDC and the Consultant to be construed as one of employer and employee or as a partnership.
- (c) The Consultant must ensure that its Personnel performing the Services are, and remain at all times, employees, independent contractors or agents of the Consultant.

### 13.2 No authority

- (a) The Consultant does not have any authority nor will it purport to have authority to bind GRDC to any agreement or to otherwise hold itself out or deal in any way as an agent of GRDC.
- (b) The Consultant must not, and must ensure its Personnel do not, incur any liability on GRDC's behalf, or make any contract binding on GRDC without its prior written approval.

### 13.3 Publicity material

The Consultant must not use GRDC's name in any publicity, advertising, sales or promotional material or similar without the prior written consent of GRDC, which GRDC may withhold.

## 14 LIABILITY

### 14.1 Indemnity

The Consultant must indemnify and keep fully indemnified GRDC and its Personnel from and against any Loss arising from:

- (a) any negligent or unlawful act or omission or wilful misconduct by the Consultant or any Personnel of the Consultant;
- (b) any breach by the Consultant of any of its obligations or warranties under this Contract;
- (c) any breach of any law or any duty or infringement of any person's legal rights by the Consultant or any Personnel of the Consultant; or
- (d) any claim or proceedings alleging that in performing the Services the Consultant has infringed the Intellectual Property or Moral Rights of any person, or that any part of the Contract Material or Contract IP or its use infringes the Intellectual Property or Moral Rights of any person.

### 14.2 Contribution

The Consultant's liability to indemnify GRDC under clause 14.1 will be reduced proportionately to the extent that any negligent act or omission of GRDC contributed to the relevant Loss.

### 14.3 Non-exclusive remedies

The right of GRDC to be indemnified under this clause 14 is in addition to and not exclusive of any other right, power or remedy provided by law.

### 14.4 Consequential Loss

Notwithstanding any other clause of this Contract, neither Party will be liable to the other Party for any Consequential Loss.

## 15 INSURANCE

### 15.1 Insurance obligations

- (a) The Consultant must:
  - (i) take out and maintain valid and enforceable insurance policies as specified in Item 10 of the Schedule; or

- (ii) indicate in Item 10 of the Schedule how its existing arrangements will satisfy the requirements under this clause 15 and specified in Item 10 of the Schedule i.e. if the Consultant self-insures and the details relating to this arrangement.
- (b) Where applicable, each policy of insurance must:
- (i) be obtained from a reputable insurance company, with all normal risks and with no unusual exclusions or levels of deductibles; and
  - (ii) be maintained for the period commencing on the Commencement Date and ending at least two years after the expiry or termination of this Contract or provide insurance on an occurrence basis.
- (c) The Consultant must on request by GRDC provide certificates of currency from the Consultant's insurers or other information certifying that it has the insurances required by this clause 15.

## 16 TAXATION, RATES, LEVIES AND CHARGES

### 16.1 Payments

The Consultant:

- (a) is responsible for all superannuation and any other rates, levies, taxes, contributions or other payments required by law to be paid in respect of the Consultant or any Personnel of the Consultant, including without limitation, payroll or other taxes and workers' compensation, long service leave entitlements, payments of wages to any employees of the Consultant (together **Payments**); and
- (b) must make all such Payments when required to do so by any applicable law.

### 16.2 Consultant indemnifies GRDC

The Consultant indemnifies and holds harmless GRDC from and against any Payments required to be made by GRDC in respect of the Consultant or the Consultant's Personnel and GRDC may deduct any such Payments which it reasonably believes that it is required to make from the entitlements of the Consultant which are otherwise payable under this Contract.

## 17 WORK HEALTH AND SAFETY

### 17.1 Consultant's obligation

The Consultant must comply with and ensure all of its Personnel comply with obligations under the applicable WHS Legislation. This includes, so far as is reasonably practicable, an obligation to consult, co-operate, and co-ordinate activities with GRDC or GRDC's Personnel.

### 17.2 Acknowledgement and warranty

The Consultant acknowledges it has a duty under the applicable WHS Legislation to ensure, so far as is reasonably practicable, the health and safety of the Consultant and its Personnel and represents and warrants that the Consultant has:

- (a) given careful, prudent and comprehensive consideration to the work health and safety issues that may arise in the course of performing the Services; and

- (b) devised and implemented a method of performance of the Services that complies with, and includes a system for identifying and managing work health and safety risks which complies with, all applicable legislation relating to work health and safety.

### 17.3 Other

- (a) Without limiting the Consultant's other obligations in this Contract, the Consultant must at its cost, provide and ensure any sub-contractor it engages provides, within 10 Business Days of a request by GRDC, any information or copies of documentation GRDC requests to enable it to comply with its obligations under applicable WHS Legislation.
- (b) The Consultant must ensure that if applicable WHS Legislation requires the Consultant's Personnel (including a sub-contractor) to:
  - (i) be authorised or licensed (in accordance with the WHS Legislation) to carry out any works at the workplace, that person is so authorised or licensed and complies with any conditions of such authorisation or licence; and/or
  - (ii) have prescribed qualifications or experience, that person has the prescribed qualifications or experience or if not, is to be supervised by a person who has the prescribed qualifications or experience (as defined in the applicable WHS Legislation).
- (c) If the Consultant becomes aware of any intention on the part of a regulatory authority to cancel, revoke, suspend or amend an authorisation relating to work health and safety, it must immediately notify GRDC and provide full particulars (so far as they are known to the Consultant).
- (d) GRDC may direct the Consultant to take specified measures that GRDC considers reasonably necessary to comply with applicable WHS Legislation, in relation to the Services. The Consultant must comply and ensure the Consultant's Personnel comply with any such directions.

## 18 PRIVACY

### 18.1 Meanings in the Privacy Act

In this clause 18, the terms 'Agency', 'Australian Privacy Principles' (APPs), 'Contracted Service Provider', 'Personal Information' and 'Registered APP Code' have the same meanings as their corresponding definitions in section 6 of the *Privacy Act 1988* (Cth) (the **Privacy Act**) and Consultant means the 'Contracted Service Provider' under this Contract.

### 18.2 Obligation

- (a) When performing the Services, the Consultant must:
  - (i) comply with the Privacy Act in respect of the Personal Information;
  - (ii) carry out and discharge the obligations contained in the APPs as if it were an Agency;
  - (iii) only use or disclose Personal Information obtained, held or controlled by it in connection with this Contract:
    - 1 for the purposes of fulfilling its obligations under this Contract; and
    - 2 only to the extent that those obligations comply with the APPs and any Registered APP Code which is binding on a Party to this Contract;
  - (iv) not do, or fail to do, any act or engage in any practice which would breach any provision of the APPs (including in relation to collection of Personal Information and obtaining of privacy



consents), or an applicable Registered APP Code (if any) which, if done or engaged in by GRDC, as an Agency, would be a breach of that provision;

- (v) comply with further privacy-related procedures in relation to the Services which GRDC may provide to the Consultant;
- (vi) ensure that any Personnel of the Consultant who has access to the Personal Information in connection with this Contract is made aware of and undertakes to comply with privacy obligations which are at least equivalent with the obligations of the Consultant as set out in this clause 18;
- (vii) immediately notify GRDC of any breach or possible breach of any of the obligations contained in, or referred to in, this clause 18, whether by the Consultant or its Personnel (including any sub-contractor); and
- (viii) disclose in writing to any person who asks, the content of the provisions of this Contract (if any) that are inconsistent with an APP or a Registered APP Code binding a Party to this Contract, provided that before doing so, the Consultant:
  - 1 promptly notifies GRDC of the request;
  - 2 consults with GRDC about the form and content of any disclosure required; and
  - 3 only discloses such content as is necessary to comply with section 95C of the Privacy Act.

## 19 DEFENCE TRADE CONTROLS

### 19.1 DSGL technology

If the Services involve the use of any 'DSGL technology' (as defined in the *Defence Trade Controls Act 2012* (Cth)), the Consultant:

- (a) is responsible for ensuring compliance with the *Defence Trade Controls Act 2012* 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 Services; and
- (b) must ensure that any DSGL technology made available to GRDC in connection with the Services 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* are disclosed to GRDC in writing.

### 19.2 Import and export

The Consultant is responsible for ensuring compliance with all Laws relating to the import or export of goods, and to cross-border transfers of information, by the Consultant in connection with the Services, including any relevant requirements concerning tariffs, duties, clearances, treatments, chemical registrations and quarantine.

## 20 ASSIGNMENT OF THIS CONTRACT

The Consultant must not assign this Contract or any part of it, or any rights or obligations which arise under it, without the prior written consent of GRDC, which GRDC may withhold.

## 21 AUDIT AND ACCESS

### 21.1 Audit

- (a) The Consultant must grant access, at all reasonable times, to premises, records, accounts and other material relevant to this Contract, including Contract Material, however and wherever stored or located, in the custody, possession or control of the Consultant or its Personnel to:
  - (i) GRDC or any person authorised in writing by GRDC;
  - (ii) GRDC's auditors.
- (b) In the case of documents or records stored on a medium other than in writing, the Consultant must make available on request and at no expense to GRDC such facilities as may be necessary to enable a legible reproduction to be created.
- (c) If the Consultant has sub-contracted its obligations in accordance with this Contract, the Consultant must ensure that its contract with the sub-contractor contains a clause giving GRDC rights equivalent to those under this clause 21.

### 21.2 Access

- (a) In this clause 21.2, 'document' and 'Commonwealth contract' have the same meaning as in the Freedom of Information Act 1982 (Cth).
- (b) The Consultant acknowledges that this Contract is a Commonwealth contract.
- (c) Where GRDC has received a request for access to a document created by, or in the process of being created by, the Consultant or any subcontractor (appointed in accordance with this Contract) that relates to the performance of this Contract (and not to the entry into the Contract), GRDC may at any time by written notice require the Consultant to provide the document to GRDC and the Consultant must, at no additional cost to GRDC, promptly comply with that notice.

## 22 NOTICES

### 22.1 Writing

All notices or communications given pursuant to this Contract must be:

- (a) in writing;
- (b) signed by the Party giving the notice; and
- (c) delivered by hand, sent by pre-paid express post or transmitted by Electronic Communications to the Authorised Representative of the other Party at the address of that Party set out in the Schedule, or such other address as may be advised in writing from time to time.

### 22.2 Receipt of notice

A notice or communication will be deemed to be received:

- (a) if delivered by hand, upon delivery;
- (b) if sent by pre-paid express post within Australia, within 2 Business Days of the date on which it was sent; and
- (c) if sent by Electronic Communications, at the time that would be the time of receipt under the *Electronic Transactions Act 1999 (Cth)*.

## 23 DISPUTES

### 23.1 Parties to seek to resolve disputes directly

- (a) The Parties must first seek to resolve any dispute or difference (**Dispute**) about this Contract or its operation, in accordance with this clause 23.
- (b) A Party claiming a Dispute has arisen must give a notice in writing to the other Party setting out the nature of the Dispute (**Dispute Notice**).
- (c) Within 3 Business Days of receipt of the Dispute Notice (or such other period agreed by the Parties), the Dispute must be referred to the senior executives nominated by each of the Parties, who must meet and use their best endeavours to resolve the Dispute.

### 23.2 Initiating mediation

- (a) If the Dispute is not resolved within 15 Business Days after receipt of the Dispute Notice either Party may request the other attend mediation by servicing a written notice specifying the nature of the dispute and the proposed mediator.
- (b) Within 10 Business Days after receipt of the Mediation Notice, the Parties must use best endeavours to agree on the mediator. If the Parties fail to agree on the mediator within that time, then the Parties will refer the Dispute to a person nominated by the Chair of the Australian Capital Territory Chapter of the Resolution Institute, and the Parties must accept that person's nomination as mediator.
- (c) Each Party must pay an equal share of the mediator's fees and the mediation venue costs.

### 23.3 Attending mediation

- (a) Each Party must be represented at the mediation by a person with authority to settle the Dispute.
- (b) Any information disclosed in connection with mediation remains confidential and is privileged from disclosure to third parties or in evidence, except to enforce a settlement agreement reached at the mediation.
- (c) Any agreement reached at mediation will not be binding unless it is reduced to writing and signed by the Parties.

### 23.4 Litigation

If the Dispute is not resolved on completion of the mediation, either Party may initiate proceedings in the appropriate jurisdiction.

### 23.5 Urgent relief

Nothing in clause 23 prevents a Party from, at any time, seeking an urgent injunction from a court to prevent an apprehended breach of this Contract.

## 24 MODERN SLAVERY

- (a) The Consultant 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 Consultant 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 Consultant agrees that GRDC may take any reasonable actions to monitor, assess, audit and verify the Consultant's compliance with its obligations under this clause 24.
- (d) If the Consultant or its Group Member is in breach of any part of this clause 24, 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.

## 25 NATIONAL ANTI-CORRUPTION

- (a) The Consultant acknowledges that in providing the Services to GRDC under this Contract, it is a "contracted service provider" for the purposes of the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act).
- (b) The Consultant must comply with any reasonable request, policy or direction issued by GRDC and otherwise cooperate with GRDC in relation to any action taken by GRDC required or authorised by the NACC Act.

## 26 MISCELLANEOUS

### 26.1 Discretion

- (a) Unless expressly required by the terms of this Contract, the Parties are obliged and required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this Contract.
- (b) Unless expressly required by the terms of this Contract, a Party may impose reasonable conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this Contract. Any conditions must be complied with by the Party relying on the consent, approval or waiver.

### 26.2 Waiver

A waiver by a Party in respect of any breach of a condition or provision of this Contract will not be deemed to be a waiver in respect of any other or subsequent breach.

### 26.3 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.

### 26.4 Costs

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

## 26.5 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 provisions of this Contract.

## 26.6 Governing Law and jurisdiction

This Contract is governed by and construed in accordance with the laws in the Australian Capital Territory and the Parties submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory and any court that may hear appeals from those courts.

## 26.7 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 all acts.

## 26.8 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.

## 26.9 Construction

This Contract (or any term of it) is not to be construed to the disadvantage of one Party for the reason that that Party was responsible for its preparation or seeks to rely on it.

## 26.10 Freedom of Information and Auditor General

The Parties acknowledge that:

- (a) this Contract, and information held or compiled by GRDC in relation to this Contract, are subject to State, Territory, and Commonwealth laws and regulations in relation to freedom of information;
- (b) the powers and duties of the Auditor General are not limited or otherwise affected by the terms and conditions of this Contract; and
- (c) Confidential Information may be disclosed under the *Freedom of Information Act 1992 (Cth)*, or in response to inquiries conducted by or on behalf of the Auditor General.

## 26.11 No reliance

The Consultant has not relied on any statement by GRDC which has not been expressly included in this Contract.

## 26.12 Entire agreement

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

### 26.13 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.

### 26.14 Counterparts

This Contract may consist of a number of copies, each signed by one or more Parties to the Contract. If so, the signed copies together constitute one document. Executed counterparts of this Contract may be exchanged by email or other means of Electronic Communications.

### 26.15 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.

# Schedule

Item	Topic	Details																								
1	Contract Code	<CONTRACT CODE>																								
2	Commencement Date	<Choose date>																								
3	Completion Date	<Choose date>																								
4	Services (including Milestones)	<p>&lt;Enter information&gt;</p> <table border="1"> <thead> <tr> <th>Milestone No.</th> <th>Description</th> <th>Due date</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Milestone No.	Description	Due date																					
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5	GRDC Material	<GRDC Material>																								
6	Consultant Material	< Consultant Material>																								
7	Fees	<p>The total Fees payable under this Contract must not exceed \$&lt;Insert amount&gt; (excluding GST) and will be paid &lt;monthly in arrears [if Option 1 is chosen] OR upon satisfactory completion of the relevant Milestones [if Option 2 is chosen]&gt; in accordance with the table below:</p> <table border="1"> <thead> <tr> <th>&lt;Hourly / Daily&gt; rate (\$) (ex GST) The daily rate is based on &lt;X&gt; hours per working day</th> <th>GST (\$)</th> <th>Total (\$) (inc GST)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> <table border="1"> <thead> <tr> <th>Milestone no.</th> <th>Description</th> <th>Fee payable (\$) (ex GST)</th> <th>GST (\$)</th> <th>Total (\$) (inc GST)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	<Hourly / Daily> rate (\$) (ex GST) The daily rate is based on <X> hours per working day	GST (\$)	Total (\$) (inc GST)							Milestone no.	Description	Fee payable (\$) (ex GST)	GST (\$)	Total (\$) (inc GST)										
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8	Expenses	<p>Subject to clause 7.2, the Consultant may claim the following Expenses:</p> <ol style="list-style-type: none"> <li>travel (including economy class airfares, taxis, and car hire);</li> <li>accommodation;</li> <li>incidentals (meals only); and</li> <li>&lt;Insert as required&gt;.</li> </ol> <p>The total Expenses payable under this Contract must not exceed \$&lt;Insert amount&gt; (excluding GST).</p>																								
9	Specified Personnel	<Enter information>																								

Item	Topic	Details	
10	Insurance Requirements	<p>Public liability in the amount of at least \$10 million in respect of each claim;            Professional indemnity insurance with a limit of at least \$5 million in respect of each claim;            Workers compensation insurance, as required by law;            Such other policies of insurance in relation to the Consultant's business and assets and against such risks as are normally required by prudent persons carrying on a similar business, or as reasonably required by GRDC for the full replacement value of such assets.</p>	
11	Address for Notices	GRDC	<Select office from dropdown>
		Consultant	Post: <Enter information> Email: <Enter information>
12	Authorised Representative(s)	GRDC	<GRDC contract manager(s)>
		Consultant	<Research organisation contract manager(s)>