

**Agreement
for the funding and conduct of an R&D project**

BETWEEN

MLA DONOR COMPANY LIMITED

ABN 49 083 304 867

AND

MEAT & LIVESTOCK AUSTRALIA LIMITED

ABN 39 081 678 364

AND

COMPANY

ABN XX XXX XXX XXX

P.PSH.xxxx

THIS AGREEMENT IS MADE ON

PARTIES

MLA DONOR COMPANY LIMITED ABN 49 083 304 867 of Level 1, 40 Mount Street, North Sydney, New South Wales (**Donor Company**)

MEAT & LIVESTOCK AUSTRALIA LIMITED ABN 39 081 678 364 of Level 1, 40 Mount Street, North Sydney, New South Wales (**MLA**)

COMPANY ABN XX XXX XXX XXX of [insert street address, suburb and state] (**Participant**)

Background

- A The parties have agreed to conduct the Project on the terms set out in this agreement.
- B The parties acknowledge that under the terms of this agreement, the Project Schedule may require MLA to appoint the Participant to conduct part or all of a Project, namely the Project Component and it may require MLA to appoint a third party to conduct part or all of the Project.
- C The parties acknowledge that the Project will comprise research and development which coincides with the Australian red meat industry's strategy and that the results of the Projects, if successful, will be beneficial to the industry or the broader Australian community.

Agreements

1 Definitions and interpretation

Definitions

1.1 Where commencing with a capital letter:

Assets means any asset described in the Project Schedule, provided by MLA or acquired by the Participant for the purpose of the Project or developed in the course of the Project;

Background IP means Intellectual Property owned, licensed or held by a party and made available by the party to the Project, including any Intellectual Property specified as such in the Project Schedule;

Budget means the budget for the Project set out in the Project Schedule;

Commercialise, in relation to Project IP, means to manufacture, sell, hire or otherwise exploit a product or process, or to provide a service using Project IP, or to license any person to do any of those things;

Component IP means the Intellectual Property which arises out of the Project Component;

Confidential Information means all trade secrets and know-how, financial information and other commercially valuable information of whatever description and in whatever form and, in the case of MLA, includes the MLA Material;

Contribution means, in respect of:

- (a) the Participant, the monetary contribution to the Project set out in the Budget;
and
- (b) MLA, the Matching Payment;

Dispose means, in relation to any property, sell, transfer, assign, create any interest over, part with the benefit of or otherwise dispose of the property;

Effective Date means the earlier of the start date in the schedule or the date of this agreement;

Funds means the funds specified in the Budget;

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

In-Kind Contributions means the in-kind contributions to be provided by the Participant as specified in the Project Schedule;

Intellectual Property means all patents, patent applications, trade marks, service marks, designs, plant breeder's rights, copyright, know-how, trade secrets, eligible layout rights, domain names, internet addresses, rights in confidential information and all and any other intellectual property rights whether registered or unregistered and rights to apply for any of the same, and includes the Confidential Information;

Interest means the proportionate interest of each party set out in the Project Schedule;

Matching Payment means a payment by the Commonwealth to MLA for a Project under section 66(1)(b) of the *Australian Meat and Live-stock Industry Act 1997* (Cth) which is equal to the total Contributions of the Participant to the Project;

Milestone means a milestone specified in the Project Schedule;

MLA Material means all MLA material or information provided by MLA to the Participant in connection with the Project;

Nominated Persons means the persons named in the Project Schedule and such other persons approved in writing by MLA to work on the Project Component on behalf for or on behalf of the Participant;

Project means the project described in the Project Schedule;

Project Access Fee means, in relation to the Project and subject to clause 3.11, an Access fee calculated in accordance with the Project Schedule;

Project Component means the component of the Project (the component may be the entire Project) that the Participant conducts, as specified in the Project Schedule.

Project IP means Intellectual Property which arises out of the Project, including the Component IP;

Project Schedule means the schedule setting out Project details annexed to this agreement; and

Site means any premises owned or controlled by the Participant at which any part of the Project is conducted.

Interpretation

- 1.2 Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.3 Unless the context otherwise requires a word which denotes:
 - 1.3.1 the singular denotes the plural and vice versa;
 - 1.3.2 a person includes an individual, a body corporate and a government; and
 - 1.3.3 a person includes the trustee, executor, administrator, successor in title and assign of that person. This clause must not be construed as permitting a party to assign any right under this agreement.

2 Structure of this agreement

General

- 2.1 The parties have agreed to fund and conduct the Project in accordance with the terms of this agreement (including the Project Schedule).

Consistency

- 2.2 Subject to clause 2.3, to the extent of any inconsistency between the terms of this agreement and the Project Schedule, the terms of this agreement will prevail.
- 2.3 The parties:
 - 2.3.1 must comply with their obligations as set out in the Special Conditions; and
 - 2.3.2 agree that the Special Conditions will prevail over the terms of this agreement to extent of any inconsistency.

3 Contributions to a Project

Payment

- 3.1 The Participant must pay its Contribution for the Project to the Donor Company in accordance with the Budget.
- 3.2 The Participant must provide the In-Kind Contributions, if any, in accordance with the Project Schedule.
- 3.3 The Donor Company must pay the Participant's Contribution to MLA and MLA must allocate it to the project account for the purposes of the Project (**Project Account**).
- 3.4 MLA must allocate its Contribution for the Project to the Project Account.

- 3.5 MLA will from the Project Account make the payments specified in the Budget for the Project provided that:
- 3.5.1 the goods and services to which each payment relates are provided to the reasonable satisfaction of MLA; and
 - 3.5.2 MLA receives all payments by third parties specified in the Project Schedule.

Suspension of funding

- 3.6 In addition to its rights under clause 14, MLA may suspend payment of any of the Funds for the Project if the Participant:
- 3.6.1 does not achieve a Milestone; or
 - 3.6.2 is in breach of any of its obligations under this agreement in relation to the Project,
- until the Milestone is achieved or the breach is rectified, as the case may be, to the reasonable satisfaction of MLA.

Assets

- 3.7 The Participant must, with the Funds, and in accordance with the Budget, purchase the assets specified in the Budget.
- 3.8 The Participant is solely responsible for the safekeeping, maintenance and control of any Assets used for the Project and for all other costs and liabilities associated with the Assets.
- 3.9 The Participant must not encumber or, subject to clause 14, Dispose of any Asset.

Project Access Fee

- 3.10 The parties agree that MLA is entitled to be paid the yearly Project Access Fee from the Contributions allocated to the Project Account.
- 3.11 The Project Access Fee increases in proportion to any increase in total Contributions. If the Project completion date referred to in the Project Schedule is extended, the yearly Project Access Fee during the extension (pro rata for part of a year) is the greater of the Project Access Fee for the previous 12 month period and the increased Project Access Fee payable as a result of any increase in total Contributions.

Role of the Donor Company

- 3.12 The Donor Company appoints MLA as its agent for the purposes of:
- 3.12.1 receiving the Participant's Contribution paid to it under clause 3.3;
 - 3.12.2 managing the Contributions and the Project;
 - 3.12.3 entering into agreements with third parties (**Third Party Agreements**); and
 - 3.12.4 exercising its rights and managing its obligations under Third Party Agreements.

4 Conduct of a Project

Third parties' conduct of all or part of a Project

- 4.1 If the Project Schedule specifies that a third party is to conduct all or part of that Project, MLA will engage that party to conduct that part of the Project unless the Project Schedule specified otherwise.

The Participant's conduct of all or part of a Project

- 4.2 If the Project Schedule specifies that the Participant is to conduct the Project Component, MLA appoints the Participant to conduct the Project Component and the Participant accepts that appointment.

- 4.3 The Participant must conduct the Project Component:

- 4.3.1 in accordance with all relevant laws and regulations and any applicable industry standards or guidelines;
- 4.3.2 in accordance with the Milestones and the Budget and otherwise comply with the requirements set out in the Project Schedule;
- 4.3.3 in accordance with all reasonable and lawful directions of MLA from time to time concerning the Project Component, except to the extent that the direction would prevent the Participant from complying with clause 4.3.6;
- 4.3.4 to the best of its skill and ability;
- 4.3.5 using appropriately qualified, competent and skilled Personnel necessary for the proper conduct of the Project Component; and
- 4.3.6 without limiting clause 4.3.1, in accordance with all applicable occupational health and safety laws and regulations and applicable industry codes of practice and Australian Standards.

- 4.4 Without limiting the Participant's obligations under this clause 4, the Participant must, in conducting the Project Component:

- 4.4.1 only apply the Funds and the Assets for the purposes of the Project and in accordance with the Budget and the Milestones;
- 4.4.2 not vary the Project, the Budget or the Milestones without MLA's prior written consent.
- 4.4.3 liaise with MLA; and
- 4.4.4 as requested by MLA, provide reasonable details of the Participant's proposed course of action and strategies, for the purpose of enabling MLA to review the conduct of the Project Component.

Personnel

- 4.5 The Participant:

- 4.5.1 must, subject to the terms of this agreement, cause the Nominated Persons to conduct the Project Component;

- 4.5.2 undertakes that the Nominated Persons and all persons who assist in conducting the Project Component will perform that work to the best of their skill and ability; and
- 4.5.3 must provide each Nominated Person with a copy of this agreement and take all reasonable steps to explain it to them.

Warranty

- 4.6 The Participant warrants that:
 - 4.6.1 the conduct of the Project Component will not infringe any other person's Intellectual Property rights (excluding patent rights);
 - 4.6.2 to the best of its knowledge and belief after due enquiry, the conduct of the Project Component will not infringe the patent rights of any other person;
 - 4.6.3 the parties will be entitled to use the Component IP without the consent of any other person;
 - 4.6.4 it, its employees, the Nominated Persons and its agents and contractors have the necessary experience, skill and ability to properly conduct the Project Component on the terms set out in this agreement; and
 - 4.6.5 the Project Component will be conducted in a professional manner and conform to a standard of competence equal to that normally employed by consultants of good standing for services of a magnitude and nature similar to the Project Component.

Capturing Component IP

- 4.7 The Participant must:
 - 4.7.1 provide MLA with all information in its possession regarding Component IP which has been developed or is in the process of being developed;
 - 4.7.2 ensure that those of its employees, agents and contractors who conduct the Project Component:
 - (a) identify Component IP generated or developed by them;
 - (b) promptly communicate details of Component IP to MLA; and
 - (c) assign ownership of Component IP in accordance with clause 7.
- 4.8 If MLA considers that a particular development warrants pursuing patent protection, or other form of intellectual property protection, the Participant must apply for, maintain and prosecute that intellectual property protection in accordance with the parties' respective interests.
- 4.9 Each party must give the other prompt notice of any infringement or threatened infringement of Component IP which comes to its notice and MLA may take such action and incur such costs as may be reasonably required to protect the interests of the parties in that Component IP.

- 4.10 Costs incurred by the parties under clauses 4.8 and 4.9 must be borne by them in proportion to their respective interests.

Safety

- 4.11 Without limiting its obligations under the clause 4, the Participant must ensure that its employees, agents and contractors, any MLA employees and any other person involved in the Project or attending a Site during a Project are, before they enter the Site:
- 4.11.1 properly trained, informed, supervised and instructed in the use of plant and equipment involved in the Project;
 - 4.11.2 provided with all necessary personal protective equipment for work performed in connection with the Project; and
 - 4.11.3 provided with any other information, instruction and supervision including but not limited to induction training, to ensure their health and safety while carrying out the Project or while on the Site,
- relevant to their access to the Site and, if any, the task to be performed and, in any event, so as to ensure their health and safety while on the Site.
- 4.12 The Participant is solely responsible for all preparation and co-ordination required for the conduct of the Project at a Site and, without limiting its obligations under this clause 4, the Participant must:
- 4.12.1 at all times exercise all necessary precautions to ensure that the health and safety of any person on or near a Site is not compromised by the conduct of the Project at that Site;
 - 4.12.2 stop work on a Project if a safety risk arises and immediately notify MLA; and
 - 4.12.3 not resume work until it is satisfied that the safety risk has been eliminated or, if elimination of the risk is not reasonably practicable, controlled.

5 Accounts and records

Accurate record keeping

- 5.1 The Participant must ensure that it, and its agents and contractors:
- 5.1.1 keep complete and accurate books and records that are separate from any other books and records of the relevant business (including any particular accounts specified by MLA):
 - (a) setting out details of all work carried out under in relation to the Project Component;
 - (b) recording the deposit and expenditure of Funds; and
 - (c) recording the contribution and details of In-Kind Contributions in relation to the Project;
 - 5.1.2 permit MLA, at any time and without prior notice, through its officers, agents or advisers authorised on its behalf, to examine and inspect any material in the

possession of the Participant which is relevant to the Project or this agreement, including any books and records, and provide all necessary facilities for that purpose;

- 5.1.3 give full and accurate answers to any questions MLA or any of its representatives may have concerning books or records relating to this agreement and provide all assistance reasonably requested by MLA in respect of any inquiry into or concerning the Project or this agreement; and
- 5.1.4 retain for a period of seven years after termination or expiration of this agreement all books and records relating to the Funding.

MLA may carry out audits

- 5.2 MLA may arrange for the carrying out of an audit of the books and records of the Participant and the books and records of the Participant's agents and contractors at the cost of MLA, unless the audit reveals that any overpayment of more than 2% by MLA or noncompliance by the Participant with the terms of this agreement, in which case the Participant must promptly reimburse MLA the cost of the audit.

Participant to allow access

- 5.3 The Participant must cooperate with MLA or its representatives, in the conduct of an audit and, for that purpose, must:
 - 5.3.1 allow access to the Participant's premises at reasonable times and on reasonable notice;
 - 5.3.2 procure access to the premises of all agents and contractors at reasonable times and on reasonable notice;
 - 5.3.3 require the Participant's employees, agents and contractors to produce books and records related to this agreement and allow any such documentation to be inspected and copied; and
 - 5.3.4 provide full and accurate answers to any questions asked in relation to that documentation.

Clause survives termination

- 5.4 This clause 5 applies for the term of this agreement and for a period of seven years from the date of expiration or termination.

6 Background IP

Provision

- 6.1 Each party will make available its Background IP for the Project.
- 6.2 Subject to the terms of this agreement:
 - 6.2.1 the parties; and
 - 6.2.2 subject to clause 10, agents and contractors of the parties,

have a non-exclusive royalty-free right to use each party's Background IP for the purposes of the Project and Commercialisation or dissemination of the Project IP in accordance with this agreement.

Warranty

6.3 Each party warrants that:

6.3.1 to the best of its knowledge and belief:

- (a) it is the owner of, or is otherwise entitled to provide, the Background IP under this agreement without the consent of any other person; and
- (b) except to the extent disclosed in the Project Schedule, that Background IP is unencumbered; and

6.3.2 it will not Dispose of or Commercialise that Background IP so as to prejudice in any way the use by the parties of the Background IP for the Project or Commercialisation or dissemination of Project IP in accordance with this agreement.

7 Project IP

Ownership

- 7.1 Any Project IP will be owned by the parties in accordance with their respective Interests.
- 7.2 Subject to this agreement, each party has a non-exclusive royalty-free right to use Project IP for the purposes of the Project, other than commercialisation.
- 7.3 No party may Dispose of its Interest in Project IP without the prior written agreement of the other parties.
- 7.4 MLA will have a royalty-free right to use Project IP for its internal purposes and reporting to and complying with its obligations to industry bodies, including peak councils, government and government agencies and authorities.

Commercialisation

- 7.5 A party may only Commercialise or disseminate the Project IP with the prior written consent of the other parties.
- 7.6 Clauses 7.3 and 7.5 do not apply to MLA if MLA's Interest is 100%.

Intellectual Property protection

- 7.7 If MLA considers that a particular development warrants pursuing patent protection, or other form of Intellectual Property protection, the Participant must provide all reasonable assistance to MLA and if requested apply for, maintain and prosecute that Intellectual Property protection in accordance with the parties' respective Interests.
- 7.8 Each party must give the other prompt notice of any infringement or threatened infringement of Project IP which comes to its notice and MLA may take such action and

incur such costs as may be reasonably required to protect the interests of the parties in that Intellectual Property.

- 7.9 Costs incurred by the parties under clauses 7.7 and 7.8 must be borne by them in proportion to their respective Interests unless agreed otherwise.

8 Confidentiality

Confidentiality Obligations

- 8.1 Subject to this agreement, each party must during and after the term of this agreement:
- 8.1.1 keep Project IP and the Confidential Information of the other parties confidential;
 - 8.1.2 use Project IP and the Confidential Information of the other parties only as contemplated by this agreement; and
 - 8.1.3 prior to disclosure to any person of any Project IP or Confidential Information of another party, ensure that the person is bound by obligations of confidentiality in substantially the same terms as this clause 8.

Exclusions

- 8.2 The obligations on each recipient of Confidential Information under this agreement do not apply to any Confidential Information which:
- 8.2.1 was in the recipient's possession at the time of disclosure to the recipient and was not acquired in breach of an obligation of confidence or under an obligation of confidence;
 - 8.2.2 is in the public domain;
 - 8.2.3 is acquired from a third party, provided that it is not acquired by the third party unlawfully or in breach of an obligation of confidence; or
 - 8.2.4 is required to be disclosed by law, provided that the receiving party makes reasonable efforts to notify the disclosing party of the impending disclosure in time for the disclosing party to appear and oppose the disclosure.

MLA

- 8.3 This clause 8 does not apply to MLA in respect of Project IP for the Project if MLA's Interest for that Project is 100%.

Publications and public announcements

- 8.4 Neither party will publish, disseminate or otherwise communicate any information relating to the Project or its results without the prior written consent of the other party, such consent not to be unreasonably withheld.
- 8.5 The Participant must ensure that any publication, dissemination or communication permitted under clause 8.4:

8.5.1 acknowledges the contribution to and support of the Project by MLA in a manner acceptable to MLA and in compliance with MLA's Brand and Writing Style Guidelines (available on request); and

8.5.2 is carried out in consultation with the MLA communications team, and that the Participant has obtained MLA's prior written approval in relation to all communications material relating to the Project or its results.

Termination

8.6 On expiry of the Project, each party will, on request from another party, return to that party its Confidential Information related to the Project and on termination of this agreement each party must, on request from another party, return all of the other party's Confidential Information.

9 Material

MLA Material

The MLA Material remains the property of MLA and, on termination of the Project, the Participant must immediately on request from MLA return the MLA Material related to the Project and all copies of it to MLA and permanently delete from all computer systems under the control of the Participant all MLA Material which is in electronic form.

Safekeeping

9.1 The Participant is responsible for the safekeeping and maintenance of the MLA Material and Component IP and must ensure that the MLA Material and the Component IP are used, copied, supplied or reproduced only for the purposes of this agreement.

Legal Requirement

9.2 The Participant may retain one hard copy of the MLA Material reasonably necessary for the Participant to comply with any statutory obligation to do so.

10 Subcontractors

Other contractors

10.1 The Participant will not without the prior written consent of MLA engage any other agent or contractor to work with the Participant in conducting the Project Component or otherwise assist the Participant in performing its obligations under this agreement.

Terms

10.2 If the Participant engages any agent or contractor to work with the Participant in conducting the Project Component or otherwise assist the Participant in performing its obligations under this agreement, the terms of engagement must contain terms requiring the agent or contractor to:

- 10.2.1 undertake obligations of confidentiality in substantially the same terms as clause 8;
- 10.2.2 assign to the Participant all Intellectual Property created under the engagement; and
- 10.2.3 maintain such insurance in such amounts as MLA may specify.

11 Insurance

Maintenance

11.1 The Participant will:

11.1.1 at all times maintain:

- (a) workers' compensation insurance as required by law for its employees;
- (b) professional indemnity insurance for an amount of at least \$2 million;
- (c) public and product liability insurance for an amount of at least \$10 million;
- (d) such other insurance cover as MLA may from time to time reasonably require; and

11.1.2 maintain and protect from loss or damage and, if required by MLA, insure for their replacement value, all Assets.

Policies

11.2 The Participant will, on request by MLA, produce evidence of the currency of the insurance policies referred to in clause 11.1.

12 Indemnity

The Participant indemnifies MLA against all damages, losses, costs and expenses incurred by MLA arising out of any:

- (a) breach by the Participant of this agreement; or
- (b) negligent or unlawful act or omission of the Participant, its employees, the Nominated Persons and all agents and contractors in connection with this agreement.

13 Exclusion from liability

13.1 In no event will any party be liable to another party (whether in contract, tort or otherwise) for any consequential, special, incidental or indirect loss or damage including loss of profit (whether consequential, special, incidental or indirect) which may arise under this agreement.

14 Term and termination

Term

- 14.1 This agreement commences on the Effective Date and continues until the earlier of:
- 14.1.1 the completion of the Project;
 - 14.1.2 its termination by written agreement of all parties; and
 - 14.1.3 its termination in accordance with this agreement.
- 14.2 MLA may, by 1 month's notice to the Participant, terminate this agreement.
- 14.3 MLA may terminate this agreement with immediate effect by notice to the other parties if:
- 14.3.1 MLA is no longer the declared industry marketing body and/or industry research body for the meat and livestock industry; or
 - 14.3.2 its funding agreement with the Commonwealth government is terminated, in which case, MLA may, by notice to the Participant, direct the Participant to deal with the Assets in a manner determined by MLA.

“Go/No Go” decisions

- 14.4 MLA may terminate this agreement by notice to the Participant if MLA makes a “No Go” decision referred to under the Project Schedule.
- 14.5 If a “Go/No Go” decision point is referred to in the Project Schedule, the Participant:
- 14.5.1 must not proceed with the Project after that point until MLA notifies it that MLA has made a “Go” decision to proceed with the Project after that point; and
 - 14.5.2 acknowledges that it is not entitled to payment for any goods or services provided in breach of clause 14.5.1.

Termination for default

- 14.6 A party (**Terminating Party**) may by notice to the other parties terminate this agreement if:
- 14.6.1 another party fails, within 14 days after notice from the Terminating Party, to remedy a breach of its obligations under this agreement which is capable of remedy;
 - 14.6.2 another party breaches any of its obligations under this agreement which are not capable of remedy; or
 - 14.6.3 another party persistently breaches its obligations under this agreement.
- 14.7 A party may by notice to the other parties, terminate this agreement if another party has a receiver or receiver and manager appointed to it or any part of its assets, enters into a scheme of arrangement with creditors or suffers any other form of external administration.

Effect

- 14.8 If this agreement is terminated:

- 14.8.1 the Participant must immediately cease conducting the Project Component;
- 14.8.2 the Participant will repay to MLA money paid to the Participant for any portion of the Project that will not be undertaken as a result of the termination;
- 14.8.3 MLA will ensure that the Participant is paid or entitled to retain its proportion of that money (in excess of that expended on the Project); and
- 14.8.4 the Participant will:
 - (a) buy back any Assets depreciated at the rate specified in the Project Schedule, less the Participant's Contribution to those Assets depreciated at the same rate; or
 - (b) with the approval of MLA, sell any Assets to any other person on arm's length terms, and disburse to the parties all monies received from the sale in proportion to their respective Contributions to the Project.

Project Completion

- 14.9 On completion of the Project, the Participant will:
 - 14.9.1 buy back any Assets at the buy-back price specified in the Project Schedule; or
 - 14.9.2 with the approval of MLA, sell any Assets to any other person on arm's length terms, and disburse to the parties all monies received from the sale in the portions specified in the Project Schedule.

15 GST

GST exclusive

- 15.1 Unless otherwise indicated, amounts stated in this agreement are exclusive of GST.
- 15.2 In relation to any GST payable for a taxable supply by a party under this agreement, the recipient of the supply must pay the GST subject to the supplier providing a tax invoice.
- 15.3 If any party is required under this agreement to reimburse or pay to another party an amount calculated by reference to a cost, expense, or an amount paid or incurred by that party, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which that party (or entity on whose behalf the party is acting) is entitled in respect of any acquisition relating to that cost, expense or other amount.

Terms

- 15.4 Terms used in this clause 15 which are defined in the GST Act have the same meaning as in the GST Act.

16 Force majeure

Event

- 16.1 If a party (**Affected Party**) becomes unable, wholly or in part, by any event beyond its reasonable control, including, in the case of MLA and Donor Company, a cessation or reduction of their funding, (**Force Majeure**) to carry out an obligation placed on it under this agreement, the Affected Party must give to the other party prompt written notice of:
- 16.1.1 reasonable particulars of the Force Majeure; and
 - 16.1.2 so far as is known, the probable extent to which the Affected Party will be unable to perform or be delayed in performing its obligation.

Effect

- 16.2 Subject to compliance with clause 16.1, the relevant obligation, so far as it is affected by the Force Majeure, will be suspended during but no longer than the term of the Force Majeure. In the case of a cessation or reduction of their funding, MLA or Donor Company may by notice to the other parties terminate this agreement.
- 16.3 The Affected Party must use all possible diligence to overcome or remove the Force Majeure as quickly as possible (except where MLA or Donor Company having their funding ceased or reduced). The Affected Party is not required to settle any labour or other dispute creating the Force Majeure on terms contrary to its wishes or to contest the validity or enforceability of any law, regulation or decree by way of legal proceedings.

17 Dispute resolution

Dealing with disputes

- 17.1 The parties must, without delay and in good faith, attempt to resolve any dispute which arises out of or in connection with this agreement prior to commencing any proceedings.
- 17.2 If a party requires resolution of a dispute it must do so in accordance with this clause 17 and the parties acknowledge that compliance with these provisions is a condition precedent to any entitlement to claim relief or remedy, whether by way of proceedings in a court of law or otherwise in respect of such disputes, except in the case of applications for urgent interlocutory relief or a breach by the other party of this clause 17.
- 17.3 The existence of a dispute or the commencement of proceedings does not affect the obligations of the parties to continue to perform their obligations under this agreement.

Resolution by management

- 17.4 If a party requires resolution of a dispute it must immediately submit full details of the dispute to the chief executive officer of the other party.
- 17.5 If the dispute is not resolved within 1 month of submission of the dispute to them, or such other time as they agree, clause 17.6 will apply.

Conciliation

- 17.6 Disputes must be submitted to conciliation in accordance with and subject to the then current Conciliation Rules adopted by the Resolution Institute.
- 17.7 A party may not commence proceedings in respect of the dispute unless the dispute is not settled by conciliation within 1 month of submission to conciliation, or such other time as the parties agree.

Urgent Relief

- 17.8 This clause 17 does not apply if either party commences legal proceedings for urgent interlocutory relief.

18 Relationship of the parties

No partnership

- 18.1 Nothing in this agreement creates an agency, partnership, joint venture or employment relationship between MLA and the Participant or any of their respective employees, agents or contractors.

No holding out

- 18.2 Neither the Participant nor any person acting on behalf of the Participant may hold itself out as being entitled to contract or accept payment in the name of or on account of MLA.

Conflict of Interest

- 18.3 The Participant must not, without the prior written consent of MLA, during the term of this agreement:

- 18.3.1 act as a consultant to any person who carries on or is involved in any capacity in an activity or business; or
- 18.3.2 carry on or be involved in any capacity in an activity or business,

which is competitive with or detrimental to the Project. The Participant must notify MLA promptly of any such actual, perceived or potential conflicts of interest and must take all actions to resolve the conflict.

19 Miscellaneous

Notices

- 19.1 A notice under this agreement must be in writing and may be given to the addressee by:
- 19.1.1 delivering it to the address of the addressee;
- 19.1.2 sending it by pre-paid registered post to the address of the addressee;
- 19.1.3 sending it by electronic mail to the last notified email address of the addressee, and the notice will be deemed to have been received by the addressee on receipt.

19.2 An email is deemed to have been received on the date shown by a printed “read receipt” generated by the sender’s computer.

Amendment

19.3 This agreement may only be varied by the written agreement of the parties.

Assignment

19.4 The Participant may only assign a right under this agreement with the prior written consent of MLA.

Entire agreement

19.5 This agreement, including the Project Schedule, embodies the entire understanding and agreement between the parties as to its subject matter.

19.6 All previous negotiations, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of this agreement are merged in and superseded by this agreement.

Further assurance

19.7 Each party must promptly sign all documents and do all things that the other party from time to time reasonably requests to effect, perfect or complete this agreement and all transactions incidental to it.

19.8 The Participant agrees that;

19.8.1 MLA may execute this agreement by applying the signatures of their respective authorised representative to any counterpart electronically; and

19.8.2 it will not challenge the validity or enforceability of this agreement on the basis that the signature of MLA's and/or MDC's authorised representatives were applied electronically.

19.9 The Participant acknowledges that MLA may retain only an electronic version of this agreement executed by the parties.

Governing law and jurisdiction

19.10 This agreement is governed by and must be construed in accordance with the laws of New South Wales.

19.11 Each party:

19.11.1 irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and all courts which have jurisdiction to hear appeals from those courts; and

19.11.2 waives any right to object to proceedings being brought in those courts for any reason.

Legal costs

19.12 The parties must each pay their own legal and other expenses relating directly or indirectly to the negotiation, preparation and signing of this agreement and all documents incidental to it.

Counterparts

19.13 This agreement may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument

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