

AUSTRALASIAN PORK RESEARCH INSTITUTE LTD

AND

[FULL NAME OF STUDENT]

AND

[SUPPORTING UNIVERSITY]

SCHOLARSHIP AGREEMENT

THIS AGREEMENT is made on _____ 202

BETWEEN

AUSTRALASIAN PORK RESEARCH INSTITUTE LTD ACN 113 703 174 having its registered office at LEVEL 2, 2 BRISBANE AVENUE, BARTON, ACT 2600
(Company)

AND

[STUDENT NAME AND ADDRESS]

(Student)

AND

[SUPPORTING UNIVERSITY NAME AND ADDRESS]

(University)

RECITALS:

- (a) The Company is a company limited by guarantee and established to fund, promote and encourage collaborative research, development, education and utilisation activities for the Australasian pork industries.
- (b) The Student is enrolled to undertake a degree course at the University.
- (c) The University and the Company have entered into a Research Deed to govern the performance of research projects by the University.
- (d) The Company has agreed to award the Student a research scholarship to carry out the Student Project, which will be conducted under the direction of the University in accordance with the Research Deed and for which this Agreement will comprise the Project Details.
- (e) The University has agreed to supervise the Student in carrying out the Student Project and to administer the Scholarship Funds in accordance with the terms and conditions of this Agreement.

NOW IT IS AGREED:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions:

In this Agreement, unless the context otherwise requires:

Activities mean the activities and internal operations of the Company;

Agreement means this scholarship agreement and includes any schedules and annexures to it;

Background IP has the same meaning as set out in the Research Deed;

Business Day means a day other than a Saturday, Sunday or public holiday in the State of South Australia;

Chief Scientist has the same meaning as set out in the Research Deed;

Claims means any claim, action, proceeding, demand, cost, expense or liability whatever incurred or suffered by, or brought or made against, a person and however arising (whether or not presently ascertained, immediate, future or contingent);

Commencement Date means the date specified in Item 1 of the Schedule;

Commercialise has the same meaning as set out in the Research Deed;

Confidential Information has the same meaning as set out in the Research Deed;

Consideration has the same meaning as attributed to that term in the GST Law;

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any substantially similar legislation when it is passed into law and which may operate at any time during the Term;

Head Funding Agreement has the same meaning as set out in the Research Deed, as identified in Item 7 of the Schedule;

Input Tax Credit has the same meaning as attributed to that term in the GST Law;

Intellectual Property or **IP** has the same meaning as set out in the Research Deed;

Notice means any notice, request, consent or other communication in connection with this Agreement;

Parties mean the parties to this Agreement and **Party** means any of them;

Project Details has the same meaning as set out in the Research Deed;

Project IP has the same meaning as set out in the Research Deed;

Project Participants means the third parties participating in the Student Project, excluding the Company and the University;

Recipient means a person that has received a Supply within the meaning of the GST Law;

Representative means an authorised signatory of a Party, as notified in writing to each other Party under this Agreement;

Research Contract has the same meaning as set out in the Research Deed;

Research Deed means the APRIL Research Deed between the Company and the University that governs the conduct of research, training and commercialisation projects in which the University participates with the Company and other Project Participants;

Schedule means the schedule attached to this Agreement;

Scholarship Funds means the funds to be paid by the Company, as set out in Item 3 of the Schedule;

Scholarship Intellectual Property means Intellectual Property arising from the conduct of the Student Project but excluding Thesis Copyright;

Scholarship Period means the period of the Student Project as set out in Item 4 of the Schedule;

Special Conditions means any special conditions set out in Item 6 of the Schedule;

Student Project means the project to be undertaken by the Student utilising Scholarship Funds as described in Item 2 of the Schedule;

Supervisor means the person(s) appointed by the University to act as a supervisor or supervisors of the work carried out by the Student for the degree in which the Student is enrolled;

Supplier means a person that has made or provided a Supply;

Supply has the same meaning as attributed to that term in the GST Law;

Taxable Supply has the same meaning as attributed to that term in the GST Law;

Tax Invoice has the same meaning as attributed to that term in the GST Law;

Term means the duration of this Agreement, as calculated in accordance with Clause 2;

Thesis means the thesis submitted by the Student to the University for examination and assessment;

Thesis Copyright means copyright in the Thesis, provided that such copyright does not comprise any part of the Background IP, Confidential Information or Project IP of the Company, the University or a Project Participant; and

University Rules and Codes of Practice means the applicable by-laws, standards, procedures, practices, guidelines and Codes of Conduct imposed by the University from time to time.

1.2 In this Agreement, unless the context indicates to the contrary:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Agreement and a reference to this Agreement includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to 'A\$', 'dollar' or '\$' is to Australian currency;
- (f) a reference to a Party to a document (including this Agreement) includes the Party's executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions;
- (j) a rule of construction does not apply to the disadvantage of a Party because the Party was responsible for the preparation of this Agreement or any part of it;
- (k) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (l) headings are for ease of reference only and do not affect the interpretation of this Agreement; and
- (m) the rights, duties and liabilities of each Party under this Agreement will, in every case, be several and not joint or joint and several.

1.3 Unless a term is otherwise defined in Clause 1.1 it shall have the meaning given to it in the Research Deed.

1.4 Where there is any inconsistency between:

- (a) the terms of this Agreement and the Research Deed as to the same subject matter, then the Research Deed shall prevail to the extent of the inconsistency; and
- (b) the terms of this Agreement and the Special Conditions as to the same subject matter, then the Special Conditions shall prevail to the extent of the inconsistency. For the avoidance of doubt, all Parties shall be bound by the Special Conditions.

2 TERM OF THE AGREEMENT

- 2.1 This Agreement will commence on the Commencement Date and will remain in force until the earliest to occur of:
- (a) the expiration of the Scholarship Period;
 - (b) the earlier termination of this Agreement under clause 22; or
 - (c) the expiration or earlier termination of the Research Deed.
- 2.2 The Company and the University acknowledge and agree that on and from the Commencement Date, the Student Project:
- (a) forms a Research Contract between the Company and the University, in accordance with the Research Deed; and
 - (b) will be carried out under the terms of the Research Deed.

3 SCHOLARSHIP FUNDS

- 3.1 The Company will, subject to clause 3.2 and the production of a valid Tax Invoice in respect of each instalment, provide the Scholarship Funds to the University as set out in the Schedule.
- 3.2 The Company may withhold any or all of the Scholarship Funds if:
- (a) the University has not provided a report required by clause 5.3, until that report has been provided;
 - (b) a report provided by the University under clause 5.3 is inaccurate or incomplete, until an accurate and complete replacement report is provided;
 - (c) the University or the Student are in breach of their obligations under this Agreement; or
 - (d) the University is in breach of any of its obligations under the Research Deed.
- 3.3 The University shall pay the Scholarship Funds to the Student in accordance with its usual procedures for administering Scholarship Funds.
- 3.4 Each of the University and the Student acknowledge and agree that, the Scholarship Funds:
- (a) may only be used for the carrying out of the Student Project; and
 - (b) must not be used for the reimbursement of travel, accommodation or other like expenses of the Student without the prior written consent of the Company.

4 ACCOUNTING RECORDS

- 4.1 The University shall keep separate, fulsome and accurate records of all receipts and expenditure of Scholarship Funds. Such records must be kept in a manner that allows them to be properly audited and must relate only to the Student Project.
- 4.2 The Company may appoint a representative to audit the records referred to in Clause 4.1 and the University shall give that representative access at all

reasonable times to those records and such information as the person may reasonably request for the purposes of the audit. If the audit reveals that the records have been inadequately maintained by the University, the University must bear the reasonable costs of the Company in conducting the audit.

5 UNIVERSITY GENERAL OBLIGATIONS

- 5.1 The University shall appoint a Supervisor to supervise the carrying out of the Student Project by the Student in accordance with the usual administrative procedures of the University.
- 5.2 The University shall take all reasonable steps to ensure that the Student:
 - (a) is provided with adequate academic support and guidance in the conduct of the Student Project;
 - (b) is monitored in the performance of the Student Project, such that the Student is promptly made aware of any inadequate progress or insufficient work, by the Supervisor providing detailed feedback that identifies problems, establishes agreed timelines and milestones by which to measure performance and conducts additional reviews of progress as required;
 - (c) provides such information and reporting on the Student Project as is sufficient for the University to comply with its reporting obligations under Clause 5.3; and
 - (d) complies with all requirements of the University with respect to the degree course in which the Student is enrolled, particularly those related to completion, submission, examination and assessment of the Thesis.
- 5.3 By the anniversary of the Commencement Date in each year during which the Student receives Scholarship Funds, the University shall provide the Company with a progress report on the Student Project, in a form determined by the Company, including a statement from the Supervisor with respect to the progress of the Student in fulfilling the requirements of the degree course in which the Student is enrolled.
- 5.4 The University must, and must ensure that the Student and Supervisor:
 - (a) promptly communicates details of any Scholarship Intellectual Property to the Chief Scientist; and
 - (b) refrains from any acts or omissions which may prejudice the interests of the Company or the Project Participants in Scholarship Intellectual Property, Background IP, Project IP or the Confidential Information of the Company or a Project Participant.
- 5.5 The University must comply with clauses 51 and 52 of the Research Deed in connection with the involvement of the Student and the publication of the Thesis.

- 5.6 The University must ensure that:
- (a) the Supervisor and / or the Student obtains all necessary ethics approvals for the Student Project; and
 - (b) the Student is made aware of, and agrees to comply with, the requirements of the Research Deed in relation to Project IP, Background IP and Confidential Information.

6 STUDENT OBLIGATIONS

- 6.1 The Student must:
- (c) enrol, pay all fees required for enrolment and maintain enrolment at the University;
 - (d) comply with University Rules and Codes of Practice;
 - (e) comply with all University requirements in connection with the University's compliance with obligations under the Research Deed;
 - (f) use the Student's best endeavours to make satisfactory progress on the Student Project;
 - (g) promptly communicate details of all Scholarship Intellectual Property to the Chief Scientist;
 - (h) where appropriate, keep an up to date laboratory notebook witnessed by the Supervisor; and
 - (i) when research in Australia is conducted on or involves humans or animals, abide by all relevant ethics codes and guidelines adopted by the National Health and Medical Research Council, the Office of the Gene Technology Regulator and all other relevant ethics committee requirements.

7 INTELLECTUAL PROPERTY

- 7.1 Scholarship Intellectual Property will constitute Project IP in accordance with the Research Deed.

The Company grants to the Student a non-exclusive licence to use, reproduce, adapt and exploit the Scholarship Intellectual Property for the purposes of enabling the Student to complete the Student Project and the degree course for which the Student is enrolled with the University. For the avoidance of doubt, the Student is not permitted to Commercialise Scholarship Intellectual Property.

- 7.2 Notwithstanding the Student's ownership of Thesis Copyright, the Student may only publish the Thesis once the University has confirmed in writing that the University has satisfied its obligations under the Research Deed in relation to publication of the Thesis.
- 7.3 The Student grants to the Company, the University and the Project Participants a non-exclusive, royalty-free, perpetual and irrevocable licence (including the right to sub-license) to use and reproduce the Thesis Copyright for the purpose of the Activities.

- 7.4 The Student and the University agree to take such steps as necessary, including the signing of any documentation, to give effect to this clause.
- 7.5 Nothing in this clause operates to grant any ownership rights in Project IP or Background IP of the Company or a Project Participant to the Student or the University.

8 CONFIDENTIALITY

- 8.1 The Student must:
- (a) keep confidential and not disclose the Confidential Information;
 - (b) only use the Confidential Information for the purposes of the Student Project,
- unless the University permits disclosure of that Confidential Information in accordance with the Research Deed.
- 8.2 The University must comply with its obligations in respect of Confidential Information under the terms of the Research Deed and only permit the Student to use or disclose the Confidential Information as permitted by the Research Deed.
- 8.3 The Student must not use the name or logo of the Company without the prior written consent of the Chief Scientist.

9 PUBLICATIONS

- 9.1 The University must adhere to the publication requirements set out in the Research Deed in relation to all publications arising from this Agreement or the Student Project.
- 9.2 The Student may only publish material arising from this Agreement if the University has provided written confirmation to the Company that:
- (a) the University has complied with the publication requirements of the Research Deed; and
 - (b) the publication is permitted under the terms of the Research Deed,
- and the Company has not disputed the matters contained in the notice.
- 9.3 A Party must not make any public announcement in relation to the Scholarship or this Agreement without obtaining the approval of the Chief Scientist, provided that nothing in this Agreement shall limit the ability of the Company to disclose such matters as may be necessary to satisfy its obligations under a Head Funding Agreement or to its members.

10 INDEMNITY

- 10.1 Subject to clause 10.2, each of the University and the Company (**the Indemnifying Party**) agrees to indemnify and keep indemnified the other Party but excluding the Student (**those Indemnified**) from and against any and all Claims that the

Indemnified may suffer, incur or sustain as a result of any breach by the Indemnifying Party of its obligations under this Agreement, except and to the extent that such Claims are caused or contributed to by the negligence, default or unauthorised action of those Indemnified.

- 10.2 To the maximum extent permitted by law, the total liability of the Company for any and all Claims of the University and the Student arising from, or in connection with this Agreement, including any Claims by the University under the indemnity, is limited to the sum equivalent to the total Scholarship Funds.

11 SETTLEMENT OF DISPUTES

- 11.1 The University and the Company agree to comply with the dispute resolution procedures set out in clause 58 of the Research Deed in relation to a dispute between them which arises from, or in connection with, this Agreement.
- 11.2 The Student will comply with the University Rules and Codes of Practice in relation to a dispute arising from, or in connection with, the Agreement, which dispute will be administered by the University by or on behalf of the Student, notwithstanding that it may be a dispute between the Student and the Company.
- 11.3 Any information or documents disclosed by a Party under this clause 11:
- (a) must be treated as Confidential Information of the disclosing Party; and
 - (b) represent a genuine attempt to resolve the dispute and may only be used by the recipient Party or Parties for that purpose.

12 DELAY IN PERFORMANCE

If for any reason the Student is unable to commence or continue carrying out the Student Project to a satisfactory standard, the University must provide immediate written notice to the Company, outlining the reasons for the delay and the remediation measures being undertaken by the University and/or Student to address the issue. If a variation to the Student Project or the terms of this Agreement is required as a result of the Student's delay, and the Company and the University are unable to agree upon the terms of that variation within a period of thirty (30) days after written notice is provided by the University, the Company may immediately terminate this Agreement by written notice to the University and the Student.

13 RELATIONSHIP

Nothing in this Agreement is to be treated as creating a partnership, joint venture, employment, fiduciary or agency relationship between the Parties.

14 CLAUSE SEVERANCE

Any provision or part of a provision of this Agreement that is illegal or unenforceable may be severed and the remainder of this Agreement will remain in full force and effect.

15 WAIVER

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.

16 GOVERNING LAW

This Agreement will be governed by the law of South Australia and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of South Australia.

17 NOTICES

17.1 Any Notice must:

- (a) be in writing, in the English language and signed by a person duly authorised by the sender; and
- (b) be delivered:
 - (i) by hand, to the nominated address of the recipient;
 - (ii) by prepaid ordinary post (airmail if posted to or from a place outside Australia) to the nominated address of the recipient; or
 - (iii) by email to the email address of the Party,

which is specified in Item 5 of the Schedule, as varied by written notice from time to time.

17.2 Unless a later time is specified in the Notice, it is taken to be received:

- (a) if hand delivered, upon delivery;
- (b) if sent by prepaid post, on the fifth Business Day after the date of posting (if posted to and from an address within Australia) or on the tenth Business Day after posting (if posted to or from an address outside Australia); and

- (c) if sent by email, when the sender's email system generates a delivery receipt or other message confirming successful transmission of the email without rejection or error,

provided that if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, it will be deemed delivered, received or transmitted on the next Business Day.

18 ENTIRE AGREEMENT

This Agreement and where the context requires, the Research Deed, records the entire agreement between the Parties with respect to its subject matter and supersedes all previous agreements or understandings between the Parties in connection with the subject matter.

19 AMENDMENTS

This Agreement may only be amended in writing signed by all the Parties.

20 GOODS AND SERVICES TAX

- 20.1 If, by operation of the GST Law, any Supply under this Agreement is regarded as a Taxable Supply and the Consideration for that Supply is not stated to be inclusive of GST, the Supplier will be entitled to recover from the Recipient, an amount equivalent to the GST payable by the Supplier in relation to the Supply.
- 20.2 If GST is payable, the Supplier will provide the Recipient with a valid Tax Invoice to entitle the Recipient to claim an Input Tax Credit.

21 COUNTERPARTS

- 21.1 This Agreement may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one document.
- 21.2 An email or other document produced by mechanical or electronic means under the signature and name of the Representative, in the presence of a witness, is deemed to be an original counterpart of this Agreement for the purpose of this Clause 21.

22 TERMINATION

- 22.1 The Company may terminate this Agreement by written notice to the University and the Student upon the occurrence of any of the following events:
 - (a) the University breaches any provision of this Agreement and such breach continues unremedied for at least 14 days after service on the University of written notice from the Company specifying the breach and what is required to remedy it;

- (b) the Student breaches any provision of this Agreement and such breach continues unremedied for at least 14 days after service on the Student of written notice from the Company, specifying the breach and what is required to remedy it;
- (c) if, in the reasonable opinion of the Company, the Student Project is not being satisfactorily carried out by the Student in accordance with this Agreement, including where the University determines the Student's academic progress or performance to be unsatisfactory;
- (d) the Student is, in the reasonable opinion of the University and the Company, unable or unlikely to carry out or complete the Student Project to a satisfactory standard;
- (e) the University fails to provide additional information beyond that which is already prescribed in this Agreement, concerning any administrative, technical or financial matter related to the provision of the Scholarship Funds or the carrying out of the Student Project, within 28 days of a request from the Company for that information;
- (f) the Head Funding Agreement under which Scholarship Funds are derived is terminated or otherwise suspended;
- (g) the University withdraws or is expelled from a research project to which the Student Project relates; or
- (h) the Student withdraws or is expelled from the University or the degree course in which the Student is enrolled.

22.2 Upon the conclusion of the Term, as calculated under clause 2:

- (a) the University shall repay to the Company any Scholarship Funds that have not been expended or irrevocably and reasonably committed to the carrying out of the Student Project within 90 days of the conclusion of the Term;
- (b) each Party will return or destroy, at the disclosing Party's option, any Confidential Information of the disclosing Party;
- (c) the University and the Student will undertake all necessary acts, and execute all necessary documents, as the Company may reasonably require, to vest and perfect ownership of the Scholarship Intellectual Property in accordance with clause 7.1;
- (d) the University and the Student will not enter into any further agreements or other legally binding arrangements in connection with expenditure of the Scholarship Funds or carrying out the Student Project; and
- (e) any rights or remedies of the Parties which have accrued prior to the expiration or termination of this Agreement will remain unaffected.

23 SURVIVAL OF OBLIGATIONS

Clauses 7, 8, 9 and 10 and any other clause which by its nature is intended to survive the expiration or earlier termination of this Agreement, shall survive the expiration or earlier termination of this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement on the dates set out below.

Signed for and on behalf of
AUSTRALASIAN PORK RESEARCH INSTITUTE LTD
by its duly authorised officer:

.....
Signature

.....
Name and Title

in the presence of:

.....
Witness Signature

Date:

.....
Witness Name

Signed for and on behalf of
[University]
by its duly authorised officer:

.....
Signature

.....
Name and Title

in the presence of:

.....
Witness Signature

Date:

.....
Witness Name

Signed by
[Student]

.....
Signature

.....
Name

in the presence of:

.....
Witness Signature

Date:

.....
Witness Name