**SHORT FORM COLLABORATIVE RESEARCH AGREEMENT**

(for low risk research projects only)

**DETAILS**

|  |  |  |
| --- | --- | --- |
| Item 1 – Parties | | |
| [S*hort form name*]/Project Lead | **[*insert full name of lead project party*]** [*ABN*] of [*address*]  Address for notices and invoices:  [*contact name*]  [*street address*]  [*suburb*] [*postcode*]  Email: [*insert*] | |
| [*Short form name*]/Collaborator | **[*insert full name of Collaborator*]** [*ABN*]of [*address*]  Address for notices and invoices:  [*contact name*]  [*street address*]  [*suburb*] [*postcode*]  Email: [*insert*]  [*If there are multiple collaborators, add a row eg. Collaborator A, Collaborator B etc*] | |
| **Item 2 – Term** | | |
| Term | Start Date [*insert*] End Date [[*insert*] | |
| **Item 3 – Project** | | |
| Project | Program of research described as: [*insert details or* ***attach*** *proposal: project title, description, milestones, deliverables, timing, parties’ roles and responsibilities*] | |
| Ethics Approval | [*Insert details including party responsible for ethics approval*] | |
| **Item 4 –Contributions** | | |
| Contributions | [*insert details of cash and in-kind contributions,/ funding and timing*] OR **attach** table. | |
| **Item 5 – Specified Personnel** | | |
| Names of CIs | | [*insert names and relevant university/institution/affiliation* ] |
| **Item 6 – Background IP and Background Material** | | |
| Description | | [*insert description of BIP and Background Material for each party, or insert “nil”*] |
| Encumbrances/restrictions on use | |  |
| **Item 7 – Project IP and Project Material** | | |
| Owning Party | [*Choose and complete option:* Project IP solely owned by [*insert*] ORowned in proportion to intellectual and inventive contribution to the creation of the Project IP as tenants in common ORjointly owned by the following parties as tenants in common in the following shares: [*name and* %]  *Choose and complete option:* Project Material *s*olely owned by [*insert*] ORowned in proportion to intellectual and inventive contribution to the creation of the Project IP as tenants in common ORjointly owned by the following parties as tenants in common in the following shares: [*name and* %] | |
| Licence of Project IP & Project Material | Non-Commercial Use ORif other uses are allowed, [*insert the licence, scope of use including whether sublicensing is permitted and if so, the approved subcontractor/sublicensee, and licensee party*] | |
| **Item 8 - Insurance** | | |
| Insurance | Public liability insurance of [$x] or more per occurrence; professional indemnity insurance of [$x] or more per claim (maintained for the Term and 6 years after the Term); and workers compensation insurance as required by law. [*insert insurance amounts*] | |
| **Item 9 - Special Conditions** | | |
| Special Conditions | [*Insert “Not applicable” or include / attach any special conditions e.g. Funding Agreement, Material Transfer, Project Governance & Management, Access to Premises/Equipment* | |

Signed as an agreement

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Signed on behalf of **[*Project Lead name*]** by an authorised representative: | |  | Signed on behalf of **[*Collaborator name*]** by an authorised representative: | |
|  | |  |  | |
| **Signature** | |  | **Signature** | |
| Name |  |  | Name |  |
| Position |  |  | Position |  |
| Date |  |  | Date |  |

AGREEMENT TERMS AND CONDITIONS

1. Term

This Agreement commences on the Start Date and ends on the End Date, unless extended by mutual consent in writing or terminated earlier in accordance with this Agreement.

1. Conduct of Project
   1. Collaboration
      1. Each party will participate and carry out its responsibilities in the Project diligently, competently and in accordance with Good Industry Practice, this Agreement, applicable Laws and Regulatory Approvals..
      2. Each party will actively collaborate with each other party to meet the milestones and deliverables by the dates specified in Item 3 of the Details.
   2. Specified Personnel

Each party will make the Specified Personnel available to perform the Project. If a Specified Personnel is unable to perform their duties, the relevant party must notify the other party/ies and ensure that a suitably qualified and experienced replacement person is appointed, with the consent of the other party/ies.

1. Contributions
   1. Contributions and payment
      1. Each party will provide the Contributions in the amounts and by the dates specified in Item 4 of the Details.
      2. Payment of cash Contributions will be made within 30 days of receipt of a valid tax invoice.
      3. Consideration under this Agreement excludes GST. Where GST is payable by a party in relation to a supply that it makes under or in connection with this Agreement, and the consideration for that supply excludes GST, the party providing the consideration will pay an additional amount equal to the GST (at the prevailing rate) at the same time as the part of the consideration to which the GST amount is referrable becomes payable.
2. Intellectual Property Rights
   1. Background IP and Background Material
      1. Background IP and Background Material remain owned by the party contributing it.
      2. Each party grants to each other party a non-exclusive, non-transferable, royalty-free licence to use its Background IP and Background Material solely for the purpose of carrying out the Project, excluding the right to sublicense and subject to any encumbrances specified in Item 6 or notified by the contributing party.
      3. Improvements to Background IP are owned by the party contributing the Background IP to the Project and references in this Agreement to Background IP includes the corresponding Improvements. Each party assigns to the contributor of the Background IP its right, title and interest in the IPR in the Improvements.
   2. Project IP and Project Material
      1. Project IP and Project Material are owned by the Owning Party specified in Item 7 of the Details. To the extent a party has any rights, title and interest in Project IP or Project Material, it assigns such rights, title and interest to the Owning Party upon creation.
      2. Each Owning Party grants to each other party to this Agreement, a non-exclusive, non-transferable, royalty free, worldwide, licence, to use its interest in Project IP and Project Material during the Term for the purposes of the Project and during and after the Term for the purposes specified in Item 7 of the Details. In respect of the Project, the licence must not be sub-licensed other than to an approved subcontractor specified in Item 7 of the Details.
      3. Each party must give each other party prompt notice if it becomes aware of any claim that the use of Background IP or Project IP infringes the Intellectual Property Rights of any third party.
   3. Commercialisation
      1. Each party must promptly notify each other party on becoming aware of any Project IP or Project Material that may have potential commercial value. Subject to clause 4.3(b), if the Project IP is owned by more than one Owning Party, an Owning Party must not Commercialise the Project IP or Project Material without the written consent of the other Owning Party/ies.
      2. If a party wishes to Commercialise any Project IP or Project Material, that party must give notice to the other party/ies. Upon receipt of the notice, the parties may either provide written consent to such Commercialisation by the notifying party or negotiate with the notifying party in good faith the terms of a Commercialisation agreement so as to fairly share in any commercial return associated with the Project IP or Project Material. If the terms cannot be agreed within 90 days of commencement of negotiation, the matter may be referred to dispute resolution under this Agreement.
3. Confidential Information and Privacy
   1. Confidential Information

### Each receiving party must keep the Confidential Information of the disclosing party confidential. Each receiving party must not use or copy the disclosing party’s Confidential Information for any purpose other than to perform that party's obligations or exercise its rights under this Agreement.

### Each receiving party must only disclose disclosing party’s Confidential Information to its employees, Students, honorary researchers, approved subcontractors and professional advisers, who have a need to know the Confidential Information and are bound by obligations of confidence to at least the standard contemplated by this clause 5.1, or to receive professional advice in relation to this Agreement or the Project.

### Each receiving party must ensure its employees, Students, honorary researchers, permitted subcontractors and professional advisers who participate in the Project or access Confidential Information, comply with this clause 5.1.

### Each receiving party must promptly notify the relevant disclosing party if it becomes aware of any unauthorised use or disclosure of the disclosing party's Confidential Information.

### The obligations of confidence in clause 5.1 do not apply to the extent that a receiving party is required by law or court order to disclose Confidential Information, provided that the receiving party only discloses the minimum information required.

* 1. Privacy
     1. Each party will comply with Privacy Laws applying to that party in respect of any Personal Information it deals with (including, collects, uses, discloses or stores) in connection with the Project.
     2. Without limiting clause 5.2(a), where a receiving party deals with Personal Information that is contributed by a disclosing party, the receiving party must:

#### not use or disclose the Personal Information other than for the Project, unless required or authorised to do so by law;

#### not transfer, disclose or access the Personal Information outside of Australia without the prior consent of the disclosing party;

#### immediately notify the disclosing party if it becomes aware that a disclosure of such Personal Information is, or may be, required or authorised by applicable laws; and

#### in the event of a Data Breach, provide reasonable assistance requested by the disclosing party with investigation, mitigation of the effects, and notification (where required by law) of the Data Breach.

1. Publications and Students
   1. Publications
      1. Where a party intends to publish a Publication (**Publishing Party**), it will provide a copy of the proposed Publication to each other party (**Reviewing Party**) in confidence at least 30 days prior to the proposed date of Publication.
      2. Each Reviewing Party may provide comments and request reasonable amendments to reflect correct authorship and acknowledgement and protect its Confidential Information and IPR provided they are given 15 days prior to publication.
      3. If no such comments or amendments are made within 15 days, then the Publishing Party may proceed with the Publication. If the Reviewing Party provides comments or amendments, the Publishing Party may delay the proposed Publication for a period of no greater than three months (where it relates to IPR) or may remove the Confidential Information (where it relates to Confidential Information); after which the Publishing Party will be free to publish the Publication.
   2. Students
      1. The enrolling institution for any Student involved in the Project must enter into an agreement with the Student on terms consistent with this Agreement, including in respect of confidentiality and Intellectual Property Rights, where required.
      2. Students may include the results of the Project as part of their Thesis and will retain ownership of copyright in their Thesis. On reasonable request by any another party, the enrolling institution will ensure any Thesis that includes Confidential Information, Background Material or would prejudice Project IP, of another party, is submitted for examination in confidence and held in confidential storage in accordance with, but for no longer than the period specified in, its policies and procedures. To avoid any doubt, a party must not inhibit the right of a Student to have their Thesis examined and have a copy of the Thesis deposited in the institution’s library, subject to these confidentiality requirements.
2. Insurance, Risk and Liability
   1. Insurance

Each party must effect and maintain insurances during and after the Term as specified in the Details. Each party must provide when requested by another party certificates of currency for these insurances.

* 1. Risk and Liability
     1. The parties acknowledge that the Project is experimental in nature and as such, the outcomes of the Project and its ability to produce Project IP or Project Material of any commercial value is not guaranteed. The parties each use the Background IP, Background Material, Project IP and any Project Material at their own risk.
     2. To the maximum extent permitted by law and subject to clause 7.2(d), each party excludes all implied terms, representations and warranties, whether statutory or otherwise relating to the Project or the subject matter of this Agreement other than as expressly set out in this Agreement.
     3. To the maximum extent permitted by law and subject to clause 7.2(d), a party is not liable to another party in connection with this Agreement for any loss or damage however caused (including due to the negligence of that party) that is indirect or consequential loss or damage, including loss of profits, loss of revenue, loss of reputation, loss of bargain or loss of opportunity.
     4. If any applicable legislation prohibits the limitation or exclusion of liability in the manner contemplated by this Agreement with respect to particular loss or damage, then the relevant limitation or exclusion does not apply to that loss or damage; and that party’s liability is only limited or excluded with respect to that loss or damage in the manner permitted under that legislation (if any).

1. Dispute Resolution
   * 1. The parties must attempt to resolve any dispute arising under this Agreement by negotiation by the senior representatives of the parties in good faith, initiated by one party giving notice to the other disputing party/ies.
     2. Any dispute which cannot be resolved within 30 days of the date of the notice may be referred by the parties to mediation by a mediator appointed jointly by the disputing parties, or failing that, appointed by the Chair of the Resolution Institute. The mediation must take place in the city which is the principal place of business of the Project Lead unless otherwise agreed between the disputing parties. All costs of the mediation are to be equally shared between the disputing parties.
     3. If the dispute is not resolved within a further 60 days of a mediator being appointed, a disputing party may commence proceedings in respect of the dispute. Nothing in this clause 8 will prevent a party from seeking urgent equitable or interlocutory relief.
2. Termination
   1. Termination

This Agreement may be terminated:

* + 1. by mutual written agreement of the parties;
    2. with 30 days’ written notice by one party to the other party/ies where a party experiences an insolvency event;
    3. immediately by written notice by a party, if required by law or Ministerial direction, including under the *Foreign Relations (State and Territory Arrangements) Act 2020* (Cth);
    4. where a Force Majeure Event continues under clause 10; or
    5. with 30 days’ written notice by other party/ies to a party, if a party has committed a material breach of this Agreement, and where the material breach is capable of remedy, the defaulting party has received notice of such breach and fails to rectify the breach within 30 days of receiving the notice.
  1. Consequences of termination
     1. Upon termination of this Agreement, each party must cease work on the Project, return or destroy all copies of the disclosing party’s Confidential Information (except the receiving party may retain one copy for record keeping purposes) Background IP and Background Material in accordance with the disclosing party’s reasonable requirements. Each party retains all rights that are accrued up to the date of termination.
     2. Clauses 4, 5, 6, 7,8, 9.2 and 11 will survive expiration or termination of this Agreement, along with any other provision which by its nature survives termination or expiration of this Agreement.

1. Force Majeure Event

### If a Force Majeure Event prevents or delays a party from performing any obligation under this Agreement (other than payment of amounts due), and that party gives prompt notice to the other party/ies, and uses reasonable endeavours to remove, or mitigate the effects of, that Force Majeure Event as quickly as possible, those obligations will be suspended for so long as the Force Majeure Event continues. If the Force Majeure Event continues for a period of 90 days or more, either party may terminate this Agreement by giving 14 days’ notice to each other party.

1. General
   * 1. Each party warrants that: (i) it has full power and authority to enter into and perform its obligations under this agreement; (ii) it has taken all necessary actions and obtained all Regulatory Approvals to enter into and perform its obligations under this agreement; and (iii) to the best of its knowledge without the need to make additional enquiries, conduct searches or seek a legal opinion, the exercise of the party’s Background IP or the exercise of the Project IP created by a party does not infringe the IPR of a third party.
     2. A party may not use the name or logo of any other party/ies or release any publicity, advertising or news release about the Project or this Agreement without the prior written approval of the other party/ies.
     3. Any notice, demand, consent, approval, waiver, undertaking or acknowledgement contemplated by this Agreement must be given in writing, marked to the attention of the recipient's representative as advised by the recipient party and delivered by hand, post or email to the address for notices in Item 1 of the Details (or as otherwise notified).
     4. A party must not assign or novate any of its rights or obligations under this Agreement without the prior written consent of the other party/ies.
     5. This Agreement is governed by the laws in the jurisdiction of the Project Lead’s principal place of business as specified in Item 1 in the Details, and the parties submit to the non-exclusive jurisdiction of the courts of that jurisdiction.
     6. This Agreement may only be varied in writing and signed by the parties.
     7. A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
     8. Each party must do anything necessary (including executing forms, agreements, deeds and documents) at its own cost to give full effect to this agreement and the transactions contemplated by it.
     9. The parties are independent contracting parties and nothing in this Agreement may be construed as creating a relationship of partnership, joint venture, employment, agency, or trust.
     10. Each party must pay its own costs of preparing, negotiating and execution of this Agreement.
     11. This Agreement may be executed by electronic signature in a number of counterparts and all counterparts taken together will constitute the one document. A party may communicate its execution of this Agreement by transmitting an executed copy by an electronic method.
     12. A party may give any consent or approval conditionally or unconditionally, or withhold any approval or consent at its discretion.
     13. The Agreement contains the entire agreement and all prior representations or warranties are excluded.
     14. The obligations and liabilities of the parties are several and not joint or joint and several.
     15. If there is any inconsistency between the provisions of this Agreement, the documents will be interpreted in the following priority: Special Conditions, Details, Agreement Terms and Conditions, any attachments, and any document incorporated by reference in this Agreement.
2. Defined terms & interpretation
   1. Defined Terms

In this Agreement, capitalised terms have the meaning given to them in the Details and as follows:

**Agreement** means the Details, the terms and conditions and any attached schedules.

**Background IP** means Intellectual Property Rights owned or controlled by a party, including Intellectual Property Rights developed before or independently of this Agreement, which the party determines, in its sole discretion, to make available for the carrying out of the Project, including those specified in the Details, the IPR in the Background Material, and any Improvements to the Background IP.

**Background Material** means material, equipment, samples, data, raw data or datasets that are provided or made available by or on behalf of a party to another party (whether before, on or after the date of this Agreement) for the purpose of carrying out the Project, where that is in existence at the Start Date or created, developed or obtained by the party during the Term independently of the Project, including those specified in the Details.

**Commercialise** means in relation to Intellectual Property Rights, to manufacture, sell, hire or otherwise exploit a product or process incorporating those Intellectual Property Rights, provide a service, incorporating those Intellectual Property Right, license any third party to do any of the foregoing, or assign the Intellectual Property Rights to any third party, for a fee, or for a financial, commercial or other benefit.

**Confidential Information** means all unpatented inventions, ideas, know-how, concepts, trade secrets, processes, techniques, software, products and any and all other unregistered or unpatented Intellectual Property Rights, financial and business information, and all other commercially valuable information of the disclosing party which the disclosing party marks as confidential to it, or which is evident by its nature or the manner of its disclosure to be confidential, irrespective of whether that information was disclosed before, on or after the date of this Agreement, but does not include information that is publicly known for reasons other than as a result of a party’s breach of this Agreement, independently known by the receiving party without obligations of confidence prior to disclosure, or created or received by a party independently of any other party's Confidential Information.

**Data Breach** means any misuse, interference or loss, or any unauthorised access, modification or disclosure of Personal Information which is collected, generated, used or held in the course of the Project by any party.

**Force Majeure Event** means an event beyond the reasonable control of a party, including acts of God, fire, flood, terrorism, industrial action, act of civil war or riot, public health emergency or natural disaster.

**Good Industry Practice** means all applicable health and safety law, regulations and applicable industry codes of practice, including professional, scientific, ethical, business and financial principles and standards that would be reasonably expected to apply to such work.

**GST** means any tax imposed by or through the GST Legislation on a supply (without regard to any input tax credit).

**GST Legislation** means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition Act (whether imposing tax as a duty of customs excise or otherwise) and includes any legislation which is enacted to validate, recapture or recoup the tax imposed by any of such legislation.

**Improvement** means an incremental improvement or modification of a Party’s Background IP (whether by addition, omission or alteration) to secure better performance, application or efficacy, while retaining the essential characteristic of such Background IP. For the avoidance of doubt, an Improvement does not include any intellectual property that can be used or exercised without infringing the relevant Background IP.

**Intellectual Property** **Rights** or **IPR** means all rights resulting from intellectual activity whether capable of protection by statute, common law or in equity, whether registered or unregistered and existing in Australia or elsewhere in the world and whether created before or after the date of this Agreement, including copyright, inventions, patent rights, trade marks, design rights, circuit layouts and plant varieties and all rights and interests of a like nature, together with any right to apply for registration or protection of such rights.

**Non-Commercial Use** means (a) use for internal non-commercial purposes by a party within its own organisation (such as for record-keeping, reporting or auditing), or (b) for research, education or teaching purposes, but excluding Commercialisation.

**Laws** includeslaws and conditions of a licence, permit, direction, permit or approval issued under a law, code or standard.

**Personal Information** has the meaning given in the relevant Privacy Laws.

**Privacy Laws** means all privacy and data protection laws applicable to the collection, use, disclosure, storage or other dealing with Personal Information in connection with this Agreement.

**Project IP** means the Intellectual Property Rights which are developed or discovered in the course of conducting the Project, including all Intellectual Property Rights subsisting in any Project Material, but excluding Background IP, Improvements to Background IP and copyright in any Thesis.

**Project Material** means all materials (including any documents, data, raw data, datasets, samples or prototypes) produced in the course of conducting the Project, excluding any Background Material.

**Publication** means an abstract, article, manuscript or paper, presentation at a conference or seminar, or other public disclosure, where such publication specifically discloses (wholly or partly) the actual Project outputs, including any Project IP or Project Material.

**Regulatory Approval** means any regulatory approval, ethics approval, authorisation or licence required by Law, codes or standards.

**Student** meansa research student enrolled at a university party and involved in the Project.

**Thesis** means any thesis or dissertation which is permitted or required to be submitted to a university by a Student in order to fulfil the university’s requirements of their degree.

**ATTACHMENT**

[Attach any relevant documents, if required e.g. a copy of the Proposal, list of Background IP and Background Material, contributions table, Special Conditions.]