

Date:

**Funding Agreement for a  
R&D Experience Grant**

**between**

**Ministry of Business, Innovation and  
Employment**

**and**

**[ ]**

Contract number:



Signed for and on behalf of **the Sovereign in right of New Zealand acting by and through the Secretary for Business, Innovation & Employment and Chief Executive, te Tumu Whakarae mō Hīkina Whakatutuki or their authorised delegate:**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Signed for and on behalf of **[Organisation Name]** by its duly authorised officer:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**Unless your company constitution requires it, signatures are not required to be witnessed.  
In the presence of:**

Signature:

\_\_\_\_\_

Name:

\_\_\_\_\_

Date:

\_\_\_\_\_

This Agreement is made between:

the Sovereign in Right of New Zealand acting by and through the Secretary for Business, Innovation & Employment and Chief Executive, Te Tumu Whakarae mō Hīkina Whakatutuki ("Ministry")

("we", "us", or "our")

and [Organisation Name] ("Grant Recipient")

("you" or "your")

## BACKGROUND

- A. The Ministry invests in research, development, and commercialisation activities and capabilities to increase New Zealand businesses' investment in research and development to support long term economic growth.
- B. You have made an application to the Ministry for a R&D Experience funding grant (**R&D Experience Grant**) for a student studying at NZQA Levels 6-10 at a New Zealand university or polytechnic ("**Student**") to work on a research and development project ("**Application**"). The project is referred to in the schedule in this Agreement ("**Schedule**") and described in detail in your Application ("**Project**").
- C. Your application has been approved, and subject to you complying with the terms of this Agreement, the Ministry will provide the funding described in the Schedule to facilitate the Student's involvement in the Project ("**Funding**").
- D. The purpose of this Agreement is to govern the investment of the Funding in the Student's involvement in the Project by
  - i. setting out the Ministry's expectations and requirements as to the Project and your use of the Funding; and
  - ii. acknowledging that we have a mutual interest in ensuring, and being able to demonstrate, that the Project provides value for money, is aligned to priorities established by the Government from time to time, achieves the Outcomes and enhances New Zealand's economic position through increasing research and development activity in New Zealand.

## AGREEMENT

### INTRODUCTION

- 1.1 You have applied to us for a grant under the R&D Experience Grant Scheme to provide funding towards your Project described in your Application.
- 1.2 Your Application has been approved. By signing this Agreement, you agree to comply with the terms set out in this Agreement.

### DEFINITIONS AND INTERPRETATION

In this agreement:

**"Agreement"** means this funding agreement, which includes these terms, the terms in the Schedule, and any variation or additional schedule as agreed by the parties from time to time.

**"Application"** means your application for a grant under the R&D Experience Grant Scheme, completed and submitted through our online portal or in such other manner as we may specify or permit from time to time.

**"Change in Control"** means an event or series of events which result in any person (acting alone) or group of persons (acting in concert) acquiring or ceasing to have the ability:



- (a) to control more than 50% percent of your voting shares;
- (b) to appoint and/or remove the majority of the members of your governing body;
- (c) to otherwise control or having the power to control your affairs and policies; or
- (d) to be in a position to derive the whole or a majority of your benefit.

**"Contract End Date"** means the contract end date set out in the Schedule.

**"Contract Start Date"** means the contract start date set out in the Schedule.

**"Funding"** means the money provided, or to be provided, to you under this Agreement in the amount set out in the Schedule.

**"Independent Trustee"** means a trustee that is a solicitor, accountant, professional adviser or other person acting in an independent role that is not a beneficiary or settlor of the trust (and whose relatives, spouse or partner, direct or indirect shareholders, directors or other members are not beneficiaries or settlors of the trust).

**"Intellectual Property Rights"** includes copyright and all rights conferred under statute, common law or equity in relation to inventions (including patents), registered or unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity.

**"Invoice"** means a single document that includes all Taxable Supply Information.

**"Parties"** means the Ministry and the Grant Recipient and their respective successors and permitted assigns.

**"Personnel"** of any person, means all individuals directly or indirectly engaged by that person. Examples include directors, employees, specialists, support staff and co-opted or seconded staff;

**"R&D"** means research and development.

**"Schedule"** means the schedule to this Agreement.

**"Taxable Supply Information"** has the meaning given to that term in section 19E of the GST Act.

**"we", "us", "our"** and related terms mean the Ministry.

**"you" and "your"** means the Grant Recipient set out in the Schedule.

In addition, in this Agreement and unless the context requires otherwise:

- (a) headings and examples are for reference only;
- (b) the singular includes the plural and vice versa;
- (c) a reference to any document or agreement, including this Agreement, includes that document or agreement as amended, assigned, novated, supplemented, restated or substituted from time to time, except to the extent prohibited by this Agreement;
- (d) a reference to any monetary amount is to New Zealand currency;
- (e) a party to this Agreement or another agreement includes its successors and its permitted assignees and transferees;
- (f) any legislation includes a modification and re-enactment of, legislation enacted in substitution for, and a regulation, order-in-council and other instrument from time to time issued or made under, that legislation;
- (g) a reference to "in writing" (or equivalent) includes provision by email or through online services operated by us (including the online grants portal); and
- (h) if you are the trustees of a trust or otherwise do not have separate legal personality, the terms "you" or "your" (unless the context requires otherwise) also include each of your trustees or members jointly and severally, and you are still bound by this Agreement despite any changes to

your membership or formation, including by death, incapacity, or retirement of any trustee or member, the admission of any new trustee or member, or in any other way.

## **1. THE STUDENT, THE PROJECT AND YOUR OPERATION**

1.1 You must be one of the following entity types for the duration of the Agreement:

- (a) a company incorporated in New Zealand and registered under the Companies Act 1993;
- (b) a limited partnership registered under the Limited Partnerships Act 2008;
- (c) a Māori incorporation or a trust established under the Te Ture Whenua Māori Act 1993, a trust established on behalf of Māori claimants to receive and manage assets as part of the settlement of a claim under the Treaty of Waitangi, a Māori statutory body, or a business that is controlled by one or more of these types of Māori entities,
- (d) but may not be an entity that is:
  - i. listed in Schedule 1 of the State Owned Enterprises Act 1986, Schedule 4A of the Public Finance Act 1989, or an entity established under or governed by the Education Act 1989, Crown Research Institutes Act 1992, Local Government Act 2002, Local Government (Auckland Council) Act 2009, the New Zealand Public Health and Disability Act 2000, or the Crown Entities Act 2004; or an entity that is 50 per cent or more owned by one or more of those types of entities; or a company that was incorporated in another country but is registered to do business in New Zealand (registered on the Overseas Register – ASIC or NON-ASIC); or
  - ii. in the opinion of the Ministry, likely to bring the reputation of the Ministry or the R&D Experience Grant Scheme into disrepute.

1.2 You must:

- (a) have an active R&D programme within your Business (i.e. work must not be outsourced or performed by a third party provider) for the Student to participate in;
- (b) employ the Student for minimum of 30 hours per week, for a maximum of 400 hours and be on your business's payroll as a PAYE employee and;
- (c) pay the Student a minimum of an hourly rate of \$29.90 per hour (gross/before deductions) up to the Funding maximum specified in the Payments Schedule;
- (d) ensure the Student participates in the Project as set out in the Application;
- (e) in accordance with clause 2 below; provide evidence of the payments made to the Student by way of payslips, which clearly display the hours and hourly rate at the time of claiming the Funding. The Ministry will not pay any Funding until satisfactory evidence of the Student's payslips has been received;
- (f) ensure the Student participates in the Project physically at your Business's premises in New Zealand, unless the Ministry provides prior written consent to remote participation;
- (g) notify the Ministry as soon as practicable if the Student ceases to be employed by you, or there is a material change to the Project or the Student's work on the Project;
- (h) ensure that all consents, approvals, licences and permits required to carry out the Project including, without limitation, any special ethical regulatory requirements, statutory consents, appropriate ethics committee approvals, Environmental Risk Management Authority approvals, Environmental Protection Agency approvals, and informed consents (if a person is the subject of any research undertaken as part of the Project) are obtained and kept up-to-date;
- (i) ensure that appropriate monitoring of the Project is undertaken;
- (j) comply with all applicable laws;
- (k) comply with the Health and Safety at Work Act 2015 and notify the Ministry, as soon as reasonably possible, of any notifiable events related to the Student or Project that occur under the Act during the contract period;

- (l) procure that at all times none of your directors are persons who are prohibited from being a director by any applicable law;
- (m) notify the Ministry as soon as reasonably possible after becoming aware of any breach under this Agreement; and
- (n) notify the Ministry as soon as reasonably possible if any changes in your business could adversely affect New Zealand or the Ministry's reputation.

### 1.3 Your Student

You must ensure that at the time of Application and throughout the term of the Agreement, the Student:

- (a) has studied or is studying Science, Technology, Engineering, Design or Business at a New Zealand tertiary education institution;
- (b) has studied or is studying at NZQA level 6-10;
- (c) if study has been completed, must have been studying towards one of the qualification types listed in clause 1.3 (b) and the closing date of the last semester must be less than 12 months ago.
- (d) has the appropriate immigration status to work in New Zealand;
- (e) has not been previously employed by your business in a full time position; and
- (f) has not undertaken more than two R&D Experience Grant internships (across separate funding rounds) with your business.

### 1.4 You represent and warrant to us that:

- (a) all invoices submitted by you to the Ministry under this Agreement will have been certified correct by a duly authorised officer of your organisation;
- (b) all information (including declarations, representations, statements, consents, confirmations, evidence and other materials) provided by you or on your behalf in your Application or otherwise in connection with this Agreement is true and accurate, and there are no facts or circumstances which have not been disclosed to us which would make that information untrue, inaccurate or misleading;
- (c) any person completing your Application and/or signing this Agreement and delivering it to us on your behalf has authority to do so;
- (d) (if you are not a natural person) you are duly established, registered (to the extent applicable) and existing under the laws of New Zealand, and your board or committee or equivalent has been correctly and validly appointed;
- (e) (if you are a natural person acting as a trustee of a trust) you have full mental capacity, are not a minor and are physically located and legally working in New Zealand (allowing for temporary absences);
- (f) no action has been taken for or with a view to:
  - (i) (if you are not a natural person) your dissolution, termination, disestablishment, deregistration, winding up or other end;
  - (ii) (if you are a limited partnership) removing your general partner; or
  - (iii) the appointment of a liquidator, statutory manager, administrator, receiver, bankruptcy official or similar officer in respect of you or any of your assets;
- (g) (if you are the trustee(s) of a trust) you have not lost, limited or prejudiced your right to be reimbursed from the trust property;
- (h) you have the power to enter into and perform your obligations under this Agreement, have taken all necessary action, to authorise that entry and performance, and hold all necessary authorisations and consents for that entry and performance; and

- (i) your entry into, and the performance of your obligations, under this Agreement, do not and will not breach any agreement or instrument binding upon you or any of your assets (including any other agreement).

## 2. FUNDING AND PAYMENT

### 2.1 Funding

- (a) subject to your compliance with your obligations under this Agreement, the Ministry will pay you the Funding in accordance with the payment schedule set out in Schedule ("**Payments Schedule**") and under this clause;
- (b) you must use the Funding to pay the Student who has been employed to work on the project as set out in your Application and stated in the Schedule. You must not use the Funding to cover any costs relating to the Student's involvement in the Project incurred before the Contract Start Date or after the Contract End Date, and you may not invoice the Ministry for any such costs.

### 2.2 Payment preconditions

The Ministry is not required to make any payment under this Agreement until the following conditions have been satisfied (at our sole discretion):

- (a) you have provided us with satisfactory evidence of payments made to the Student by way of payslips evidencing that the Student was employed as a PAYE employee, clearly display the hours (which should be a minimum of 30 hours per week) and hourly rate at the time of claiming the Funding;
- (b) you have provided evidence of the Student's eligibility;
- (c) you have provided us with the Final Report on the Student's involvement in the Project;
- (d) if the Student was not paid the minimum hourly rate of \$29.90 then a top-up payment will be required to be made, and the additional payslip evidenced before any payment is made.
- (e) you have provided us with a one single invoice in accordance with clause 2.3 (b) below;
- (f) you are not in breach of any provision of this Agreement.

### 2.3 Payment

- (a) you must provide the Invoice no later than 2 months after the Contract End Date.
- (b) you must ensure that each Invoice:
  - (i) is in the form of a tax invoice that complies with the requirements of the Goods and Services Tax Act 1985;
  - (ii) specifies the payments made to the Student during the term of the Agreement, and
  - (iii) includes all information reasonably required to enable the Ministry to establish the accuracy of the invoice,
- (c) if the Ministry is satisfied with the Invoice and Final Report in all respects and the payment preconditions in clause 2.2 have been met, we will make payment at the next available payment date.
- (d) payment will be made in one lump sum amount.
- (e) if you do not provide an Invoice and Final Report that meets the requirements under this Agreement and to the Ministry's satisfaction within two months of the Contract End Date, the Ministry is not liable to pay any Funding to you under this Agreement.

## 2.4 Tax

- (a) the amount of Funding is exclusive of GST.
- (b) you are responsible for all taxation liabilities, bonuses, payments for annual leave/sick leave/bereavement leave, employer kiwi saver contributions, ACC, recruitment fees and other levies payable in relation to the Funding or employment of the Student. These costs are not eligible to claim under this Agreement.
- (c) Public and statutory holidays are supported that fall within the duration of the term worked by the Student. For the avoidance of doubt, hours that are worked by the Student that fall on Public or Statutory holidays are included within the 400 hours maximum limit.

## 3. INTELLECTUAL PROPERTY

- 3.1 All Intellectual Property Rights in the reports provided under clause 4 and in accordance with the Schedule will be owned by the Ministry from the date the reports are created or developed.
- 3.2 The Ministry acknowledges that it is not the author or commissioning party for any intellectual property arising from the Project (other than in the reports per clause 3.1), and that it has no claim to ownership of any intellectual property rights arising from the Project (other than in the reports per clause 3.1).

## 4. REPORTING AND RECORD KEEPING

- 4.1 The Ministry needs to monitor its provision of Funding for the Student's involvement in the Project so that it can identify and report the benefits to New Zealand arising from the Student's involvement in the Project, and take appropriate action if you do not comply with this Agreement.
- 4.2 You must provide the Ministry or its authorised agents with the reports specified in the reporting schedule specified in the Schedule.
- 4.3 All reports and information provided by you must be:
  - (a) provided in the form and manner specified by the Ministry from time to time;
  - (b) accurate; and
  - (c) provided in a timely manner.
- 4.4 You must:
  - (a) keep full, accurate and maintain up-to-date records in connection with the use of the Funding (including supporting documentation for all amounts payable by us), in accordance with recognised research and generally accepted accounting standards (and any other standards as notified by us from time to time) sufficient to enable us to meet our obligations under the Public Finance Act 1989;
  - (b) permit the Ministry (or an independent auditor appointed by the Ministry), at the Ministry's expense, to inspect or audit, from time to time until 7 years after termination or expiry of this Agreement, all records relevant to this Agreement;
  - (c) allow the Ministry reasonable access to your premises or other premises where the Funding is being used to carry out R&D Experience Grant activities and to you and your Personnel;
  - (d) appoint a reputable firm of chartered accountants as auditors to audit its financial statements in relation to the use of the Funding; and
  - (e) on our request, and at no cost to us, provide us with copies of any such records and any information or materials as we may reasonably request in any format and on any medium reasonably required by us.
- 4.5 If the Ministry decides to conduct an audit under clause 4.4(b), then you must:
  - (a) give the Ministry or the independent auditor, as applicable, full access to your premises,

Personnel, systems, information, data, accounts, documents and records relevant to this Agreement; and

- (b) assist the Ministry or the independent auditor, as applicable, in a timely manner with any audit conducted under clause 4.4(b) and ensure your Personnel also assist the Ministry or the independent auditor, including by making your relevant premises, personnel, systems, information, data, accounts, documents and records available if requested.

4.6 If an audit reveals any material non-compliance with this Agreement, you will, if required by the Ministry, bear the Ministry's reasonable costs in carrying out that audit, in addition to any other rights and remedies the Ministry may have in respect of the non-compliance.

## 5. REVIEW

5.1 The Ministry may at any time between the Contract Start Date and the date that is 3 years after the Contract End Date, carry out a review of the Student's involvement in the Project and the Ministry's investment in the Student's involvement in the Project ("**Review**"). You must participate in any Reviews as reasonably required by the Ministry, including by providing information requested by the Ministry. You must ensure you retain all relevant documentation pertaining to the Student's involvement in the Project including, but not limited to, evidence of the student's eligibility as set out in clause 1.2.

5.2 If a Review is carried out before the Contract End Date and is not satisfactory to the Ministry, the matter may be considered and managed in accordance with the Change Event provisions of this Agreement.

## 6. CONFIDENTIALITY

6.1 You acknowledge that the Ministry is required to release information relating to this Agreement, its investments in the Project, the progress of the Project, and the benefits to New Zealand from the Project, from time to time.

6.2 If you provide confidential information to the Ministry, you must advise the Ministry in writing that the information is confidential information.

6.3 You agree that the Ministry may release the following information relating to this Agreement, and the Project:

- (a) your name and contact details;
- (b) the Contract ID;
- (c) the title of the Project;
- (d) the fund from which Funding for the Student's involvement in the Project is provided;
- (e) the relevant sector;
- (f) the total amount of Funding paid in the current financial year and previous years;
- (g) the total amount of Funding payable over the duration of this Agreement;
- (h) the year Funding was approved;
- (i) statistics relating to the Student's involvement in the Project in aggregated form; and
- (j) information about the Student employed under this agreement (information that is provided at the time of claiming); and
- (k) if the Ministry has terminated this Agreement pursuant to clause 9.4, a summary of the reasons for the termination.

6.4 You acknowledge that the Ministry may release information relating to this Agreement to its duly appointed agents and advisors, New Zealand Trade and Enterprise, and to New Zealand host



tertiary education institution(s).

- 6.5 Except as provided for in clauses 6.3 and 6.4, the Ministry will not release information relating to this Agreement unless the Ministry is obliged to release that information under the Official Information Act 1982, the Privacy Act 2020, at law, under any regulation or to provide an answer to any parliamentary questions, meet any parliamentary requirements, or provide information to a Minister.
- 6.6 The Ministry will advise you if it receives a request under the Official Information Act 1982 or the Privacy Act 2020 for any information relating to this Agreement and will consult with you before responding to the request.

## 7. INFORMATION

### 7.1 Personal information

- (a) you agree that we may collect personal information about you and the Student in order to assess your Application and to administer, exercise our rights under, and enforce this Agreement. The sources for collecting that personal information may include your Application, our own records, other government agencies and (where reasonably necessary) other third party organisations.
- (b) you must obtain the Student's prior written consent to sharing their personal information, including, but not limited to, the student's payslips and eligibility evidence, with us for the purposes set out in this clause 7.1.
- (c) you agree that we may share any information (including personal information) collected from your Application or otherwise obtained as described above with:
- (i) our agents and advisers for the purposes of administering, exercising our rights under, and enforcing this Agreement;
  - (ii) other government agencies, and New Zealand tertiary education institutions including for statistical and audit purposes;
  - (iii) with any debt recovery organisation or similar agency for the purposes of collection or enforcement, and with any credit reporting agency; and
  - (iv) to any other person as required by law or under any regulation, or to provide an answer to any parliamentary questions, meet any parliamentary requirements, or provide information to a Minister.
- (d) under the Privacy Act 2020, you have a right to access and request a correction to any personal information we hold about you.

### 7.2 Publicity

- (a) any media release or other public statement produced by you that refers or otherwise relates to your Project or the Student, must refer to your participation in the R&D Experience Grant scheme (unless you have good reason to exclude such a reference). However, you must:
- (i) obtain our prior written approval to any such media release or other public statement; and
  - (ii) provide any proposed media release or public statement to us for our written approval at least 48 hours before the proposed publication or release time.
- (b) you must notify us of any enquiry relating to your participation in the R&D Experience Grant scheme made by the media to you or your staff.

## 8. CHANGE EVENTS

- 8.1 A change event ("**Change Event**") occurs if, either party during the term of this Agreement,

receives new information, or an event occurs or is likely to occur, that materially affects or is likely to materially affect this Agreement, the Project or the Student, including but not limited to, that the information or event:

- (a) prevents, or is reasonably likely to prevent, either party from being able to meet its obligations under this Agreement, including obligations relating to:
  - (i) the Funding or the Student; or
  - (ii) your ability or the Student's ability to carry out and complete the Project;
- (b) may result in the Student not being eligible as set out in clause 1.2;
- (c) may bring the reputation of the Ministry or the R&D Experience Grant scheme into disrepute;
- (d) an event that constitutes a "notifiable event" under the Health and Safety at Work Act 2015;

**8.2 If a Change Event occurs:**

- (a) the party with knowledge of the Change Event must immediately advise the other party of the Change Event by written notice; and
- (b) the Parties will discuss options to resolve the Change Event in good faith, which may include taking no action, negotiating a variation to this Agreement or terminating this Agreement.
- (c) Nothing in this clause prevents either party from exercising their respective powers under clause 9.

**9. TERM AND TERMINATION**

- 9.1 This Agreement will commence on the Contract Start Date specified in the Schedule and will end on the Contract End Date specified in the Schedule, unless terminated earlier in accordance with this Agreement.
- 9.2 The Ministry may terminate this Agreement at any time by providing at least 10 Business Days written Notice to you.
- 9.3 The Ministry may terminate this Agreement immediately by Notice to you if:
  - (a) you materially breach this Agreement;
  - (b) at any point during the term of the Agreement, the Student fails to continue to meet the eligibility criteria set out in clause 1.2;
  - (c) the Student ceases to be employed by you;
  - (d) the Student ceases working on the Project as specified in this Agreement;
  - (e) the Project ends or is put on hold;
  - (f) you use some or all of the Funding for purposes other than as set out in this Agreement, including misappropriation fraud, or claiming ineligible expenditure;
  - (g) you give any information, representation, or statement to the Ministry that is misleading or inaccurate in any material respect;
  - (h) you become or are presumed to be bankrupt, insolvent, are wound up, have a receiver, manager, or administrator appointed, or go into liquidation or receivership.
  - (i) a notifiable event (as defined in the Health and Safety at Work Act 2015) occurs in connection with the Student or Project;
  - (j) you are in breach of your obligations under this Agreement and that breach is not capable of being remedied;
  - (k) you fail to remedy any breach of your obligations under this Agreement within five



Business Days of receipt of notice of the breach from us;

- (l) you do or omit to do something or any matter concerning you comes to our attention which in our opinion may cause damage to the business or reputation of the Ministry or of the Government of New Zealand; or
- (m) you have a conflict of interest that:
  - (i) in our opinion is so material as to impact adversely on your participating in the R&D Experience Grant scheme, the Ministry or the New Zealand Government;
  - (ii) you fail to notify us of; or
  - (iii) in our opinion you are unable or unwilling to resolve or deal with as required by us acting reasonably.

9.4 If the Ministry terminates this Agreement under clause 9.3, the Ministry is not required to pay the Funding to you.

9.5 Termination of this Agreement is without prejudice to the rights and obligations that the parties have accrued up to and including the date of termination.

## 10. RETURN AND REPAYMENT OF FUNDING

10.1 On termination of this Agreement, we may (without limiting any of our other rights or remedies):

- (a) require you to provide evidence of how the Funding has been spent; and/or
- (b) require you to refund to the Ministry:
  - (i) any of the Funding that has not been spent or committed by you. For the purposes of this clause, Funding is committed where it has been provided or promised to a third party for the purpose of carrying out your R&D Experience Grant activities and you, after using reasonable endeavours, are unable to secure a refund or release from that promise (as the case may be); or
  - (ii) the proportion of the Funding that equates to the uncompleted part of your R&D Experience Grant activities as reasonably determined by the Ministry; and/or
  - (iii) If the Funding has been misused or misappropriated by you, require you to refund some or all of the Funding for the R&D Experience Grant scheme paid up to the date of termination, together with interest on that amount calculated at the Official Cash Rate of the Reserve Bank of New Zealand plus 5%, from the date you were paid the Funding to the date you repay the amount determined by the Ministry.

## 11. ENTIRE AGREEMENT

11.1 This Agreement sets out the entire agreements and understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to its subject matter.

## 12. NOTICES

12.1 Any notice given under this Agreement ("**Notice**") will be given by post or by email to the person and to the address nominated in the Schedule. Notices given will be deemed to have been given one Business Day after sending and Notices given by post will be deemed to have been given 3 Business Days after posting.

12.2 For the purposes of this clause, "**Business Day**" means any day not being a Saturday, a Sunday or public holiday as the term public holiday is defined in the Holidays Act 2003.

12.3 Notices to the Ministry will be sent to the following addresses, or any other address advised by the Ministry from time to time:

- (a) by post, to Funding and Contract Operations, Business and Consumer Branch, Te

Whakatairanga Service Delivery, Ministry of Business, Innovation and Employment, PO Box 1473, Wellington 6140; or

- (b) by email, to the Manager, Contract and Funding Operations at [fcmoperations@mbie.govt.nz](mailto:fcmoperations@mbie.govt.nz)

### 13. SURVIVAL OF CLAUSES

- 13.1 Expiry or termination of this Agreement for any reason does not affect the validity and enforceability of this clause, clause 3 (Intellectual Property), clause 4 (Reporting and Record Keeping), clause 5 (Review), clause 6 (Confidentiality), clause 7 (Information), clause 9 (Termination), clause 12 (Notices), clause 18 (Governing Law), clause 19 (Waiver) and clause 23 (Indemnity, Liability and Insurance) and the provisions of the Payment Schedule and any Special Conditions set out in the schedule which that, by their nature, continue to be relevant (or expressly survive termination)

### 14. FORCE MAJEURE

- 14.1 Neither Party will be liable to the other for any failure to perform its obligations under this Agreement by reason of any cause or circumstance beyond the Party's reasonable control including, acts of God, communication line failures, power failures, riots, strikes, lock-outs, labour disputes, fires, war, flood, earthquake or other disaster, or governmental action after the date of this Agreement ("**Force Majeure Event**"). The Party affected ("**affected party**") must:
- (a) notify the other Party ("non-affected party") as soon as practicable after the Force Majeure Event occurs of the nature and expected duration of the Force Majeure Event and keep the non-affected party reasonably informed of the steps the affected party is taking to mitigate and remedy the Force Majeure Event;
  - (b) use reasonable endeavours to mitigate the effect of the Force Majeure Event;
  - (c) continue to perform its obligations under this Agreement to the extent reasonably practicable; and
  - (d) resume full performance of its obligations under this Agreement as soon as reasonably practicable.

### 15. NATURE OF RELATIONSHIP

- 15.1 This Agreement does not create a relationship between us of employer and employee, principal and agent, partners, or joint venturers.

### 16. VARIATIONS

- 16.1 The terms of this Agreement are varied as set out in the Schedule (if applicable).
- 16.2 This Agreement may be varied only by agreement in writing and signed by the parties.

### 17. ASSIGNMENT & TRANSFER

- 17.1 You are not permitted to assign or otherwise transfer your rights and obligations under this Agreement without our prior written consent.
- 17.2 Any change affecting the control of your organisation will be deemed a transfer and an assignment.
- 17.3 We may:
- (a) assign or transfer any of our rights, powers and obligations under this Agreement without your consent; and
  - (b) disclose to any potential assignee or transferee such information (including personal information) and you and this Agreement as we consider appropriate. Any assignee or transferee may use such information for the same purposes and in the same manner as we can.

## **18. GOVERNING LAW**

- 18.1 This Agreement will be governed and construed in accordance with the laws of New Zealand and the parties irrevocably submit to the non-exclusive jurisdiction of the New Zealand courts.

## **19. WAIVER**

- 19.1 No failure on our part to exercise and no delay in exercising, any right under this Agreement operates as a waiver of that right, nor shall any single or partial exercise of any right under this Agreement prevent any other or further exercise thereof or the exercise of any other right. The remedies provided under this Agreement are cumulative and not exclusive of any remedies provided by law.

## **20. PARTIAL INVALIDITY**

- 20.1 The illegality, invalidity, or unenforceability of a provision of this Agreement under any law, does not affect the legality, validity, or enforceability of any other provision of this Agreement.
- 20.2 If any clause of this Agreement is held to be unenforceable or in conflict with the law, the invalid or unenforceable clause will be replaced with a clause, which as far as possible, accomplishes the original purpose of the clause.

## **21. HEALTH AND SAFETY**

- 21.1 You must promptly notify us of any notifiable events under the Health and Safety at Work Act 2015 that occur in the performance of the Agreement or that have the potential to impact the performance of the Agreement.
- 21.2 We may suspend this Agreement immediately by giving written notice to you if we have what we consider are material concerns about your health and safety practices. Upon notice of the suspension, you will have an opportunity to rectify the health and safety issue(s) specified in the notice to the satisfaction of us. If the health and safety issue(s) specified in the notice are not rectified to our satisfaction within 20 Business Days, we may terminate the Agreement immediately under clause 9.3 -

## **22. CONFLICT OF INTEREST**

- 22.1 You must maintain a high standard of honesty and integrity at all times in the performance of this Agreement and must avoid Conflicts of Interest.
- 22.2 You warrant that, as at the Contract Start Date, you have no Conflict of Interest, other than any that you have declared to us and which we have accepted in writing on the basis that you have implemented an appropriate management plan for such Conflict of Interest.
- 22.3 Without limiting clause 22.1, you must:
- (a) immediately notify us in writing if a Conflict of Interest arises; and
  - (b) take all actions reasonably required by us to manage any such Conflict of Interest.

## **23. INDEMNITY, LIABILITY, AND INSURANCE**

- 23.1 You indemnify the Ministry against any claim, liability, loss or expense, including, without limitation, legal fees on a solicitor own client basis, brought or threatened against or incurred by the Ministry arising from or in connection with this Agreement by you, or from the negligence or willful misconduct of you or your Personnel.
- 23.2 To the maximum extent permitted by law, the maximum liability of the Ministry under or in connection with this Agreement whether arising in contract, tort (including negligence), or otherwise, is the total amount which would be payable under this Agreement.
- 23.3 The Ministry is not liable for any loss of profit, loss of revenue or other indirect, consequential or incidental loss or damage arising under or in connection with this Agreement.
- 23.4 Where any person has entered into this Agreement as an independent trustee of the trust and are identified as an independent trustee, the Ministry acknowledges that provided the independent trustee



has no interest in any of the assets of the trust other than as trustee and, except where the independent trustee acts fraudulently, they are liable under this Agreement only to the extent of the value of the assets of the trust available to meet your liability, plus any amount by which the value of those assets has been diminished by any breach of trust caused by the independent trustee's willful default or dishonesty.

23.5 Where any person enters into this Agreement as a trustee of a trust, then (in addition to their warranty in clause 23.4) they warrant that:

- (a) they have signed this Agreement in accordance with the terms of the trust;
- (b) they have the right to be indemnified from the assets of the trust; and
- (c) all trustees of the trust have approved entry into this Agreement.

23.6 You must effect and maintain for the term of this Agreement:

- (a) adequate insurance to cover standard risks; and
- (b) other insurance reasonably required by the Ministry.

23.7 You must, upon request by the Ministry, provide the Ministry with evidence of its compliance with clauses 23.5 and 23.6.



## SCHEDULE

### Agreement Details — 2026/27 R&D Experience Grants

#### Contractor Details:

Name	
Address	
Contact person	
Contact phone	
Contact Email	

#### Approval Details:

Contract ID	
Proposal ID	
Project Title	
Funding (Clause 2)	<p>\$ [Contract value] GST Exclusive</p> <ol style="list-style-type: none"><li>1. The Ministry will contribute \$29.90 (gross/before deductions) per hour worked per Student up to a maximum of 400 hours (Total funding per student of \$11,960 GST excl.)</li><li>2. Student was employed by the business as a PAYE employee, for a minimum of 30 hours per week.</li><li>3. The Funding must only be applied to the Student's wages (public or statutory holidays that occurred during the period of the Student's employment can be claimed).</li></ol> <p>The following costs are ineligible to claim under this Agreement, as per clause 2: all taxation liabilities, bonuses, payments for annual leave/sick leave/bereavement leave, employer kiwi saver contributions, ACC, recruitment fees and other levies payable in relation to the Funding or employment of the Student.</p>
Contract Start Date	
Contract End Date	
Payment Schedule (Clause 2)	<ol style="list-style-type: none"><li>1. Payment will be in one lump sum at the end of the Student's employment and must be claimed using the Client Report function in the Grant Portal.</li><li>2. If there is more than one Student employed under this Agreement, payment can only be claimed at the end of the final Student's employment.</li></ol> <p>You must provide evidence and confirm the following via the online Grants Portal:</p> <ul style="list-style-type: none"><li>• the Student's eligibility</li><li>• valid Invoice from the contracted organisation</li><li>• provide payslips for the Student that clearly display the hours worked per pay cycle and the hourly rate</li></ul>



Final Report Date	<p>You must provide the Ministry with a Final Report via the online portal, detailing the Student's involvement in the Project in the format specified by the Ministry no later than 2 months after the Contract End Date.</p> <p>If the Final Report is not received by the due date to the Ministry's satisfaction, the Ministry is not liable to make the payment to you.</p>
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**Project and Student Details:**

Project title	No. of Students

**Special Conditions**

Condition	Type	Due Date	Date Satisfied

EXAMPLE