



Grant Agreement

Between **State of Queensland** acting through the **Department of Environment, Science and Innovation ABN 46 640 294 485**

(Department)

insert name and ACN/ABN of Recipient

(Recipient)

Background

- A. The Recipient wishes to carry out the Activity under the Queensland Government Quantum and Advanced Technologies Commercialisation Infrastructure Program and has sought assistance from the Department.

- B. The Department has agreed to provide the Grant to the Recipient to carry out the Activity on the terms of this agreement.

- C. The parties wish to record the terms and conditions of their agreement in this agreement, which consists of this cover page, the signing page and all schedules and annexures.

Ref: insert Department reference number, if any

Schedule 1 – Agreement details

Item 1 Party details:

Department:

Party Name: State of Queensland acting through the Department of Environment, Science and Innovation

ABN: 46 640 294 485

Street Address: Ecosciences Precinct, 41 Boggo Road, Dutton Park Qld 4102

Contact Name: Executive Director, Science Development and Office of the Queensland Chief Scientist, Science Division

Contact Postal Address: GPO Box 2454, Brisbane Qld 4001

Contact Telephone: insert details

Contact Email: qldquantum@qld.gov.au
(notices cannot be given by email)

Recipient:

Party Name: insert details

ABN/ACN: insert details

Street Address: insert details

Contact Name: insert details

Contact Postal Address: insert details

Contact Telephone: insert details

Contact Email: insert details
(notices cannot be given by email)

Item 2 Term: (clauses 22.1 and 25.1)

Commencement Date: The date this agreement is executed by the last party to do so

Expiry Date: Six (6) months after the Activity End Date.

Item 3 Activity: (clauses 1.1 and 25.1)

insert details of the Activity for which the Grant is given

Item 4 Activity period: (clauses 1.1 and 25.1)

Activity Commencement Date: The Commencement Date

Activity End Date: Within 3 years of the Commencement Date

Item 5 Milestones: (clauses 1.1 and 25.1)

	Milestone description	Completion date
1.	insert details	insert date
2.	insert details	insert date
3.	insert details	insert date
4.	insert details	insert date
5.	insert details	insert date
6.	insert details	insert date
7.	insert details	insert date
8.	insert details	insert date
9.	insert details	insert date
10.	insert details	insert date

Item 6 Approved Project Plan: (clause 1.2)

if a project plan is required for the conduct of the Activity, specify the minimum context requirements for the plan and the timing/process for submission in this Item 6. If no project plan is required, insert "Not applicable"

Item 7 Recipient's Contribution: (clauses 1.1 and 25.1)

Provide the Recipient's in-kind contribution (if any) to the value of [insert details of value of in-kind contribution of Recipient] as specified in Item 10 of Schedule 1 and in the Approved Project Plan.

Secure provision of the Activity Party Contribution (if any) as required in clauses 1.1(g) and 1.1(h) and as specified in Item 10 of Schedule 1 and in the Approved Project Plan.

Manage the associated administration relating to an Activity Party Contribution.

[insert additional details of the Recipient's Contribution, if any, including date/s to provide such contribution. If none, this field can be deleted]

Item 8 Standards: (clauses 1.1 and 25.1)

insert details of any standards, requirements, policies or procedures that the Recipient must comply with in carrying out the Activity. If none, insert "Nil"

Item 9 Grant: (clauses 2 and 25.1)

Instalment description	Amount	Payment date
First instalment	insert total amount and indicate whether GST inclusive or exclusive	<p>The Department will pay the Recipient within thirty (30) days after the later of:</p> <ul style="list-style-type: none"> (a) the Commencement Date; and (b) provision by the Recipient, to the Department's satisfaction, of: <ul style="list-style-type: none"> (a) certificates of insurance for insurances specified in Item 14 of Schedule 1; (b) valid bank details; and (c) evidence that the Recipient has entered into legally binding Research Agreement(s) and agreements for the Activity Party Contributions that are sufficient for the Recipient to undertake the Activity, and (c) receipt of a valid invoice by the Department.
Second instalment	insert instalment amount and indicate whether GST inclusive or exclusive	<p>The Department will pay the Recipient within thirty (30) days of receipt of invoice from the Recipient following:</p> <ul style="list-style-type: none"> (a) the Department's acceptance of completion of Milestone XX; and (b) the January 2025 Progress Report to the satisfaction of the Department, <p>provided that the Recipient has achieved all requirements for the first instalment noted above.</p>
Third instalment	insert instalment amount and indicate whether GST inclusive or exclusive	The Department will pay the Recipient within thirty (30)

Instalment description	Amount	Payment date
		<p>days of receipt of invoice from the Recipient following:</p> <p>(a) the Department's acceptance of completion of Milestone XX; and</p> <p>(b) the July 2025 Progress Report to the satisfaction of the Department,</p> <p>provided that the Recipient has achieved all requirements for the second instalment noted above.</p>
Final instalment	insert instalment amount and indicate whether GST inclusive or exclusive	<p>The Department will pay the Recipient within thirty (30) days of receipt of invoice from the Recipient following the Department's acceptance of:</p> <p>(a) satisfactory completion of all Milestones by the Recipient;</p> <p>(b) the Final Report; and</p> <p>(c) Financial Acquittal report to the satisfaction of the Department,</p> <p>provided that the Recipient has achieved all requirements for the third instalment noted above.</p>
Total		insert amount and indicate whether GST inclusive or exclusive

Item 10 Activity Budget (clauses 1.1(h) and 25.1)

Entity providing funds/contribution towards Activity	In-kind contribution valuation (excluding GST)	Financial cash contribution amount (excluding GST)
Recipient	<i>*This is not an additional amount to what is specified in Item 6 of Schedule 1, but is merely reproduced here for convenience</i>	
Recipient's Contribution	[insert in-kind value if applicable]	[insert amount if applicable]
Department	<i>**This is not an additional amount to what is specified in Item 9 of Schedule 1, but is merely reproduced here for convenience</i>	

Entity providing funds/contribution towards Activity	In-kind contribution valuation (excluding GST)	Financial cash contribution amount (excluding GST)
Grant	Nil	[insert Grant amount (GST exc)]
Activity Parties	<p>***This is not an additional amount to what is specified in Item 6 of Schedule 1, but is merely reproduced here for convenience. The Activity Party Contributions which are in-kind or financial must be secured (if applicable) by the Recipient under a separate Research Agreement between the Recipient and the Activity Party pursuant to clauses 1.1(g) and 1.1(h).</p>	
Activity Party Contribution 1:	<p>\$(insert details of in-kind contribution, including financial value of the services to be provided]</p>	\$(insert amount to be provided]
Activity Party Contribution 2:	\$	\$
Activity Party Contribution 3:	\$	\$
Activity Party Contribution 4:	\$	\$
Subtotal	\$	\$
GRAND TOTAL: [insert amount]		

Item 11 Using Grant for permits, registrations and licences: (clause 4.1(f))

insert details of permits, registrations or licences (if any) that the Recipient may use the Grant to obtain and maintain. If none, insert "Nil"

Item 12 Reports: (clauses 5 and 25.1)

Report	Report contents and form	Submission date
Progress reports	<p>Progress Report is to be submitted in the required template provided by the Department and made available on the SmartyGrants management system.</p> <p>The Recipient should provide details of Activities undertaken to date including but not limited to progress on:</p> <ol style="list-style-type: none"> Milestones, deliverables, outputs, outcomes; highlights and breakthroughs; any issues and how they are being addressed; itemised income and expenditure statement; details of Assets purchased and details of the sale, disposal or write-off of Assets; the Recipient's Contributions; 	31 January and 31 July every year during the Term

Report	Report contents and form	Submission date
	<ul style="list-style-type: none"> g) contribution of all Recipient Collaborators to the Activity; h) a per staff/Representative transaction listing and payroll summaries for salaries costs paid with Grant funding to date; and i) any media or promotional activities relating to the Activity. 	
Performance Indicators Report	The Recipient will report on Activity performance against Performance Indicators (as specified in Annexure 2). Performance Indicators Report is to be submitted in the required template provided by the Department and made available on the SmartyGrants management system.	31 January every year during the Term
Financial acquittal report/s	<p>The Recipient should provide details of Activities undertaken to date including but not limited to progress on:</p> <ul style="list-style-type: none"> a) Milestones, deliverables, outputs, outcomes; b) highlights and breakthroughs; c) any issues and how they are being addressed; d) itemised income and expenditure statement; e) details of Assets purchased and details of the sale, disposal or write-off of Assets; f) the Recipient's Contributions; g) contribution of all Recipient Collaborators to the Activity; h) a per staff/Representative transaction listing and payroll summaries for salaries costs paid with Grant funding to date; and i) any media or promotional activities relating to the Activity. 	insert date/s
Financial acquittal report/s	<p>The Recipient's financial performance in connection with carrying out the Activity, for the period Commencement Date to Activity End Date, and submitted via the SmartyGrants portal. Financial documentation required:</p> <ul style="list-style-type: none"> a) balance sheet, income and expenditure statement; b) copies of all Activity-related invoices/purchase orders and receipts including for Assets and any other purchases; c) details of the sale, disposal or write-off of Assets; d) a per staff/Representative transaction listing and payroll summaries for salaries costs paid with Grant funding, for the entire Activity; and 	30 June each year during the Term

Report	Report contents and form	Submission date
	e) a statement from a senior financial officer certifying that the funding has been used for eligible activities and in accordance with the agreement.	
Final report	<p>The completion Report must be submitted via the SmartyGrants portal in a template provided by the Department. The completion Report must detail demonstrated completion of the Activity and at a minimum contain the following information:</p> <p>a) details of the conduct of the Activity as a whole from Commencement Date to Activity End Date highlighting key successes, shortcomings and benefits to Queensland;</p> <p>b) details of achievements relating to Milestones, deliverables, outputs, outcomes;</p> <p>c) a summary of the expected future usage of the Research Infrastructure, including terms and pricing; and</p> <p>d) a summary of the expected future trends in the use of research.</p> <p>General: Before and after print quality colour photographs of works undertaken. Images to be provided in digital form (in JPEG with a resolution of at least 300 dpi). The Recipient must obtain consent from all people identifiable in the images to allow the Department to use the images for promotional purposes. A standard consent form is available from the Department.</p>	The date the Activity is completed (and no later than the Activity End Date)

Item 13 Assets: (clauses 11 and 25.1)

[insert details or write 'N/A' if no Assets are to be purchased with the Grant

Item 14 Insurance: (clause 15)

Public Liability:	\$20,000,000.00	During the Term
Workers' Compensation:	As required by law	During the Term
Professional Indemnity:	\$1,000,000.00	During the Term and for 7 years after the Expiry Date

Note: If Assets are listed in Item 13, you must include the following, otherwise delete:

Insurance of Assets against risk, loss or damage:	Insert full insurable risk value	During the Term
Note: Specify other type of insurance required. If no other insurance, delete this row	insert amount	insert duration of insurance eg. During the Term

Item 15 Special Conditions: (clause 25.1)

SC.1 Grant funding must only be used for the Activity and be applied only for Eligible Expenses. Grant funding used for salaries costs as itemised in the table below must be accounted for by the Recipient during the Term and reported in Progress Reports and Financial Acquittal Reports in accordance with Item 12 of Schedule 1.

Year of Salary cost	Description of technical staff position	Salary Amount (ex GST)	Location of where position will be based	Employer
Insert details	Insert details	Insert details	Insert details	Insert details
Insert details	Insert details	Insert details	Insert details	Insert details
Insert details	Insert details	Insert details	Insert details	Insert details

SC.2 Recipient Collaborator grant payments

If the Recipient allocates a portion of the Grant funding to the Recipient Collaborators, the Recipient must request that Recipient Collaborators also provide the Department an income and expenditure statement relating to the Grant funding which has been allocated to them. This statement must be included by the Recipient in the financial reporting component of the Reports.

The Recipient acknowledges and agrees that:

- (a) it will remain responsible for all acquittals and spending of the Grant by any Recipient Collaborator, including provision of evidence of expenditure as required in Reports and in accordance with the terms of this agreement; and
- (b) clause 8 applies to the Recipient in relation to Recipient Collaborators

SC.3 Media/promotion

The Recipient and Recipient Collaborators should actively promote the funded research Activity; provide broad Activity information if required; and attend media/promotion events if requested by the Department. The Recipient and Recipient Collaborators must acknowledge the Grant funding in all relevant published material, media releases and public statements to the Department's satisfaction.

SC.4 Research Infrastructure

The Recipient must ensure that Research Infrastructure funded using the Grant will have capability to regularly provide detailed reporting on Queensland usage on request by the Department, as this is fundamental to understanding the impact of the co-investment.

SC.5 Access to Research Infrastructure

Note: The framework governing free access to the Research Infrastructure provided by the Recipient, including the Recipient's obligations (including reporting, adjustment to the payment instalments and commitments to providing free access) and the Department's rights in the event of non-compliance, will be subject to development by the Department, taking into account the information submitted in each application. The duration of access requirements will be determined based on the specific nature of the Research Infrastructure

and the Department's expectations given its funding commitment. This framework will be documented in this grant agreement once sufficient information about the access arrangements is available.

SC.6 Activity Parties

If there are no Activity Parties providing Activity Party Contributions, then the following clauses will not apply to this agreement:

- 1.1(g) and (h);
- 1.4(c) and 1.4(d);
- 2.1(b)(iv) and 2.1(b)(v);
- 2.2, to the extent it refers to an Activity Party;
- 14.2, to the extent it refers to an Activity Party;
- 16.1(a)(v) and 16.1(a)(vii), to the extent it refers to an Activity Party;
- 14.2, to the extent it refers to an Activity Party;
- 22.9, to the extent it refers to an Activity Party;
- 22.4(c); and
- 24.2, to the extent that it refers to an Activity Party.

Schedule 2 – Terms and conditions

1. Recipient's obligations

1.1 Performance of the Activity

The Recipient must:

- (a) commence the Activity by the Activity Commencement Date;
- (b) carry out the Activity in accordance with this agreement and with due care and skill;
- (c) if applicable, carry out the Activity in accordance with the Approved Project Plan;
- (d) meet each of the Milestones by the relevant completion date;
- (e) complete the Activity by the Activity End Date;
- (f) provide the Recipient's Contribution for the purposes of the Activity;
- (g) secure the provision of and make adequate arrangements for the payment or supply of the cash and any in-kind Activity Party Contribution specified in Item 10 of Schedule 1 (if applicable) and in the Approved Project Plan which forms part of the Activity Budget in a legally enforceable agreement entered into between the Recipient and each Activity Party, on terms that are consistent with clause 8 and the terms of this agreement as soon as reasonably practicable (**Research Agreement**). The Recipient will advise the Department in writing when this has occurred and provide a copy of the Research Agreement, which must be no later than three (3) months after the Commencement Date. If the Recipient does not provide the Research Agreement in accordance with this clause 1.1(g), then the Department may issue a notice under clause 22.2(f) as to why payment of the Grant should not be suspended, or may terminate this agreement under clause 22.4;
- (h) ensure each Activity Party provides its Activity Party Contribution specified in Item 10 of Schedule 1 (if applicable) and in the Approved Project Plan in a timely manner and otherwise pursuant to the Research Agreement so as to ensure completion of the Activity in accordance with this agreement;
- (i) not do anything or become involved in any situation which, in the reasonable opinion of the Department, reflects unfavourably upon the State of Queensland and/or the Activity;
- (j) comply with:
 - (i) the terms and conditions of this agreement;
 - (ii) applicable Laws (including obtaining and maintaining any licence or authorisation required for the Recipient to carry out the Activity) and the Standards (if any);
 - (iii) standards of professional care and diligence of the industry to which the Recipient belongs; and

- (iv) the Department's reasonable requests, directions and requirements, to the Department's satisfaction; and
- (k) communicate with, report and provide information to the Department's Contact as reasonably required by the Department.

1.2 Approved Project Plan

If Item 6 of Schedule 1 specifies that a project plan is required to regulate the conduct of the Activity, the Recipient must:

- (a) prepare and submit a plan for the conduct of the Activity to the Department for the Department's approval, in accordance with the requirements set out in Item 6 of Schedule 1;
- (b) monitor and evaluate the progress of the Activity against the Approved Project Plan;
- (c) advise and seek the Department's approval of any changes to the Approved Project Plan; and
- (d) advise the Department of any adverse event which may impact on progress against the Approved Project Plan as soon as it occurs and, in any event, not later than 10 Business Days of the occurrence of the event.

1.3 General obligations

- (a) The Recipient acknowledges and agrees that all its personnel are the Recipient's responsibility including payment of all employee wages and entitlements.
- (b) If the Recipient is aware of an Allegation, then the Recipient must report the Allegation to a relevant authority, including the Queensland Police Service. In this clause 1, **Allegation** means an allegation against the Recipient or its Representatives in connection with the Grant or the provision of the Activity which raises a reasonable suspicion of misconduct, dishonesty or unlawful behaviour of a serious nature.

1.4 Notifications

The Recipient must promptly (and no later than 7 days after the Recipient becomes aware) notify the Department:

- (a) of any matters that the Recipient reasonably considers may affect the Recipient's ability to carry out the Activity or meet any other obligations under this agreement;
- (b) if at any time the Recipient is unable or considers that it may be unable to:
 - (i) complete the Activity within the Activity Budget and in accordance with the Approved Project Plan; or
 - (ii) complete the Activity by the Activity End Date;
- (c) if a Research Agreement (if applicable) has not been executed by the Recipient and the Activity Party as specified in clause 1.1(g);

- (d) if any part of the Activity Party Contribution is not paid or supplied to the Recipient by an Activity Party in accordance with the terms of this agreement and the Research Agreement within seven days of a failure to do so;
- (e) within thirty (30) days of any changes that are likely to impact on the Activity, including changes that may impact on eligibility, the Activity, research milestones, Grant funding or Reporting;
- (f) of any matter that may affect the Recipient's eligibility to continue receiving the Grant;
- (g) of any allegation of misconduct or dishonesty concerning the Recipient or its Representatives and any report made under clause 1.3(b);
- (h) of any change to its details in Item 1 of Schedule 1; or
- (i) of the amount, source and purpose of any additional funds received from a third party for meeting the costs of the Activity, other than an Activity Party Contribution specified in Item 10 of Schedule 1 (if applicable) and in the Approved Project Plan.

2. Grant

2.1 Department's obligations

- (a) The Department will pay the Grant to the Recipient in the instalments (if any) and on the date(s) specified in Item 9 of Schedule 1.
- (b) The Department may in its absolute discretion, withhold payment of an instalment of the Grant to the Recipient until:
 - (i) the Recipient has shown to the Department's satisfaction (allowing the Department reasonable time to assess its satisfaction) that it has met all Milestones due on or before the payment date for the instalment;
 - (ii) the Recipient has issued a tax invoice, if applicable, to the Department for the instalment;
 - (iii) the Recipient has submitted to the Department, to the Department's satisfaction, all Reports due on or before the payment date for the instalment;
 - (iv) the Recipient satisfies the Department that the Recipient's Contribution and Activity Party Contribution (if any) are being provided for and expended on the Activity in accordance with this agreement;
 - (v) the Recipient satisfies the Department that an Activity Party Contribution (if any) has been paid or supplied on the due dates for payment or provision in accordance with the terms of this agreement and the Research Agreement, or otherwise paid or supplied to ensure the Activity is finalised by the Activity End Date; and
 - (vi) the Department is reasonably satisfied that the Recipient is not otherwise in breach of this agreement.

- (c) Any payment to the Recipient by the Department is not an admission or acceptance by the Department that the Recipient has complied with this agreement.

2.2 Variation to the timing and amount of Grant instalments

- (a) If the total combined cash component of the Recipient's Contribution and the Activity Party Contribution (**Cash Component**) is reduced during the Term, or remains unexpended at the end of the Term, the Department may reduce the total Grant amount proportionately by the same percentage of the reduction in the Cash Component (**Grant Reduction**).
- (b) Where clause 2.2(a) applies, the Department may in its absolute discretion:
 - (i) where there are any unpaid instalments of the Grant, deduct the value of the Grant Reduction from any unpaid instalments;
 - (ii) where there are insufficient or no unpaid instalments, require the value of the Grant Reduction to be reimbursed to the Department, which amount will be a debt due and payable by the Recipient to the Department upon demand without further need for proof of debt; or
 - (iii) exercise its rights under clause 22.4(j).

2.3 No further funding

- (a) The Recipient acknowledges that the Department has no obligation to provide the Recipient with funding or assistance of any kind:
 - (i) in excess of the Grant; or
 - (ii) beyond the Term.
- (b) For the avoidance of doubt, the Recipient is responsible for acquiring and/or providing any additional funds, materials or equipment in excess of the Grant required to carry out or complete the Activity.

2.4 Non-exclusivity

For the avoidance of doubt, nothing in this agreement prevents the Department from discussing, negotiating or entering into an arrangement with a person other than the Recipient for activities similar to the Activity, or providing financial assistance to activities other than the Activity.

3. Activity management

- (a) Each party must nominate a Contact responsible for:
 - (i) receiving communications;
 - (ii) issuing and signing notices; and
 - (iii) responding to requests or directions,on behalf of that party.
- (b) A party may, from time to time, change the Contact by written notice to the other party in accordance with clause 23.

- (c) The Contacts will meet to review the performance of the Activity and this agreement upon reasonable written notice given by either party.

4. Use of the Grant

4.1 Expenditure of the Grant

- (a) The Recipient must use the Grant only:
 - (i) for the purposes of the Activity and in accordance with this agreement;
 - (ii) for Eligible Expenses as listed under Annexure 1 as part of the Activity contained in Item 3 of Schedule 1 and not for Ineligible Expenses; and
 - (iii) until the Activity End Date or earlier termination of this agreement.
- (b) The Recipient must not use any or all of the Grant, without the Department's prior written approval, to:
 - (i) provide security for any purpose;
 - (ii) make a loan or gift for any purpose;
 - (iii) pay sitting fees to directors, management committee members, members of the Recipient's organisation or any other person;
 - (iv) make payments that are inconsistent with the Activity;
 - (v) reimburse expenses that the Recipient incurred prior to the Commencement Date;
 - (vi) relieve cash flow problems in the delivery of the Recipient's other services or activities funded from other sources; or
 - (vii) purchase any asset, other than an Asset.
- (c) The Recipient must hold the Grant in an account in the Recipient's name and in the Recipient's sole control, with an Approved Financial Institution.
- (d) The Recipient must keep a record of the date, amount, recipient and purpose of any cash cheque issued or cash advance made using the Grant.
- (e) Where the Recipient receives the Grant to employ staff and is bound by a registered industrial instrument requiring the payment of termination or redundancy payments in appropriate circumstances, the Grant may only be used for termination or redundancy payments if:
 - (i) this agreement is terminated in accordance with clause 22.3; or
 - (ii) the Recipient has obtained the Department's prior written approval.
- (f) The Recipient may use the Grant to obtain and maintain any permits, registrations and licences specified in Item 10 of Schedule 1 that are required for the Recipient to carry out the Activity.

4.2 Misapplied Grant

- (a) If:
- (i) the Department for any reason pays to the Recipient an amount in excess of its entitlement under this agreement; or
 - (ii) the Recipient uses the Grant other than in accordance with this agreement,
- (Misapplied Funds)** then:
- (iii) the Department may, by written notice, require the Recipient to refund the Misapplied Funds; and
 - (iv) if the Department exercises its rights under clause 4.2(a)(iii), then the Recipient must within 10 Business Days of receipt of the notice refund the Misapplied Funds plus any interest on it calculated on daily balances at the rate per annum determined by the Supreme Court of Queensland on judgments by default as applicable at the date of the Department's notice and is fully capitalised on the last day of each month if unpaid; and
 - (v) if the Misapplied Funds are not repaid in accordance with clause 4.2(a)(iv), the Department may:
 - (A) recover the amount as a liquidated debt due to the Department; or
 - (B) set the amount off against any other amount payable by the Department to the Recipient, whether under this agreement or otherwise.
- (b) Nothing in this clause 4.2 affects the accrued rights or remedies of the Department, including the right to terminate this agreement in accordance with clause 22.4.
- (c) Where the Department becomes aware of Misapplied Funds after the Term, clause 4.2(a) will apply in accordance with clause 22.7(b).

4.3 Unspent funds held by the Recipient

If, at the expiration or termination of this agreement, there remains an amount of the Grant that has not been acquitted or spent by the Recipient in accordance with the terms of this agreement (**Unspent Funds**), then:

- (a) the Recipient must refund the Unspent Funds to the Department within 10 Business Days of termination or expiration of this agreement; and
- (b) notwithstanding clause 4.3(a), the Department may by written notice consent to the Recipient retaining all or part of the Unspent Funds and, if the Department so consents, the Recipient must expend the Unspent Funds for an approved purpose on terms and conditions agreed in writing by the Department (including as contained in the notice from the Department).

5. Reporting and financial acquittal

5.1 Recipient to submit Reports

- (a) The Recipient must:
- (i) submit all Reports to the Department in the form, containing the information, for the reporting periods (if applicable), and on the dates specified in Item 12 of Schedule 1 unless the Department directs otherwise in writing;
 - (ii) in respect of Financial Acquittal Reports (if any), show expenditure of the Grant in accordance with clause 4.1(a);
 - (iii) provide to the Department any other information or material about the Recipient, the Activity, the Grant or any other matter in connection with this agreement as requested in writing by the Department within a reasonable time specified by the Department in its request;
 - (iv) complete each Report to the Department's satisfaction; and
 - (v) to the extent that a Report contains Personal Information, obtain all written consents necessary for the Recipient and Department to use and disclose the Reports for purposes related to the Activity and its subject matter, and the Department's internal, non-commercial purposes.
- (b) Where the Activity is funded for only part of a particular reporting period (e.g. if the Commencement Date or the Expiry Date does not coincide with the start or end date of a reporting period), the Report should contain information relevant only to that part of the reporting period.
- (c) The Recipient must complete any Report, information or material required to be submitted under clause 5.1(a) (**Submitted Material**) to the Department's satisfaction. If the Department is not satisfied with any Submitted Material:
- (i) the Department may return the Submitted Material to the Recipient with instructions for satisfactory completion; and
 - (ii) the Recipient must complete and re-submit to the Department the Submitted Material in the time specified by the Department, or if no time is specified, within a reasonable time.
- (d) Upon written request, the Recipient must provide the Department with:
- (i) financial statements that the Recipient is required to lodge under its incorporating legislation, including a declaration from the Recipient's chief executive officer or equivalent stating that the Grant has been used in the relevant financial year for carrying out the Activity; or
 - (ii) an audited financial statement for each financial year, including a statement by the auditor that the audited financial statement is true and correct and whether in his/her opinion there are any receipts, outgoings and expenditures received or incurred by the Recipient that were not received or incurred in carrying out the Activity.
- (e) The Recipient consents to the Department's use and disclosure (including disclosure to third parties) of the Reports and additional documentation provided

under clause 5.1(a)(iii), for purposes related to the Activity and its subject matter, and the Department's internal, non-commercial purposes.

5.2 Eligibility for future grants

The Recipient acknowledges that if it fails to provide Reports showing expenditure of the Grant in accordance with clause 5.1, the Recipient's eligibility to receive a future grant from the Department may be affected.

6. Records

The Recipient must:

- (a) keep a separate record of the Grant in the Recipient's ledger, and record all expenditure and income relating directly or indirectly to the Activity separate from all other income and expenditure of the Recipient;
- (b) keep proper and adequate records, accounts and supporting documents in accordance with generally accepted accounting principles and as required by law, about:
 - (i) all aspects of the Activity, including records about the performance of the Activity and whether time frames and performance requirements for the Activity are met; and
 - (ii) its affairs generally,in secure storage for at least 7 years after the Expiry Date; and
- (c) comply with any additional recordkeeping obligations specified in this agreement.

7. Audit and access

7.1 Access to Recipient's premises and records

- (a) The Recipient will give, and will procure its Representatives to give, upon reasonable notice and during normal business hours, full and free access and reasonable assistance to the Department, its Representatives and nominated auditors to:
 - (i) speak to the persons associated with the Activity;
 - (ii) examine, inspect and copy any material, including any books and records, in the possession of the Recipient which is relevant to this agreement, including providing all necessary facilities for that purpose;
 - (iii) examine and inspect the performance of the Activity; and
 - (iv) locate and make copies of any of the Recipient's accounts, records, documents and other material that relate directly or indirectly to the receipt, expenditure, or payment of the Grant or the conduct of the Activity.
- (b) The Department's right of access under clause 7.1(a) may be exercised for any reasonable purpose relating to this agreement, including for financial or compliance audits, or reviews of the Recipient's performance of this agreement.

- (c) When accessing premises and/or records in accordance with clause 7.1(a), the Department will use its best endeavours to minimise interference to the Recipient's employees and the conduct of the Activity.
- (d) For the purposes of this clause 7, the Department's nominated auditor may be a person with suitable qualifications as determined by the Department.

7.2 Other information to be provided

The Recipient must promptly provide any information requested in writing by the Department, its Representatives or its nominated auditors concerning any aspect of the Activity or the Grant or any term of this agreement.

8. Subcontracting

- (a) The Recipient must not subcontract the whole, or any part, of the Recipient's obligations under this agreement without the prior written consent of the Department, which may not be unreasonably withheld.
- (b) The Department's consent under clause 8(a) shall not be deemed to be unreasonably withheld if the Department considers (in its sole discretion) that a proposed subcontractor is not qualified, experienced or competent to perform an obligation.
- (c) Any request for consent to subcontract must include written particulars of the work or obligations to be subcontracted and the name and address of the proposed subcontractor. The Recipient must give the Department any other information which the Department reasonably requests, including the proposed subcontract documents.
- (d) The Department's consent to any subcontract will not release the Recipient from, or reduce the extent of, its liabilities or obligations under this agreement.
- (e) The Recipient is and will remain vicariously liable to the Department for the acts, defaults or omissions of any subcontractor as if those acts, defaults and omissions were those of the Recipient.
- (f) The Recipient:
 - (i) is solely and vicariously liable and responsible for; and
 - (ii) assumes an obligation, at the request of the Department, to prevent, any of the subcontractors, consultants or other people engaged by the Recipient (including the Recipient Representative and Recipient Collaborator) to act in connection with the Activity, whether or not under the Department's direction, supervision or control, (**Relevant Person**) failing to take reasonable care.
- (g) To the extent that any Relevant Person fails to take reasonable care, the Recipient will be directly and vicariously liable to the Department for any such failure to take reasonable care.
- (h) The Recipient must ensure that any contract entered into with a Relevant Person contains provisions that the Relevant Person must, at all times, exercise reasonable care in carrying out the Activity.

9. Intellectual Property Rights

- (a) Nothing in this agreement affects ownership of Background IP.

- (b) Each party warrants that to the best of its knowledge and belief at the Commencement Date, it owns its Background IP, or otherwise has the right to use its Background IP in accordance with this agreement.
- (c) All rights in and title to the Activity Material and Reports will vest, upon creation, in the Recipient.
- (d) The Recipient grants to the Department a non-exclusive, worldwide, perpetual, irrevocable, royalty-free licence (including a right to sub-licence) to use, communicate, reproduce, publish, adapt and modify:
 - (i) the Activity Material;
 - (ii) the Recipient's Background IP (subject to the requirement under clause 13.7 where Traditional Indigenous Knowledge forms part of the Background IP) and to the extent necessary to exercise the rights granted under the licence to the Activity Material; and
 - (iii) the Reports,for the Department's non-commercial purposes.
- (e) The Department grants to the Recipient a non-exclusive, non-transferable, royalty-free licence to use the Department's Background IP solely for the purposes of carrying out the Activity and to the extent the Background IP is incorporated in and necessary to exercise the Recipient's rights in the Activity Material.
- (f) The Recipient will do all things necessary (including obtaining consents) to ensure:
 - (i) the vesting of the Activity Material and Reports in accordance with clause 9(c); and
 - (ii) the licensing of the Activity Material and Reports in accordance with clause 9(d).

10. Acknowledgement

- (a) The Recipient must include acknowledgement of the Grant, subject to any consent required under clause 13.7:
 - (i) in its annual report (if the Recipient produces an annual report);
 - (ii) in any public statements and promotional materials about the Activity and any related projects that have been funded wholly or in part by the Department during the Term; and
 - (iii) in accordance with any additional requirements as requested in writing by the Department.
- (b) Any acknowledgment in promotional material about the Activity must include a logo or other branding as required by the Department.
- (c) Before the Recipient may release a public statement or publish promotional material in any media about the Activity, the Recipient must:

- (i) at least 10 Business Days before the proposed statement or publication, provide to the Department a copy of the proposed statement or publication; and
 - (ii) comply with all requests, amendments or conditions that the Department may reasonably require by written notice to the Recipient.
- (d) Notwithstanding any other provision of this agreement and unless otherwise notified by the Department in writing, the Recipient must not make any public statement, announcement or publish any material about the success or otherwise of their application for the Grant, this agreement or the Activity, prior to a public announcement being made by either the Department or the Minister.

11. Assets

- (a) If Item 13 of Schedule 1 specifies that the Grant may be used to purchase Assets, then the Grant may be used to purchase Assets and this clause 11 applies. If not so specified, then the Grant cannot be used to purchase Assets.
- (b) The Recipient must be the legal and beneficial owner of any Asset purchased either wholly or in part with use of the Grant.
- (c) The Recipient must:
 - (i) only use the Asset for purposes directly related to carrying out the Activity, and subject to clause 22.6(a), after the expiry or termination of this agreement only use the Asset in a manner consistent with the objectives of the Activity;
 - (ii) not sell or otherwise dispose of, encumber, use as a security, or otherwise deal with the Asset without the Department's prior written consent;
 - (iii) hold the Asset securely and put in place reasonable safeguards against loss, damage or unauthorised use;
 - (iv) maintain at its expense:
 - (A) the Asset in good working order; and
 - (B) registration and licensing of the Asset, if applicable; and
 - (v) be fully responsible for, and bear all risks relating to, the purchase, use or disposal of the Asset.
- (d) If the Recipient disposes of an Asset during the Term, the Department may, in its discretion, reduce the Grant by the value of the disposed Asset.
- (e) If any Asset is lost, damaged or destroyed during the Term, the Recipient will promptly reinstate the Asset (including from the proceeds of the insurance, if any), and this clause 11 will continue to apply to the reinstated Asset.

12. Conflict of interest

- (a) The Recipient warrants that, except as notified to the Department as at the date of Commencement Date, no Conflict of Interest exists or is likely to arise in the performance of its obligations under this agreement, by it or its Representatives.

- (b) The Recipient must use its best endeavours (including making all diligent inquiries) to ensure that:
 - (i) a situation does not arise that may result in a Conflict of Interest; and
 - (ii) none of its Representatives engage in any activity or obtains any interest that may reasonably be considered to conflict with, or restrict the Recipient in performing its obligations under this agreement fairly and independently.
 - (c) The Recipient must not engage in any activity, transaction or arrangement that would be likely to result in a Conflict of Interest arising or continuing (including any activity, transaction or arrangement which the Department may reasonably view as a Conflict of Interest), unless the Department has given written approval for the Recipient to engage in that activity.
 - (d) If, during the Term, a Conflict of Interest arises, or appears likely to arise, the Recipient will notify the Department immediately in writing, provide any information reasonably requested by the Department and to take such steps to resolve or otherwise deal with the Conflict of Interest to the Department's satisfaction.
-

13. Confidentiality

13.1 Confidential Information

Subject to clause 13.2, a party must not:

- (a) disclose the other party's Confidential Information to a third party; or
- (b) use the other party's Confidential Information other than for the purpose of performing this agreement.

13.2 Exceptions

A party may disclose the other party's Confidential Information:

- (a) with the other party's prior written consent (including any consent specified in this agreement);
- (b) to a professional adviser, financial adviser, banker, financier or auditor if that person is obliged to keep the information disclosed confidential;
- (c) to any of its Representatives who are bound to keep the information confidential and to whom it is necessary to disclose the information;
- (d) to comply with its obligations, or to exercise its rights, under this agreement;
- (e) to comply with the law, or a requirement of a regulatory body (including any relevant stock exchange);
- (f) to the extent necessary to enforce its rights or defend a claim or action under this agreement; and
- (g) where that party is the Department:
 - (i) to the responsible Minister administering the Department and their personal and departmental advisers;

- (ii) to any Commonwealth department, Queensland Government department, agency, authority or Minister;
- (iii) in response to a request by the Parliament or a Committee of the Parliament of the State of Queensland; or
- (iv) where disclosure is required to be made in accordance with established governmental policies, procedures or for public accountability purposes.

13.3 Limiting disclosure

Before the Disclosee or any of its Representatives discloses any Confidential Information under clause 13.2(e) or 13.2(f):

- (a) the Disclosee must notify the Department as soon as reasonably practicable after it becomes aware that disclosure is required;
- (b) the Disclosee must give the Department a reasonable opportunity to comment on the requirement for, and the proposed form of, the disclosure; and
- (c) the Disclosee must take all steps reasonably required by the Department to limit or restrict the disclosure of the relevant Confidential Information.

13.4 Breach of confidentiality

- (a) If a party becomes aware of a suspected or actual breach of this clause 13 the party will immediately notify the other party and take reasonable steps required to prevent or stop the suspected or actual breach.
- (b) The parties acknowledge and accept that damages will be an inadequate remedy for a breach of this clause 13.

13.5 Return of Confidential Information

The Disclosee will return or destroy (at the Discloser's discretion) material containing Confidential Information when it is no longer required by the Disclosee, or otherwise when directed by the Discloser, except for any Confidential Information required to be retained at law.

13.6 Recipient's undertaking

- (a) The Recipient must ensure that its Representatives are aware of and comply with the obligations of confidentiality in this clause 13.
- (b) The Department may, at any time, require the Recipient to arrange for its Representatives engaged in the performance of the Activity, to give written undertakings in a form reasonably required by the Department relating to the non-disclosure of Confidential Information under this clause 13.

13.7 Traditional Indigenous Knowledge

To the extent that the Activity Material or Reports contain Traditional Indigenous Knowledge, which is culturally sensitive to Indigenous organisations, the Recipient will advise the Department in writing of that material. The Department must not disclose such identified material without seeking written consent of the Recipient or the relevant Indigenous organisation with the Recipient's assistance to use the identified material.

14. Privacy and Personal Information

14.1 Information Privacy Act

- (a) This clause 14 applies where this agreement amounts to a “service arrangement” under the *Information Privacy Act 2009* (Qld).
- (b) If the Recipient collects or has access to Personal Information in order to undertake the Activity, the Recipient must:
 - (i) comply with Parts 1 and 3 of Chapter 2 of the *Information Privacy Act 2009* (Qld) in relation to the discharge of its obligations under this agreement (including its obligations regarding Reports), as if the Recipient was the Department;
 - (ii) ensure that Personal Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse;
 - (iii) not use Personal Information other than for the purposes of undertaking the Activity, unless required or authorised by law;
 - (iv) not disclose Personal Information without the consent of the Department, unless required or authorised by law;
 - (v) not transfer Personal Information outside of Australia without the consent of the Department;
 - (vi) ensure that access to Personal Information is restricted to those of the Recipient's employees and officers who require access in order to perform their duties;
 - (vii) ensure that the Recipient's officers and employees do not access, use or disclose Personal Information other than in the performance of their duties;
 - (viii) ensure that the Recipient's subcontractors who have access to Personal Information comply with obligations the same as those imposed on the Recipient under this clause 14;
 - (ix) fully co-operate with the Department to enable the Department to respond to applications for access to, or amendment of a document containing an individual's Personal Information and to privacy complaints; and
 - (x) comply with such other privacy and security measures as the Department reasonably advises the Recipient in writing from time to time.
- (c) The Recipient must immediately notify the Department on becoming aware of any breach, suspected breach or complaint alleging something that would, if proved, be a breach of clause 14.1(b) and provide full details of the breach, suspected breach or complaint.
- (d) On request by the Department, the Recipient must obtain from its Representatives engaged for the purposes of this agreement, an executed deed of privacy in a form acceptable to the Department.

14.2 Privacy Act

- (a) In this clause 14.2, the terms “personal information”, “sensitive information” and “Australian Privacy Principles” have the same meaning as they have in the *Privacy Act 1988 (Cth)* (**Privacy Act**).
- (b) In relation to any personal information provided or to be provided by the Recipient in connection with the Activity, the Recipient warrants to the Department:
 - (i) the Recipient has obtained and will obtain the consent of each individual about whom any sensitive information is provided;
 - (ii) the Recipient has or will within the time required by the Privacy Act ensure that each individual about whom any personal information is provided has received or will receive as a written statement setting out all of the matters required by the Australian Privacy Principles:
 - (A) in relation to disclosure of the personal information to the State, its agents and advisors requiring the information for the purposes set out in clause 14.2(b)(ii)(B); and
 - (B) disclosing that the entities referred to in clause 14.2(b)(ii)(A) will use the personal information for the purposes of reviewing and assessing matters relevant to the Activity and the agreement from time to time.
- (c) The Recipient must comply with the provisions of the Privacy Act in relation to any personal information provided to the Recipient by the Department or any Activity Party or Recipient Representatives.

15. Insurance

- (a) The Recipient must effect and maintain insurance policies for the types, amounts and for the periods specified in Item 14 of Schedule 1 with an insurer and on terms approved by the Department (such approval not to be unreasonably withheld).
- (b) Upon reasonable request, the Recipient must provide the Department with evidence in a form acceptable to the Department of the terms and currency of the insurance required under clause 15(a), including copies of insurance policies and any endorsements or amendment to such policies.

16. Representations and warranties

16.1 Representations

- (a) The Recipient warrants and represents to the Department that it:
 - (i) has the power, authority and ability to enter into this agreement;
 - (ii) will obtain at its own cost all necessary consents, licences and authorisations to perform its obligations under this agreement;
 - (iii) this agreement constitutes legal, valid and binding obligations, enforceable in accordance with its terms;
 - (iv) any information provided by or on behalf of the Recipient to the Department in respect of the Activity or under this agreement

including in the original application for financial assistance and in any Reports are true and accurate and not misleading in any material respect;

- (v) neither it nor any Activity Party or Recipient Representatives have any interests or obligations that conflict with their interests and obligations under or in respect of this agreement;
 - (vi) in entering into this agreement, it has not relied on or been influenced by any representations or warranties by the Department or by any person associated with the Department in respect of:
 - (A) the subject matter of this agreement;
 - (B) the feasibility of the Activity;
 - (C) the possibility of any other financial assistance or arrangements between the Recipient and the Department; or
 - (D) any other matter; and
 - (vii) it has made full disclosure to the Department of all matters that adversely affect, or may be expected to adversely affect, the reputation, character or standing of the Recipient, an Activity Party, a Recipient Representative or their respective officers, employees, agents and contractors and consortium partners who are involved in the Activity.
- (b) To the full extent permitted by law, the Department excludes all conditions and warranties not expressly stated in this agreement.

16.2 Continuing representations

The representations and warranties in clause 16.1 are made at the date of this agreement, the Commencement Date, and the date on which each Report is provided to the Department.

16.3 Trustee warranties

- (a) If the Recipient enters into this agreement as a trustee, the Recipient:
- (i) is liable both personally and in its capacity as trustee; and
 - (ii) represents and warrants that:
 - (A) it is the sole trustee of the trust;
 - (B) it is not in breach of trust;
 - (C) it has the right to be fully indemnified out of the trust assets for obligations incurred under this agreement before the claims of beneficiaries; and
 - (D) this agreement is for the benefit of the trust.

16.4 Department Supplied Information

The Recipient agrees:

- (a) any Department Supplied Information:
 - (i) has been or will be provided only for the Recipient's convenience; and
 - (ii) has not been and will not be relied upon by the Recipient for any purpose (including entering into this agreement or performing its obligations under this agreement);
- (b) the Department does not:
 - (i) assume any responsibility or duty of care in respect of; or
 - (ii) warrant, guarantee or make any representation as to,
the Department Supplied Information (including its correctness, suitability, appropriateness, accuracy, completeness or adequacy for the purposes of this agreement);
- (c) the Department will not be liable to the Recipient for any Claim arising from or in connection with the Department Supplied Information, the provision of the Department Supplied Information or the non-provision of any other information by the Department; and
- (d) the Recipient:
 - (i) must not rely upon (or allow any other person to rely upon) the Department Supplied Information for or in connection with the carrying out of the Activity until it has satisfied itself as to the correctness, suitability, appropriateness, accuracy, completeness and adequacy of the Department Supplied Information;
 - (ii) will not be entitled to any Claim of any kind arising from or in connection with the inaccuracy, incompleteness or inadequacy of the Department Supplied Information; and
 - (iii) releases and indemnifies the Department, and each of its Representatives, from and against all Claims arising from or in connection with the Department Supplied Information (including the correctness, suitability, appropriateness, accuracy, completeness or adequacy of the Department Supplied Information).

17. Force majeure

17.1 Notice of Force Majeure Event

If either party (**Affected Party**) becomes aware of a Force Majeure Event that is or is likely to prevent it either partially or wholly from complying with its obligations (except payment obligations) under this agreement, it must as soon as reasonably practical notify the other party of:

- (a) the Force Majeure Event;
- (b) the obligations that the Affected Party is prevented from performing (**Affected Obligations**); and
- (c) the expected duration of the period during which the Affected Party will be prevented by the Force Majeure Event from performing the Affected Obligations.

17.2 Suspension of performance

The Affected Party is not liable for any failure to perform or delay in performing its obligations (other than an obligation to pay money) under this agreement if that failure or delay is the result of a Force Majeure Event provided the Affected Party:

- (a) has notified the other party in accordance with clause 17.1; and
- (b) uses its reasonable endeavours to mitigate the effect of, and remedy the Force Majeure Event.

17.3 Termination

If the Affected Party is prevented from performing the Affected Obligations by a Force Majeure Event for a continuous period of 3 months, either party may terminate this agreement by 30 days written notice to the other party.

17.4 Consequences of termination

If a party terminates this agreement under clause 17.3, the rights and obligations of the parties under this agreement cease provided that any accrued rights or remedies of the parties are not affected.

18. Liability

18.1 Release

The Recipient releases to the full extent permitted by law, the Department and its Representatives from all actions, claims, proceedings or demands and in respect of any loss, death, injury, illness or damage (whether personal or property, and whether special, direct, indirect or consequential, including consequential financial loss) arising from or in connection with the Activity or this agreement.

18.2 Liability

The liability of the Department under or in connection with this agreement is limited in aggregate to the amount of the Grant.

18.3 No liability for consequential or indirect loss

The Department and its Representatives will not in any circumstances (including for negligence) be liable for any loss of revenue, loss of profit, loss of anticipated savings or business, loss of bargain, loss or denial of opportunity (including opportunity to enter into or complete arrangements with third parties), loss of production, loss of data or goodwill or credit, loss of reputation or future reputation or publicity, loss of use, loss of interest, damage to credit rating or any indirect or consequential loss, whether arising in contract, tort (including negligence) or otherwise, in connection with this agreement.

19. Indemnity

- (a) The Recipient indemnifies and will defend the Department and its Representatives against all claims, liabilities, losses, damages, costs and expenses (including legal fees, costs and disbursements on a solicitor and own client basis) arising from or incurred in connection with:
 - (i) the Activity (including the performance of the Activity costing the Recipient more than the amount of the Grant);

- (ii) performance or breach of this agreement or any Research Agreement by the Recipient or its Representatives;
 - (iii) failure of the Recipient to receive or be paid the whole or any part of the Activity Party Contributions;
 - (iv) any unlawful, fraudulent or negligent act or omission of the Recipient, the Recipient's Representatives or any person for whose conduct the Recipient is liable;
 - (v) personal injury (including sickness and death) of any person arising out of or in connection with performance or breach of this agreement by the Recipient or its Representatives;
 - (vi) property damage or loss arising out of or in connection with the performance or breach of this agreement by the Recipient (including damage or loss to property of the Department or any third party); or
 - (vii) any actual or alleged infringement of any Intellectual Property Rights or Moral Rights.
- (b) The Recipient's liability to indemnify the Department and its Representatives under clause 19(a) will be reduced proportionally to the extent that any negligent act or omission or breach of this agreement by the Department caused the loss or liability.
 - (c) The indemnity granted in clause 19(a) is in addition to and not exclusive of any other remedies the Department may have against the Recipient at law.
 - (d) It is not necessary for the Department to incur expense or to make a payment before enforcing a right of indemnity conferred by this agreement.

20. GST

- (a) In this clause 20:
 - (i) words or expressions used that are defined in the GST Act have the same meaning as defined in that Act, unless the context suggests otherwise;
 - (ii) "GST" has the meaning in clause 25.1;
 - (iii) any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 20;
 - (iv) a reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts; and
 - (v) a reference to GST payable by or input tax credit entitlement of a party includes any GST payable by, or input tax credit entitlement of, the representative member of any GST group of which that party (or the entity on whose behalf that party is acting) is a member.
- (b) Unless otherwise expressly stated, all consideration to be provided under any other provision of this agreement is exclusive of GST.

- (c) If a 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 other party, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which that other party (or an entity on whose behalf the other party is acting) is entitled in respect of any acquisition relating to that cost, expense or other amount.
- (d) If GST is payable by an entity (**Supplier**) in relation to any supply that it makes under or in connection with this agreement, the parties agree that:
- (i) unless the consideration for that supply is specified to be inclusive of GST, an additional amount will be payable by the party providing consideration for that supply (**Supply Recipient**) equal to the amount of GST payable by the Supplier on that supply (**GST Amount**);
 - (ii) the GST Amount is payable at the same time as any part of the consideration is to be first provided for that supply and the Supplier will provide a tax invoice to the Supply Recipient in respect of that supply, no later than that time; and
 - (iii) where GST Amounts are payable between parties to this agreement pursuant to clause 20(d)(i), amounts so payable, to the extent they are equivalent in amount, shall be set off against each other as if paid and each party shall be obligated only to provide the tax invoice referred to clause 20(d)(ii) no later than the time at which the first part of any consideration is provided for that supply.
- (e) If the GST Amount recovered by the Supplier from the Supply Recipient under clause 20(d) for a supply differs for any reason from the amount of GST paid or payable by the Supplier on that supply, then the Supply Recipient must pay to the Supplier on demand (or the Supplier credit the Supply Recipient with) the amount of that difference. The Supplier must give the Supply Recipient an adjustment note within 14 days after the date of any adjustment event. A demand for payment by the Supplier under this clause 20(e) must be in the form of, or accompanied by, an adjustment note or a tax invoice.
- (f) If a party receiving a payment from the Department under this agreement does not have and cannot provide their Australian Business Number (**ABN**), that party must complete the "Statement by a Supplier" published by the Australian Taxation Office and provide that statement to the Department prior to the date the payment is to be made. If that party does not provide that statement to the Department, that party acknowledges and accepts that the Department may be obliged to withhold an amount from the payment and remit that withheld amount to the Australian Taxation Office.

21. Dispute resolution

21.1 Dispute resolution process

- (a) Subject to clause 21.3, the parties will adhere to the following procedure in relation to disputes arising from this agreement, prior to the commencement of litigation or other external dispute resolution procedure.
- (b) The Contact for a party may notify the other in writing of the occurrence of a dispute (**Dispute Notice**) and the Contacts will try to resolve the dispute through negotiation.

- (c) If the Contacts are unable to resolve the dispute within 15 Business Days from the receipt of the Dispute Notice, the dispute will be referred to:
- (i) for the Recipient, the person holding the position of Chief Executive Officer (or equivalent); and
 - (ii) for the Department, the Deputy Director General or the Director General of the Department,
- for resolution.
- (d) If the dispute is not resolved within 15 Business Days after its referral to the representatives of each of the parties listed in clause 21.1(c), the parties may agree to refer the dispute to a mediator agreed by the parties and on terms agreed by the parties, with costs to be shared equally between the parties.
- (e) If the parties cannot agree upon a mediator or terms, either party may request the President of the Queensland Law Society to nominate a mediator or settle terms.

21.2 Continuity during dispute

Notwithstanding the existence of a dispute, each party will continue to perform its obligations under this agreement.

21.3 Urgent interlocutory relief

Nothing in this clause 21 prevents either party from commencing court proceedings relating to any dispute arising from this agreement at any time where that party seeks urgent interlocutory relief.

22. Term, suspension of Grant and termination

22.1 Term

This agreement binds the parties from the date this agreement is executed by the last party to do so and continues until the Expiry Date, unless terminated earlier in accordance with this agreement (**Term**).

22.2 Suspension of Grant

If, in the Department's reasonable opinion, the Recipient has:

- (a) failed to carry out the Activity;
- (b) expended the Grant otherwise than in accordance with clause 4;
- (c) changed any part of the Activity without obtaining the Department's prior written approval;
- (d) not provided any information or Reports as required by this agreement or requested by the Department;
- (e) failed to comply with any relevant legislation; or
- (f) otherwise failed to comply with an obligation under this agreement,

then the Department may suspend payment of all or part of the Grant to the Recipient for a period of time and on specified conditions as notified by the Department.

22.3 Termination or reduction in Term or Activity for convenience

The Department may, at any time, by reasonable written notice, terminate this agreement or reduce the Term or scope of the Activity for convenience, including for a Machinery of Government Change.

22.4 Termination for breach

The Department may terminate this agreement by written notice with immediate effect if the Recipient:

- (a) notifies the Department that it is unable or unwilling to commence or continue with the Activity;
- (b) uses or applies any part of the Grant other than in accordance with this agreement;
- (c) uses or applies any part of the Activity Party Contributions other than in accordance with this agreement;
- (d) fails to carry out the Activity in accordance with this agreement;
- (e) otherwise breaches a term of this agreement which is not capable of being remedied;
- (f) otherwise breaches a term of this agreement (including but not limited to the provision of a Report) which is capable of being remedied and fails to remedy that breach within 30 days after receiving notice requiring it to do so;
- (g) makes a report under clause 1.3(b);
- (h) fails to refund Misapplied Funds following receipt of a notice, in accordance with clause 4.2;
- (i) suffers an event of Insolvency; or
- (j) fails to contribute any part of the Cash Component specified in clause 2.2.

22.5 Effect of termination or reduction of Term or Activity

- (a) On receipt of a notice of termination or reduction under clause 22.3 or 22.4:
 - (i) each party must take all available steps to minimise any loss resulting from the termination or reduction; and
 - (ii) the Recipient must:
 - (A) immediately stop carrying out its obligations in relation to the Activity as specified in the notice;
 - (B) continue to carry out any part of the Activity not affected by the notice; and
 - (C) provide written evidence to the Department's satisfaction of the amounts (if any) claimed as reasonable costs under clauses 22.5(b) and 22.5(d)(iii).
- (b) If this agreement is terminated by the Department under clause 22.3, the Recipient will be entitled to the reasonable costs (if any) that have been or will

be incurred by the Recipient as a direct result of the termination of the agreement and which the Recipient cannot recoup or avoid and which would not otherwise have been incurred by the Recipient if the agreement had continued until the expiry of the Term. The Department's obligation to pay reasonable costs under this clause 22.5(b) is limited to the amount of the Grant.

- (c) If the Term or the scope of the Activity is reduced under clause 22.3, the Department may vary the Grant in accordance with the reduced scope of the Activity or Term.
- (d) Where the Grant is reduced under clause 22.5(c), the Department will:
 - (i) review the scope of the Activity with the Recipient;
 - (ii) pay to the Recipient the Grant instalments that were due up to the date of the reduction; and
 - (iii) pay to the Recipient the reasonable costs (if any) that have been or will be incurred by the Recipient as a direct result of the reduction of the Grant and which the Recipient cannot recoup or avoid and which would not otherwise have been incurred by the Recipient if the Grant amount had continued unaltered until the expiry of the Term.
- (e) For the avoidance of doubt, clauses 18.2 and 18.3 apply to any termination of or change to this agreement under this clause 22.

22.6 Obligations after termination or expiration

- (a) The Recipient must, upon termination or expiry of this agreement, provide all assistance requested by the Department to facilitate the smooth transition of any relevant information, knowledge, systems or Assets from the Recipient to the Department or to a third party, including (if requested by the Department) development of and compliance with a transitional plan.
- (b) Within 10 Business Days of the termination or expiry of this agreement, the Recipient must deliver to the Department:
 - (i) all Reports and documents due under this agreement as at the date of termination or expiration;
 - (ii) a cheque or transfer for the amount of any funds repayable to the Department under clause 4.2 and/or clause 4.3, plus any accrued interest as at the date of termination or expiration; and
 - (iii) in the case of termination of this agreement, a final Report in accordance with any requirements specified in Item 12 of Schedule 1, and detailing the present status of the Activity, the extent of achievement of the Activity, the level of success in meeting stated objectives and Milestones and any incidental results and benefits of the Activity.

22.7 Pre-existing rights and survival

- (a) Termination in accordance with this clause 22 is without prejudice to any rights of either party under this agreement existing at the date of termination.
- (b) Clauses 4, 6, 7, 9, 10, 11(c)(i), 13, 14, 15, 16, 18, 19, 21, 22.6, this clause 22.7 and clause 24 survive expiration or termination of this agreement for any reason.

22.8 Statutory declaration

The Recipient agrees that:

- (a) at any time, the Department may request that the Recipient provides a completed and signed statutory declaration (in a form and containing such detail as reasonably required by the Department) from a representative of the Recipient who is in a position to know the facts confirming that the Recipient:
 - (i) is solvent and not subject to any Insolvency; and
 - (ii) is (and its directors are) not seeking to take advantage of the safe harbour against insolvent trading available under Division 3, Part 5.7B of the Corporations Act;
- (b) the Recipient must provide such completed and signed statutory declaration within 2 Business Days of the request from the Department; and
- (c) the Recipient must immediately notify the Department in writing if it or its directors have taken advantage, or sought to take advantage, of the safe harbour against insolvent trading available under Division 3, Part 5.7B of the Corporations Act.

22.9 Insolvency

If any Activity Party are subject to an event of Insolvency, then the Recipient must:

- (a) immediately notify the Department of the Insolvency, including details of:
 - (i) the relevant party;
 - (ii) the impact, or anticipated impact, on the Activity and the impact on the contributions from that party; and
 - (iii) any other information reasonably requested by the Department; and
- (b) meet with the Department, as required, to discuss the matters the subject of the notice and such other relevant matters.

The Department may, in its sole and unfettered discretion and without limiting any other right under this agreement, do one or more of the following as a consequence of the Insolvency and its impacts:

- (c) suspend payment of all or part of the Grant to the Recipient for a period of time and on specified conditions as notified by the Department;
- (d) vary the amount of all or part of the Grant to the Recipient;
- (e) exercise any of its rights under clause 22.3; and
- (f) from time to time, request further information from the Recipient regarding the Insolvency and the matters the subject of the notice from the Recipient and such other relevant matters.

23. Notices

Each communication (including each notice, consent, approval, request and demand) in connection with this agreement to be given by either party to the other:

- (a) must be in writing;
 - (b) must be signed by the party making it (or by a person duly authorised by that party);
 - (c) must be addressed in accordance with Item 1 of Schedule 1 or as otherwise notified from time to time;
 - (d) must be delivered to that address by hand or posted by pre-paid post to the address of the addressee, in accordance with clause 23(c); and
 - (e) is taken to have been received by the addressee:
 - (i) where sent by pre-paid post – on the fifth day after the date of posting; or
 - (ii) where hand delivered – on delivery,but if the communication is taken to have been received on a day that is not a Business Day or later than 5.00 pm on a Business Day, the communication is taken to have been received at 9.00 am on the next Business Day.
-

24. General

24.1 Entire agreement

To the extent permitted by law, in relation to its subject matter, this agreement:

- (a) embodies the entire understanding of the parties and constitutes the entire terms agreed by the parties; and
- (b) supersedes any prior written or other agreement of the parties.

24.2 No relationship

- (a) Nothing in this agreement will be taken as giving rise to any express or implied relationship between the parties, or between any party and a Representative of another party, of employment, principal and agent, partnership or joint venture.
- (b) The Recipient (including any Activity Party or any Representative of the Recipient):
 - (i) has no authority or power, and must not purport to have the authority or power, to bind the Department or make representations on behalf of the Department;
 - (ii) must not hold itself out or engage in any conduct or make any representation which may suggest to any person that the Recipient is for any purpose an employee, agent, partner or joint venturer with the Department; and
 - (iii) must not represent to any person that the Department is a party to the Activity other than as a financial contributor or has guaranteed the performance or fulfilment of the objectives of the Activity.
- (c) The Recipient warrants that the Activity Party is only providing the Activity Party Contribution. For the purposes of clarity, the Recipient warrants that the relationship between itself and an Activity Party does not give rise to any employment, principal and agent, partnership or joint venture.

24.3 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this agreement except for representations or inducements expressly set out in this agreement.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this agreement.

24.4 Assignment

- (a) A party must not assign, novate or subcontract the whole or any part of this agreement without the prior written consent of the other party.
- (b) Despite clause 24.4(a), the Department may in its absolute discretion and without the consent of the Recipient assign, novate or otherwise transfer any rights or obligations under this agreement if there is a Machinery of Government Change.

24.5 Amendments

This agreement may only be varied by a document signed by or on behalf of each party.

24.6 Further acts and documents

Each party must promptly do all acts and deliver all documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by the other party to give effect to this agreement.

24.7 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement.
- (b) A waiver or consent given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or any other term of this agreement.

24.8 Consents

A consent required under this agreement from a party may be given or withheld, or may be given subject to any conditions, as that party (in its absolute discretion) thinks fit, unless this agreement expressly provides otherwise.

24.9 Severance

If at any time a provision of this agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this agreement; or

- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any provision of this agreement.

24.10 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.

24.11 Expenses

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this agreement.

24.12 Indemnities

- (a) Each indemnity in this agreement is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this agreement.
- (b) It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this agreement.
- (c) A party must pay on demand any amount it must pay under an indemnity in this agreement.

24.13 Governing law

This agreement is governed by and will be construed according to the law applying in Queensland.

24.14 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Queensland, and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any Claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 24.14(a).

24.15 No fettering

Nothing in this agreement will be construed as limiting or fettering in any way the exercise (or failure to exercise) by the Department (or any of its Representatives or delegates) of any discretion or the making of a decision or subordinate legislation under any law by the State of Queensland and its Representatives.

24.16 Reasonable endeavours of the Department

Any statement or requirement in the agreement providing that the Department will act in 'good faith' or use or exercise 'reasonable endeavours' or 'act reasonably' in relation to any matter or outcome, means that the Department:

- (a) will take steps to deal with the relevant matter, or bring about the relevant outcome, so far as it is reasonable able to do so having regard to its resources and other responsibilities;
- (b) does not guarantee the relevant matter or outcome will be brought about; and
- (c) is under no obligation to:
 - (i) exercise a right of any government agency, or to influence, over-ride, interfere with or direct any other government agency in the proper exercise and performance of its legal, statutory or executive duties and functions;
 - (ii) exercise a power or discretion in a manner that the Department regard as not in the public interest;
 - (iii) develop or implement new policy or a change in policy;
 - (iv) procure any new legislation or a change in legislation (including by-laws); or
 - (v) act in any way that the Department regards as not in the public interest.

24.17 Time is of the essence

Time is of the essence in respect of the Recipient's obligations under this agreement.

24.18 Warranties excluded

To the full extent permitted by law, all conditions and warranties not expressly stated in this agreement are excluded, or if unable to be excluded then limited to the fullest extent permitted by law.

24.19 Set off

The Department may at any time set off any amount due for payment by the Recipient to the Department against any amount due for payment by the Department to the Recipient under this agreement or otherwise.

25. Definitions and interpretation

25.1 Definitions

In this agreement:

Activity means the activity or purpose of the Grant specified in Item 3 of Schedule 1.

Activity Budget means the funds the Recipient advises is required to undertake the Activity and which may be comprised of the Recipient's Contribution, the Grant and an Activity Party Contribution, as specified in Item 10 of Schedule 1.

Activity Commencement Date means the commencement date specified in Item 4 of Schedule 1.

Activity End Date means the end date specified in Item 4 of Schedule 1.

Activity Material means any material including Intellectual Property Rights, created, written or otherwise brought into existence by or on behalf of the Recipient in the course of carrying out the Activity, excluding Reports.

Activity Party Contribution means any in-kind or financial contributions (if applicable) made or to be made by an Activity Party to the Recipient for the benefit of the Activity, and which amount or value has been approved by the Department as part of the Approved Project Plan. An Activity Party Contribution (if applicable) is set out in Item 10 of Schedule 1 to this deed.

Activity Party means the third party contributor/s to the Activity specified in Item 10 of Schedule 1, and includes Recipient Collaborators.

Approved Financial Institution means a financial institution registered in Australia and operating as a bank, credit union or building society.

Approved Project Plan means (if applicable), the project plan approved by the State in accordance with clause 1.2(a).

Asset means the items of property (if any) specified in Item 13 of Schedule 1.

Background IP means Intellectual Property Rights which are made available by a party for the purpose of carrying out the Activity and that are:

- (a) in existence at the Commencement Date; or
- (b) brought into existence after the Commencement Date other than as a result of the performance of the Activity,

and may include Traditional Indigenous Knowledge.

Business Day means a day that is not:

- (a) a Saturday, Sunday or a public holiday in Brisbane; or
- (b) a day within the 2 week period commencing on:
 - (i) 25 December, in years where that date falls on a Saturday; or
 - (ii) the last Saturday before 25 December, in years where that date does not fall on a Saturday.

Claim means any claim, demand, remedy, suit, action, proceeding, right of action, claim for compensation or claim for abatement of any monetary obligation, whether arising under contract (including this agreement), in tort (including negligence), at common law, in equity, under statute, under an indemnity or otherwise.

Commencement Date means the commencement date specified in Item 2 of Schedule 1.

Confidential Information means all information, trade secrets and knowledge of or disclosed by a party (**Discloser**) to another party (**Disclosee**) that:

- (a) is by its nature confidential;
- (b) is designated or marked by the Discloser as confidential; or
- (c) the Disclosee knows or ought to know is confidential,

and includes the terms of this agreement and any information provided or received by a party pursuant to this agreement but does not include information which:

- (d) is or becomes public knowledge other than by breach of this agreement or any other confidentiality obligation; or
- (e) is independently developed by a party while having no knowledge of or access to the other party's Confidential Information.

Conflict of Interest means having an interest (whether personal, financial or otherwise) which conflicts or which may reasonably be perceived as conflicting with the Recipient's ability to perform its obligations under this agreement.

Contact means the contact person for each party specified in Item 1 of Schedule 1 or another person as appointed from time to time and notified to the other party.

Corporations Act means the *Corporations Act 2001* (Cth).

Department Supplied Information means any information, data or document (including designs, drawings and reports) in whatever form:

- (a) issued, disclosed or made available to the Recipient, an Activity Party a Recipient Representative or any of their respective representatives by or on behalf of the Department or Queensland Treasury in connection with the Activity or this agreement (including in a virtual data room or at an information session or during any site visit, if any); or
- (b) referred to, or incorporated by reference into the Activity or agreement publications or any other information supplied by the Department,

and irrespective of when that information, data or document is issued, disclosed or made available (including before or after the Commencement Date).

Eligible Expenses means those costs and expenses which are set out in Annexure 1 and for which the Recipient may use the Grant. Any further expenses must be approved by the Department in writing. Eligible Expenses exclude Ineligible Expenses.

Expiry Date means the expiry date specified in Item 2 of Schedule 1.

Financial Acquittal Report means a Report about the Recipient's financial performance in connection with carrying out the Activity as specified in Item 12 of Schedule 1.

Force Majeure Event means any circumstances, other than an industrial dispute, that is not caused by or within the reasonable control of a party (**Affected Party**), whether directly or indirectly, but only to the extent that:

- (a) despite the exercise of reasonable diligence, it cannot be (or be caused to be) prevented, avoided or removed by the Affected Party;
- (b) it materially adversely affects (in cost and/or time) the Affected Party's ability to perform its obligations under this agreement;
- (c) the Affected Party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of the circumstance on its ability to perform its obligations under this agreement (and to mitigate the consequences of it); and
- (d) the circumstance is not the direct or indirect result of the Affected Party's failure to perform any of its obligations under this agreement,

and includes:

- (e) acts of God, lightning strikes, earthquakes, floods, droughts, storms, mudslides, explosions, fires or other natural disasters, pandemics, epidemics, acts of war, acts of public enemies, riots, civil commotions, malicious damage, invasions, sabotage, blockades and revolution;
- (f) strikes, lockouts, work bans, blockades or picketing, limitation of work or other industrial disturbance, other than an industrial dispute; and
- (g) the failure of a third party to supply goods, works or utilities provided such a failure is due to a Force Majeure Event affecting the third party.

Government Agency means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity or authority.

Grant means the amount specified in Item 9 of Schedule 1 and, once received by the Recipient, includes any money earned from:

- (a) the operation of the Activity (for example fees, rent, board, service charges); and
- (b) interest on the Grant.

GST means "GST" as defined in the GST Act and includes:

- (a) amounts payable on account of a notional liability in accordance with Division 177 of the GST Act; and
- (b) "GST equivalent" payments under the *GST and Related Matters Act 2000* (Qld) (or similar payments under corresponding legislation of any other State or Territory).

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

Ineligible Expenses means those costs and expenses that are not Eligible Expenses and includes the costs and expenses which are set out in Annexure 1 or which this agreement provides that the Recipient cannot use the Grant.

Insolvency, in relation to the Recipient, means:

- (a) it is (or states that it is or conducts itself in a manner from which it may be reasonably deduced that it is) under administration (whether voluntary or not) or insolvent (each as defined in the Corporations Act) or financially unable to proceed with this agreement;
- (b) it has had a controller appointed or is in liquidation (including voluntary liquidation), in provisional liquidation, under administration or wound up or has had a receiver or a receiver and manager appointed to all or a material part of its property or any mortgage, charge or other security over any of its property is enforced;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or is dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Department);
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal

put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above;

- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the Department reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due;
- (h) it is or any of its directors are seeking or makes a statement, or conducts itself or themselves in a manner, from which it may reasonably be deduced that it is or any director is seeking, to take advantage of the safe harbour against insolvent trading available under Division 3, Part 5.7B of the Corporations Act;
- (i) a winding up order is made;
- (j) execution is levied by creditors, debenture holders or trustees or under a floating charge;
- (k) something having a substantially similar effect to (a) to (j) happens in connection with the Recipient under the law of any jurisdiction.

Intellectual Property Rights means all intellectual property rights, whether created before or after the Commencement Date, including:

- (a) plant breeder's rights, patents, copyright, rights in circuit layouts, trade marks, registered designs and any right to have Confidential Information kept confidential;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) that may subsist in Australia or elsewhere, whether or not such rights are registered or capable of being registered.

Laws means all laws, statutes, regulations, by laws, ordinances, orders, awards, proclamations and local laws of the Commonwealth, a State or Territory, any local government or a Government Agency together with any binding requirements and mandatory approvals (including conditions) of the Commonwealth, a State or Territory, any local government or a Government Agency.

Machinery of Government Change means a change to the title, structure, functions or operations of the Department or a part of the Department (including corporatisation) as a result of an order made under the *Constitution of Queensland 2001* (Qld) or other Queensland legislation.

Milestones means the milestones specified in Item 5 of Schedule 1.

Minister means the Minister of the Parliament of Queensland with responsibility for the portfolio of the Department.

Moral Rights means the moral rights granted under the *Copyright Act 1968* (Cth), and any similar rights existing under foreign laws.

Performance Indicators means the performance reporting information specified at Annexure 2.

Personal Information has the meaning given in the *Information Privacy Act 2009* (Qld).

Project Reports means a Report about the Recipient's progress in connection with carrying out the Activity as specified in Item 12 of Schedule 1.

Recipient's Contribution means the contribution, if any, to be provided by the Recipient towards the Activity specified in Item 7 of Schedule 1.

Recipient Collaborator means third party research collaborator collaborating with the Recipient in the performance of the Activity.

Reports means the reports (in the form and containing the information) specified in Item 12 of Schedule 1.

Representative means an employee, agent, officer, director, volunteer, contractor, subcontractor, other authorised representative of a party or a Recipient Collaborator. For the avoidance of doubt, an Activity Party is not a Representative of the Recipient.

Research Agreement has the meaning given to it in clause 1.1(g).

Research Infrastructure means significant assets, facilities and services located and delivered in Queensland to support leading-edge research and innovation funded by the Grant. The Research Infrastructure is accessible to publicly and privately funded users in Queensland, across Australia and internationally.

Special Conditions means any special conditions specified in Item 15 of Schedule 1.

Standards means the standards for the performance of the Activity or other policies and procedures, specified in Item 8 of Schedule 1.

Term has the meaning specified in clause 22.1.

Traditional Indigenous Knowledge means traditional knowledge and traditional creative expressions of Indigenous peoples, which include stories, dance, languages, symbols, crafts, cosmology, medical and environmental knowledge.

25.2 Interpretation

In this agreement:

(a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

(b) if more than one person is identified as the Recipient, then that expression refers to them, and the obligations of the Recipient under this agreement bind them, jointly and severally;

(c) **person** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (where incorporated or unincorporated), a partnership and a trust;

(d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;

- (e) a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) a reference to a party, clause, schedule, attachment or annexure is a reference to a party, clause, schedule, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, attachments and annexures to it;
- (h) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) **includes** in any form is not a word of limitation;
- (k) a reference to **\$** or **dollar** is to Australian currency; and
- (l) no rule of construction will apply to a provision of this agreement to the disadvantage of a party merely because that party drafted the provision or would otherwise benefit from it.

25.3 Precedence

Where any inconsistency exists between:

- (a) the Special Conditions;
- (b) this Schedule 2;
- (c) Schedule 1 (except the Special Conditions); or
- (d) any other schedules or annexures of this agreement,

the provisions listed highest above will take precedence over those listed lower to the extent necessary to resolve the inconsistency.



Grant Agreement

Executed as an agreement

Signed for and on behalf of the **State of Queensland** acting through the **Department of insert ABN insert** by

(full name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signature

Date

*Option 1: if the Recipient is an individual ****Delete if inapplicable**** OR*

Signed by **insert Recipient** in the presence of:

Signature of Witness

Name of Witness in full

Signature

Date

*Option 2: if the Recipient is a company signing under section 127 ****Delete if inapplicable**** OR*

Executed by **insert Recipient and ACN** in accordance with section 127 of the *Corporations Act 2001* (Cth):

Signature of Sole Director/Director

Name of Sole Director/Director in full

Date

Signature of Director/Company Secretary

Name of Director/Company Secretary in full

Date

*Option 3: if the Recipient is a company signing under POA **Delete if inapplicable** OR*

Signed for and on behalf of **insert Recipient and ACN** by its Attorney under a power of attorney dated **insert date of power of attorney** in the presence of:

Signature of Witness

Name of Witness in full

Signature of Attorney who declares that he / she has not received any notice of the revocation of the power of attorney

Full name of Attorney

Date

*Option 4: if the Recipient is an organisation (such as a government body or university) other than a company or individual **Delete if inapplicable** OR*

Signed for and on behalf of **insert Recipient** by

(full name and position)

a person duly authorised to act in that behalf in the presence of:

Signature of Witness

Name of Witness in full

Signature

Date

*Option 5: if the Recipient is a Council **Delete if inapplicable***

Signed for and on behalf of **insert Council** by

(full name and position)

a person duly authorised to act in that behalf
under s.236 *Local Government Act 2009* (Qld), in
the presence of:

Signature of Witness

Name of Witness in full

Signature

Date

Annexure 1 Eligible and Ineligible Expenses

Eligible Expenses - Eligible Expenses categories are:

- salaries costs for technical staff employed by the Recipient for the purposes of the Activity, including for translation activities that provide economic, social and environmental benefits in Queensland;
- purchasing or leasing costs of instrumentation or plant equipment that will be located in Queensland for the purposes of the Activity; and
- costs to obtain non-instrument-based capability such as fee-for-service researchers and/or technical staff for the purposes of the Activity.

Only Eligible Expenses first incurred on or after the Commencement Date are payable to the Recipient.

All Grant funding will be expended in Queensland, unless expenditure outside Queensland is demonstrated, to the Department's satisfaction, to be essential to ensure successful delivery of the Activity and is specified in this agreement.

Ineligible Expenses - Costs and expenses not eligible to be paid from Grant funding include:

- supporting Activity administrative activities that are not directly applicable to the operation of the Activity. Specifically, these activities include costs such as enterprise information technology, human resources, accounting, legal overheads, depreciation or other routine expenses for universities or publicly funded research agencies. More specifically, any general 'administrative charge' (however calculated) not supported by evidence of services being provided, or the like is excluded;
- indirect costs of researchers using research infrastructure, namely researcher travel and accommodation expenses;
- specific, identifiable costs already supported by the Queensland and/or Australian Governments;
- payments to third parties for research and development;
- provision of free access to the infrastructure.

Annexure 2 Performance Indicators

[Note: The following Performance Indicators are included for reference only. The Recipient and the Department will develop a series of Performance Indicators that are relevant to the Activity]

Performance Indicator reporting must include the following:

1. Use:
 - (a) User numbers - Usage report on a unique user basis by:
 - (i) user type (Host Institute, Other Research Institutions, Industry, Government), and
 - (ii) user location (Queensland, Interstate, Overseas);
 - (b) Number of Uses;
 - (c) Facility utilisation rate (including hours of usage);
 - (d) Tracking (how the facility is tracking usage now and future plans).
2. Publications (List of publications enabled by facility).
3. Services:
 - (a) Critical services/advice to Government;
 - (b) Services to users (Number of Users trained by source location);
 - (c) Key advantages of the Activity.
4. User Charges (Activity revenue, charging policy to access the facility).
5. Collaboration (other facilities collaborated with on the Activity by type).
6. Co-investment (cash and in-kind co-investment received by the Activity and sources).
7. Risk (Activity Risks, and Risk Management Plan).
8. People (Headcount, FTE, Gender, Role, Location, ATSI).
9. Activity Impact Case Studies (Summary of one or more impact stories associated with this Grant. Please enter links to further information where possible).