



**Australian Government**

**Australian Renewable Energy Agency**

## Funding Agreement

for the provision of [*insert description*]

number [insert]

Australian Renewable Energy Agency (**ARENA**)

[*Insert name of Recipient*] (**Recipient**)

Version 1.0 16 April 2013

[*Note: This is the template funding agreement for grants under the Research and Development Program.*]

[*insert name of Recipient*]

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# Funding Agreement

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*draft*

# Details

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## Date

## Parties

Name **Australian Renewable Energy Agency**  
ABN 35 931 927 899

Short form name **ARENA**

Name **[insert name of Recipient]**  
ABN **[insert the ABN of the Recipient]**

Short form name **Recipient**

## Background

- A The Australian Renewable Energy Agency (**ARENA**) invests funds to support the development, demonstration, commercialisation and deployment of renewable energy technologies.
- B ARENA will identify, store and disseminate information and knowledge about renewable energy technologies that is produced by ARENA-funded projects, with due consideration to intellectual property rights.
- C ARENA wishes to make funding available to the Recipient in furtherance of ARENA's objectives.
- D ARENA is required by law to ensure accountability for its funding and accordingly, the Recipient is required to be accountable for all Funds.
- E ARENA has agreed to the making of a grant of financial assistance to the Recipient for the purposes, and subject to the terms and conditions, set out in this Agreement.
- F The Recipient accepts the grant of financial assistance for the purposes, and subject to the terms and conditions, set out in this Agreement.

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# Agreed Terms

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## 1. Defined terms and interpretation

### 1.1 Defined terms

In this Agreement, except where the contrary intention is expressed:

**Accounting Standards** means standards of that name maintained by the Australian Accounting Standards Board (referred to in section 227 of the *Australian Securities and Investments Commission Act 2001* (Cth)) or other accounting standards which are generally accepted and consistently applied in Australia.

**Advisers** means:

- (a) the financial or legal advisers of a Party; and
- (b) the respective officers and employees of those financial or legal advisers.

**Agreed Terms** means clauses 1 to 32 of this Agreement.

**Agreement** means this agreement between ARENA and the Recipient, as varied from time to time in accordance with clause 32.7, and includes its Schedules and any attachments.

**Agreement Period** means the period specified in clause 2.

**Approved Purposes** means:

- (a) the activities specified in items 1 and 2 of Schedule 3;
- (b) activities which support or are incidental to the activities specified in Schedule 3 provided these are approved in writing by ARENA; and
- (c) other purposes approved in writing by ARENA.

**ARENA** means the Australian Renewable Energy Agency, established pursuant to the *Australian Renewable Energy Agency Act 2011* (Cth).

**ARENA Material** means any Material provided to the Recipient by ARENA, including the Material (if any) specified in item 7 of Schedule 1.

**ARENA Representative** means the person specified in item 9.1 of Schedule 1.

**ARENA's Activities** means the activities specified in item 1 of Schedule 6.

**ARENA's Purposes** means the purposes set out in clause 14.9(a)(i).

**Asset** means any item of tangible property purchased, leased, created or otherwise brought into existence either wholly or in part with use of the Funds, and which has a value at the time it is acquired or created by the Recipient of \$10,000 (excluding GST) or more, but does not include Project Material, Non-Project Material or Knowledge Sharing Deliverables.

**Auditing Standards** means the standards maintained by the Auditing and Assurance Standards Board (referred to in section 227A of the *Australian Securities and Investments Commission Act 2001* (Cth)) or other auditing standards which are generally accepted and consistently applied in Australia.

**Authority** means:

- (a) any Commonwealth, State, Territory, local or foreign government or semi-government authority, court, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality; or
- (b) any other person having jurisdiction in connection with work required for the Project.

**Budget** means the budget (if any) for expenditure of the Funds set out in item 3 of Schedule 2, as varied from time to time in accordance with this Agreement or otherwise by agreement in writing between the Parties.

**Business Day** means:

- (a) for receiving a Notice under clause 31, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the Notice is received; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory.

**Commencement Date** means the date specified in item 2.1 of Schedule 1.

**Commonwealth** means the Commonwealth of Australia.

**Completion Date** means the date ARENA accepts the Final Acquittal Report.

**Confidential Agreement Provisions** means any provisions of this Agreement identified as confidential in item 8 of Schedule 1.

**Confidential Information** means information that is by its nature confidential and:

- (a) is designated by a Party as confidential and is described in item 8 of Schedule 1;
- (b) is agreed by the Parties as confidential in writing after the Commencement Date; or
- (c) a Party knows or ought to know is confidential;

but does not include:

- (d) information which is or becomes public knowledge other than by breach of this Agreement or any other confidentiality obligation.

**Conflict of Interest** means a conflict that will or may impair the Recipient from conducting the Project fairly and independently.

**Corresponding WHS Law** has the same meaning as in section 4 of the *Work Health and Safety Act 2011* (Cth).

**Crisis** means any time of intense difficulty or danger in relation to the Project including:

- (a) any event or occurrence which could have a material adverse effect on the Recipient's ability to complete the Project;
- (b) any actual or alleged crime or serious misconduct by the Recipient or any of its Personnel or subcontractors in connection with the Project;
- (c) any incident or possible incident in connection with any Project activities that constitutes or may constitute a threat to the health, safety and wellbeing of any person or community, or otherwise threatens the environment or any property; and
- (d) any inappropriate release of information in relation to the Project that could affect ARENA's or the Commonwealth's reputation (for example, in breach of confidentiality or security requirements).

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**End Date** means the date specified in item 2.2 of Schedule 1.

**Final Acquittal Report** has the meaning given in item 3.1(b) of Schedule 4.

**Final Project Report** has the meaning given in item 4.1 of Schedule 4.

**Funds** means the funding paid by ARENA to the Recipient under this Agreement and any interest earned by, for or on behalf of the Recipient on that funding.

**GST Law** has the meaning given to it under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Ineligible Expenditure** means expenditure which is not eligible for the application of Funds as identified in the Proposal Guide or as otherwise notified to the Recipient from time to time but not ex post facto.

**Intellectual Property** means all intellectual property rights, including the following rights:

- (a) patents, copyright, rights in circuit layouts, designs, trade marks (including goodwill in those marks) and domain names;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere,

whether or not such rights are registered or capable of being registered, other than:

- (d) Moral Rights;
- (e) rights in relation to Confidential Information; and
- (f) the rights of performers.

**Interest** means interest calculated at the rate set out in item 8 of Schedule 2, on a daily compounding basis.

**IP Management Plan** means the Intellectual Property management plan in Schedule 8, as varied by agreement in writing between the Parties from time to time.

**Knowledge Sharing Activities** means the activities identified in the Knowledge Sharing Plan.

**Knowledge Sharing Deliverables** means the data specified in Table B in the Knowledge Sharing Plan and any Material to be provided to ARENA in accordance with Table C in the Knowledge Sharing Plan.

**Knowledge Sharing Plan** means the Knowledge Sharing Plan in Schedule 7, as varied by agreement in writing between the Parties from time to time.

**Law** means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law and rules of equity as applicable from time to time.

**Losses** means claims, liabilities, expenses, losses, damages and costs (including legal costs on a full indemnity basis, whether incurred by or awarded against a person).

**Material** includes property, information, software, firmware, documented methodology or process, documentation or other material in whatever form, including any reports, specifications, business rules or requirements, users manuals, users guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property.

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**Milestone** means a stage of completion of the Project as specified in item 2 of Schedule 2.

**Milestone Date** means the date specified in item 2 of Schedule 2, or such other date as otherwise agreed in writing by the Parties.

**Milestone Report** has the meaning given in item 2.1 of Schedule 4.

**Moral Rights** means the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the *Copyright Act 1968* (Cth).

**Non-Project Material** means all Reports, case studies, fact sheets and other Material specifically requested by ARENA to be produced by the Recipient for ARENA during the conduct of this Agreement but excludes Pre-existing Material, Third Party Material and Knowledge Sharing Deliverables.

**Notice** means a notice, demand, consent, approval or communication issued under this Agreement.

**Other Contributions** means the financial or in-kind contributions (if any) specified in item 6 of Schedule 2 or notified from time to time under clause 5.2.

**Outcomes** means the outcomes for the Project as specified in item 3 of Schedule 3.

**Party** means a party to this Agreement.

**Personnel**, in relation to a Party, means any employee, officer, agent, or professional adviser of that Party, and in the case of the Recipient, of any subcontractor.

**Pre-existing Material** means Material created or owned by the Recipient other than in performance of the Project and which is used by the Recipient in undertaking the Project.

**Privacy Act** means the *Privacy Act 1988* (Cth).

**Project** means the project described in Schedule 3.

**Project Lessons Learnt** means information, knowledge and lessons learned (both positive and negative) by the Recipient from the Project.

**Project Material** means any Material created by the Recipient in undertaking the research activities specified in Schedule 3, including any serendipitous discoveries that relate to renewable energy technology but excludes any Non-Project Material, ARENA Material, Pre-existing Material, Third Party Material and Knowledge Sharing Deliverables.

**Proposal Guide** means the document identified at item 3 of Schedule 1.

**Recipient**, where the context so admits, includes the officers, employees, contractors and agents of the Recipient and the Recipient's successors and assignees.

**Recipient Contributions** means the financial or in-kind contributions (if any) specified in item 5 of Schedule 3 or notified from time to time under clause 5.1.

**Recipient Representative** means the person specified in item 9.2 of Schedule 1.

**Related Agreement** means any agreement between the Parties under which ARENA provides funding to the Recipient, whether entered into before or after this Agreement.

**Related Commonwealth Agreement** any agreement between the Recipient and the Commonwealth under which the Commonwealth provides funding to the Recipient, whether entered into before or after this Agreement, but does not include a Related Agreement.

**Report** means any of the reports to be provided by the Recipient under this Agreement.

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**Restricted Information** means information identified as such in the Knowledge Sharing Plan.

**Risk Management Plan** means the risk management plan referred to in clause 3.4.

**Schedules** means the schedules to this Agreement.

**Special Conditions** means the terms in item 13 of Schedule 1.

**Specified Acts** means, unless specified otherwise in item 7.4 of Schedule 1:

- (a) failing to attribute or falsely attributing the authorship of any Material, or any content in the Material (including literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
- (b) materially altering the style, format, colours, content or layout of the Material and dealing in any way with the altered Material;
- (c) reproducing, communicating, adapting, publishing or exhibiting any Material; and
- (d) adding any additional content or information to the Material.

**Specified Personnel** means the Recipient's Personnel (if any) specified in item 10 of Schedule 1.

**Third Party Material** means Material owned by a third party that is:

- (a) included, embodied in or attached to the Project Material, Non-Project Material or Knowledge Sharing Deliverables; or
- (b) used by the Recipient in undertaking the Project.

**Warranted Material** means Material that is the subject of a warranty in clause 14.7(a)(i), 14.7(a)(ii) or 14.7(a)(iii).

**WHS Law** means all applicable Law relating to work health and safety, including the *Work Health and Safety Act 2011* (Cth), the WHS Regulations, and any applicable Corresponding WHS Laws.

**WHS Regulations** means the *Work Health and Safety Regulations 2011* (Cth).

## 1.2 Interpretation

In this Agreement, except where the contrary intention is expressed:

- (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 attachment is to a clause or paragraph of, or schedule or attachment to, this Agreement, and a reference to this Agreement includes any schedule or attachment;
- (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\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to the time in the place where the obligation is to be performed;
- (g) a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;

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- (i) 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;
- (j) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (k) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (l) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (m) 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;
- (n) 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; and
- (o) headings are for ease of reference only and do not affect interpretation.

### **1.3 Priority of documents**

If there is any inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of the inconsistency:

- (a) Special Conditions;
- (b) Agreed Terms;
- (c) Schedules;
- (d) any attachments to the Schedules; and
- (e) any documents incorporated by reference in this Agreement.

## **2. Duration of Agreement**

### **2.1 Agreement Period**

This Agreement begins on the Commencement Date and continues until the Completion Date or date of earlier termination.

## **3. Project**

### **3.1 Undertaking the Project**

The Recipient must:

- (a) undertake the Project in accordance with this Agreement, for the Approved Purposes and to achieve the Outcomes;
- (b) undertake the Project diligently, effectively, safely, to a high professional standard and without wilful misconduct in accordance with:
  - (i) all applicable Laws; and
  - (ii) any ARENA policies and specific requirements set out in item 4 of Schedule 1; and

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- (c) complete the Project by the End Date.

### 3.2 Warranties

The Recipient represents and warrants that:

- (a) it has full legal capacity and power to:
  - (i) own its own property and undertake the Project; and
  - (ii) enter into this Agreement,and to carry out the transactions that each of those contemplate;
- (b) it and its subcontractors and Personnel, including its Specified Personnel, have the necessary experience, skill, knowledge, expertise and competence to undertake the Project and (where appropriate) will hold such licences, permits or registrations as are required under any State, Territory or Commonwealth legislation to undertake the Project, and are fit and proper people;
- (c) all insurance policies required to be held by the Recipient under this Agreement:
  - (i) will remain in effect as provided for in this Agreement; and
  - (ii) will not be varied by the Recipient without ARENA's written consent; and
- (d) if the Recipient is a trustee, it enters this Agreement personally and in its capacity as trustee and has the power to perform its obligations under this Agreement.

### 3.3 Environmental impact

Unless otherwise agreed with ARENA, the Recipient must, where possible, use its reasonable endeavours to:

- (a) undertake the Project:
  - (i) with a view to minimising its environmental impact and carbon emissions;
  - (ii) using recycled or recyclable materials; and
  - (iii) providing 'whole of life' environmental solutions; and
- (b) provide advice and information to ARENA on the environmental impacts of the Project, where requested by ARENA.

### 3.4 Risk management

- (a) If item 5 of Schedule 3 states that this clause 3.4(a) applies, the Recipient must develop, implement and update a Risk Management Plan for the Project which includes the following features:
  - (i) clear identification and documentation of all key Project risks and categorization of those risks covering both likelihood of occurrence and potential consequence;
  - (ii) the proposed mitigation strategies and associated action plans that the Recipient determines necessary to eliminate the risks or, if this is not possible, minimise the likelihood and consequences of those risks occurring; and
  - (iii) a process for regularly monitoring and updating the Risk Management Plan and reporting to the Recipient's internal management, board and joint venture partners (if applicable),

and is consistent with relevant industry standards and best practice for this type of project and the types of risks it has.

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- (b) If specified in item 5 of Schedule 3, the Recipient must provide to ARENA certification for the benefit of ARENA from an independent, responsible and qualified person that the Risk Management Plan has been developed, is appropriate and consistent with best practice for this type of project and the types of risks it has, and is being implemented.
- (c) The person appointed to provide the certification under clause 3.4(b) must not be an employee, shareholder, director, other officeholder or related entity of the Recipient or any other person having (or having had) a significant involvement in the Project or any Report submitted under this Agreement.

### **3.5 Notification**

- (a) Without limiting any obligation to notify any Authority, the Recipient must advise ARENA as soon as possible of any Crisis in accordance with the protocol notified by ARENA to the Recipient from time to time.
- (b) The Recipient must notify ARENA as soon as practicable of any significant concerns of local community groups of which the Recipient becomes aware.

### **3.6 Compliance with WHS Law**

- (a) The Recipient, in connection with the Project, must:
  - (i) comply with the WHS Law; and
  - (ii) not do or allow to be done, or omit or allow to be omitted anything which may result in ARENA being in breach of the WHS Law.
- (b) Without limiting the generality of clause 3.6(a), the Recipient must ensure in connection with the Project, so far as is reasonably practicable:
  - (i) the health and safety of workers carrying out activities in connection with the Project;
  - (ii) that its workers, and the workers who in carrying out activities in connection with the Project are influenced or directed by the Recipient, take reasonable care while carrying out activities in connection with the Project;
  - (iii) the provision and maintenance of safe systems of work;
  - (iv) that workers:
    - (A) receive the necessary information, training, instruction and supervision in order to comply with the WHS Law and any rules, regulations, policies and guidelines issued from time to time by the Recipient; and
    - (B) are aware of, and comply with, any requirement or directive relating to work health and safety which is issued by the Recipient from time to time, and any directive relating to work health and safety which is issued by ARENA or the appropriate regulatory agency; and
  - (v) the health and safety of other persons is not put at risk from activities in connection with the Project.
- (c) The Recipient must immediately notify ARENA of any notifiable incidents or accidents (being an incident which is notifiable under WHS Law), injuries or damage to property of a serious nature that occurs in connection with the Project.
- (d) In relation to any incident notified to ARENA under clause 3.6(c), the Recipient must provide to ARENA:

- (i) an investigation report containing findings on the causes and effects of, and corrective and preventative actions arising from, any accident, notifiable incident, injury or damage to property notified to ARENA under clause 3.6(c); and
  - (ii) following the completion of an investigation report in accordance with clause 3.6(d)(i), a monthly report identifying the status of any preventative or corrective actions identified in that investigation report.
- (e) The Recipient must permit and must procure such further permission as may be deemed necessary for the Recipient and ARENA (or any person nominated by it) to inspect, examine, interview and take statements from the Recipient's Personnel as it deems fit (acting reasonably) for the purposes of determining the causes and effects of any notifiable incident or accident, injury or damage to property of a serious nature.
- (f) The Recipient must, so far as is reasonably practicable:
- (i) consult, co-operate and co-ordinate activities with ARENA to ensure compliance with the WHS Law in connection with the Project, including taking reasonable steps to facilitate and participate in any meetings, furnish and maintain current information and to take any other steps agreed between ARENA and the Recipient;
  - (ii) consult with its workers to ensure compliance with WHS Law in connection with the Project; and
  - (iii) consult, co-operate and co-ordinate activities with any other person who has a duty in relation to the same matter under the WHS Law involved in or connected to the Project (including all subcontractors), to ensure compliance with the WHS Law, including taking reasonable steps to facilitate subcontractor participation in any meetings, provision and maintenance of current work health and safety information and to take any other steps agreed between the Parties and those other persons.
- (g) In undertaking any activities under this Agreement, ARENA will not be commissioning any construction projects in connection with the Project or for the purposes of Part 6 of the WHS Regulations.

## 4. Funds

### 4.1 Payment

Subject to:

- (a) clauses 4.2 and 4.3;
- (b) completion of the relevant Milestone to ARENA's reasonable satisfaction;
- (c) acceptance by ARENA of the relevant Milestone Report in accordance with clause 22;
- (d) ARENA's funding from:
  - (i) the Commonwealth; and
  - (ii) any of ARENA's other sources of funding,
 being sufficient and available; and
- (e) the Recipient complying with this Agreement,

ARENA will pay the funding to the Recipient in accordance with item 2 of Schedule 2.

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## 4.2 Suspension

- (a) Without limiting any other right or remedy of ARENA, ARENA may suspend payment of funding if:
- (i) any Recipient Contributions or Other Contributions due to be provided before the date for payment have not been provided, until those Recipient Contributions or Other Contributions have been provided;
  - (ii) the Recipient has not provided a Report due to be provided before the date for payment, until the Report is provided;
  - (iii) a Report provided by the Recipient is rejected by ARENA, until a replacement Report is accepted by ARENA;
  - (iv) the Recipient has not achieved a Milestone that was due to be achieved before the date for payment, until the Milestone is achieved;
  - (v) the Recipient is otherwise in breach of this Agreement, until that breach is remedied;
  - (vi) the Recipient has not otherwise undertaken the Project to the reasonable satisfaction of ARENA, until the Recipient remedies its performance;
  - (vii) the Recipient has not, or ARENA, acting reasonably, forms the opinion that the Recipient has not, spent Funds, until the Recipient has done so;
  - (viii) ARENA, acting reasonably and after auditing the Project's accounting records, forms the opinion that the records are not kept or maintained in a satisfactory form in accordance with the requirements of this Agreement, until the Recipient rectifies the records to the reasonable satisfaction of ARENA;
  - (ix) ARENA, acting reasonably, forms the opinion that the Recipient will not:
    - (A) spend the Funds for the Approved Purposes;
    - (B) apply the Funds in accordance with this Agreement; or
    - (C) spend the Funds in accordance with the Budget,until ARENA, acting reasonably, forms the opinion that the Recipient will do so;
  - (x) the Recipient has received, or requested to receive, other funds for the Project, until (if required by ARENA) this Agreement is varied to remove any overlap; or
  - (xi) the Recipient is in breach of a Related Agreement or Related Commonwealth Agreement, until that breach is remedied.
- (b) Despite any suspension, the Recipient must continue to perform its obligations under this Agreement, to the extent possible with the Funds available to it.

## 4.3 Reduction

Without limiting any other right or remedy of ARENA, ARENA may reduce the amount of any instalment of funding:

- (a) if by the date for payment of the instalment the Recipient has not spent Funds, by the amount that has not been spent;
- (b) if, in ARENA's opinion, Funds have been spent other than in accordance with this Agreement, by the amount that, in ARENA's opinion, was spent other than in accordance with this Agreement;

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- (c) if any Recipient Contributions or Other Contributions due to be provided before the date for payment of the instalment have not been provided, by an amount that represents the same proportion of the total funding for the Project specified in item 1 of Schedule 2 as those Recipient Contributions or Other Contributions are of the total Recipient Contributions and Other Contributions; or
- (d) if the Recipient has received, or requested to receive, other funds for the Project, by the amount the Recipient has received or requested to receive.

#### **4.4 Recipient to provide invoice**

On acceptance by ARENA of the Milestone Report in accordance with clause 22.2 for a Milestone, the Recipient must provide a correctly rendered invoice to ARENA for the funding applicable to that Milestone.

#### **4.5 Invoicing requirements**

- (a) The invoice must meet the requirements of a tax invoice as set out in the GST Law and be in a form approved by ARENA which sets out:
  - (i) the Agreement number and Project title;
  - (ii) the amount of funding to be paid by ARENA, together with any substantiating material required; and
  - (iii) such other information as ARENA requires.
- (b) Invoices should be submitted to:

Title: Client Manager, Renewable Futures  
Australian Renewable Energy Agency  
Street address: NewActon Nishi, 2 Phillip Law Street, Canberra City ACT 2601  
Postal address: GPO Box 643, Canberra ACT 2601  
Email: contracted@arena.gov.au,

or to such position and address as notified in writing by ARENA from time to time.

#### **4.6 Due date for payment**

ARENA must make payment of a correctly rendered invoice within 30 days after receiving the invoice.

#### **4.7 Incorrect invoices, under/over payment**

If an invoice is found to have been rendered incorrectly after payment, any underpayment or overpayment will be recoverable by or from the Recipient, as the case may be.

#### **4.8 No additional funds**

ARENA is not responsible for the provision of additional money to meet any expenditure for the Project in excess of the funding specified in Schedule 2.

#### **4.9 Taxes**

The Recipient must pay:

- (a) all stamp duty (including penalties and interest) assessed or payable in respect of this Agreement and the Project; and
- (b) subject to clause 6, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement.

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## 5. Contributions

### 5.1 Recipient Contributions

- (a) The Recipient must provide the Recipient Contributions to the Project.
- (b) The Recipient must notify ARENA within 7 days if the Recipient increases its financial or in-kind contributions to the Project.

### 5.2 Other Contributions

- (a) The Recipient must provide ARENA with written evidence, in a form and substance satisfactory to ARENA, that the persons (if any) identified in item 6 of Schedule 2 will provide the Other Contributions on terms consistent with this Agreement, including:
  - (i) the amounts to be provided;
  - (ii) the due dates for each of these amounts; and
  - (iii) the other terms and conditions of the provision of the Other Contributions.
- (b) ARENA is not required to provide any funding to the Recipient unless and until the written evidence referred to in clause 5.2(a) is provided or the requirement in clause 5.2(a) is waived by ARENA.
- (c) The Recipient must notify ARENA within 7 days after entering into any arrangement (whether contractual or statutory) under which it is entitled to receive any contributions to the Project which are not specified in Schedule 2.
- (d) The Recipient must notify ARENA if it applies to receive any other funds from the Commonwealth or a Commonwealth agency or authority for the Project.
- (e) Other Contributions provided cannot form part of the Recipient Contributions to the Project.

## 6. GST

### 6.1 Construction

In this clause 6 words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

### 6.2 Gross up of consideration

Unless otherwise expressly stated, all amounts set out in the Schedules are exclusive of GST. If a Party (**Supplier**) makes a supply under or in connection with this Agreement on which GST is imposed then the GST exclusive amount payable for that supply will be increased by, and the recipient of the supply will pay to the Supplier, an additional amount equal to the GST payable on that supply, provided that the Supplier has first issued a tax invoice to the recipient of that supply.

### 6.3 Reimbursements

No Party may claim from the other an amount for which the first Party can obtain an input tax credit.

## 7. Milestones

### 7.1 Achieving Milestones

Subject to this clause 7, the Recipient must meet the Milestones by the Milestone Dates.



## 7.2 Notification of non-achievement of Milestone

If a Milestone is not achieved or achievable by the Milestone Date, the Recipient must notify ARENA in writing, in advance wherever possible, that the Milestone has not or will not be met and provide ARENA with details of:

- (a) the Project;
- (b) the Milestone;
- (c) the nature of and reason for the delay;
- (d) how the Recipient proposes to deal with the delay;
- (e) the expected date on which the Milestone will be achieved;
- (f) the expected effect the delay may have on the Project's timeframes and specifically, on the Project's other Milestones and Milestone Dates; and
- (g) any expected effect on the Budget.

## 7.3 Dealing with non-achievement of Milestone

Without limiting its rights under clauses 4.2 and 4.3, in dealing with a matter arising under clause 7.2, ARENA will decide, in its absolute discretion, whether:

- (a) to take steps to terminate this Agreement in accordance with clause 26; or
- (b) to accept the reasons for the delay, in which case the Budget, Milestones or any other items in Schedule 2 may be varied in accordance with clause 32.7.

## 7.4 Review of Milestones

- (a) On completion of a Milestone, on request by the Recipient, ARENA may, in its sole discretion, agree to review and change further Milestone requirements if it agrees that such change may improve the expected outcomes of the Project or assist ARENA to demonstrate Project funding effectiveness.
- (b) Any change will not have effect until this Agreement is varied in accordance with clause 32.7.

## 8. Use of Funds

### 8.1 Expenditure of Funds

The Recipient must expend the Funds solely and specifically for the Approved Purposes and in accordance with the terms and conditions set out in this Agreement.

### 8.2 Budget

- (a) The Recipient must expend the Funds solely in accordance with the Budget.
- (b) Subject to clauses 8.2(c) and (d), the Recipient may vary a Budget by re-allocating expenditure to years or items specified in the Budget.
- (c) Any variation under clause 8.2(b) which increases or decreases the amount allocated to a year or an item of expenditure in a Budget by more than the amount specified in item 4 of Schedule 2 cannot be made without ARENA's prior written approval.
- (d) The Recipient must notify ARENA whenever the Recipient varies the Budget in accordance with clause 8.2(b) and provide a copy of the varied Budget to ARENA.
- (e) If requested by ARENA at any time, the Recipient must provide within a reasonable time a proposed varied Budget with reasons for any proposed variations.

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### 8.3 What Funds cannot be used for

- (a) The Recipient must not spend Funds on Ineligible Expenditure.
- (b) The Recipient must not spend more than 10% of the Funds on overseas expenditure, other than equipment or materials, unless otherwise agreed in writing by ARENA.

### 8.4 When Funds cannot be used

- (a) Without limiting any other right or remedy of ARENA, ARENA may by notice direct the Recipient not to spend Funds if:
  - (i) any Recipient Contributions or Other Contributions that were due to be provided before the date of notification have not been provided;
  - (ii) the Recipient has not completed a Report that was due before the date of notification;
  - (iii) a Report provided by the Recipient is rejected by ARENA;
  - (iv) the Recipient has not achieved a Milestone that was due to be achieved before the date of notification;
  - (v) the Recipient is otherwise in breach of this Agreement;
  - (vi) the Recipient has not otherwise undertaken the Project to the reasonable satisfaction of ARENA;
  - (vii) ARENA, acting reasonably, forms the opinion that the Recipient will not:
    - (A) spend the Funds for the Approved Purposes;
    - (B) apply the Funds in accordance with this Agreement; or
    - (C) spend the Funds in accordance with the Budget; or
  - (viii) the Recipient has received, or requested to receive, other funds from the Commonwealth for the Project.
- (b) The Recipient must not spend any Funds after it receives notice from ARENA under clause 8.4(a) unless and until ARENA notifies the Recipient otherwise.

### 8.5 Bank account

The Recipient must:

- (a) ensure that all Funds are held in an account in the Recipient's name, and which the Recipient solely controls, with an authorised deposit-taking institution authorised under the *Banking Act 1959* (Cth) to carry on banking business in Australia;
- (b) unless specified otherwise in Schedule 2, ensure that the account referred to in clause 8.5(a) is:
  - (i) established solely for the purposes of accounting for, and administering, any Funds;
  - (ii) an account that bears a rate of interest reasonably required by ARENA;
  - (iii) separate from the Recipient's other operational accounts; and
  - (iv) able to effect electronic transfers;
- (c) unless the Recipient is a sole director company or an individual, ensure that two signatories, who have the Recipient's authority to do so are required to operate the account;

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- (d) notify ARENA, prior to the receipt of any funding, of details sufficient to identify the account;
- (e) on notification from ARENA, provide ARENA and the authorised deposit-taking institution with an authority for ARENA to obtain any details relating to the use of the account;
- (f) if the account changes, notify ARENA within 14 days after the change occurring, providing ARENA with details of the new account, and comply with clause 8.5(e) in respect of the new account; and
- (g) identify the receipt and expenditure of the Funds separately within the Recipient's accounting records so that at all times the Funds are identifiable and ascertainable.

## **8.6 Use of interest on Funds**

Any interest earned by the Recipient on the Funds must be used and dealt with by the Recipient as if the interest earned were part of the Funds.

## **9. Repayment**

### **9.1 During the Agreement Period**

During the Agreement Period, ARENA is entitled to recover from the Recipient the amount of any Funds which, at any time, in ARENA's reasonable opinion, have been spent other than in accordance with this Agreement.

### **9.2 At the end of this Agreement**

After the expiry or termination of this Agreement, ARENA is entitled to recover from the Recipient:

- (a) any Funds which have not been spent, or legally committed for expenditure by the Recipient in accordance with this Agreement and payable by the Recipient as a current liability (written evidence of which will be required), before the expiry or termination of this Agreement; and
- (b) the amount of any Funds which, in ARENA's reasonable opinion, have been spent other than in accordance with this Agreement.

### **9.3 Repayment notice**

- (a) ARENA may give the Recipient a notice requiring the Recipient to pay to ARENA (or deal with as specified by ARENA) an amount which ARENA is entitled to recover under this clause 9.
- (b) If ARENA gives a notice under clause 9.3(a), the Recipient must pay the amount specified in the notice in full (or deal with it as specified by ARENA) within 30 days after the date of the notice.

### **9.4 Interest**

- (a) If ARENA notifies the Recipient that an amount is to be refunded or paid to ARENA in accordance with a provision of this Agreement and the amount is not refunded or paid within 30 days, or as otherwise notified by ARENA, the Recipient agrees to pay Interest, unless ARENA notifies the Recipient otherwise, on the amount outstanding after the expiry of the date it was due, until the amount is paid in full.
- (b) In respect to any obligation the Recipient may have under this Agreement to pay ARENA any Interest, the Recipient agrees that the Interest represents a reasonable pre-estimate of the loss incurred by ARENA.

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## 9.5 ARENA's rights

This clause 9 does not limit any other right or remedy of ARENA.

## 10. Assets

### 10.1 Ownership

Subject to the terms of any lease or other arrangement, the Recipient owns any Asset.

### 10.2 Use and dealings

During the Agreement Period, the Recipient must:

- (a) use all Assets only for the purposes of the Project, or other purposes consistent with the Outcomes;
- (b) obtain good title to all Assets (other than Assets which the Recipient leases);
- (c) not encumber or dispose of any Asset, or deal with or use any Asset other than in accordance with this clause 10, without ARENA's prior written approval;
- (d) make Assets valued at over \$1 million available to the broader Australian renewable energy research community, subject to the reasonable terms and conditions of the Recipient;
- (e) hold all Assets securely and insure and safeguard them against theft, loss, damage, or unauthorised use;
- (f) maintain all Assets in good working order;
- (g) if required by Law, maintain registration and licensing of all Assets;
- (h) reinstate Assets from insurance proceeds, where applicable, and treat surplus insurance proceeds as Funds; and
- (i) be fully responsible for, and bear all risks relating to, the use or disposal of all Assets.

### 10.3 Assets register

- (a) If specified in item 5 of Schedule 1, the Recipient must maintain an Assets register containing the following details:
  - (i) Asset description;
  - (ii) purchase price or total lease cost;
  - (iii) date of purchase or lease;
  - (iv) type and term of lease;
  - (v) location of Asset;
  - (vi) date of disposal approval;
  - (vii) disposal date; and
  - (viii) disposal method.
- (b) The Recipient must, on reasonable notice by ARENA, provide access to, and copies of, the Assets register as and when required by ARENA.

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## 11. Books and records

### 11.1 Recipient to keep books and records

The Recipient must:

- (a) keep and require its subcontractors to keep adequate books and records, in accordance with Accounting Standards, in sufficient detail to enable:
  - (i) all receipts and payments related to the Project, including Other Contributions, to be identified and reported in accordance with this Agreement; and
  - (ii) the amounts payable by ARENA under this Agreement to be determined; and
- (b) retain and require its subcontractors to retain for a period of 7 years after termination or expiration of this Agreement all books and records relating to the Project.

### 11.2 In-kind contributions

- (a) The Recipient must keep records of any in-kind Recipient Contributions and Other Contributions in a form suitable for inspection by ARENA.
- (b) The Recipient's allocation of overheads, assets, salaries and other costs and expenses in relation to in-kind Recipient Contributions and Other Contributions must be based on reasonable grounds and substantiated.

### 11.3 Costs

The Recipient must bear its own costs of complying with this clause 11.

### 11.4 Survival

This clause 11 applies for the Agreement Period and for a period of 7 years from the termination or expiry of this Agreement.

## 12. Audit and access

### 12.1 Right to conduct audits

ARENA or a representative may conduct audits relevant to the performance of the Recipient's obligations under this Agreement. Audits may be conducted of:

- (a) the Recipient's operational practices and procedures as they relate to this Agreement;
- (b) the accuracy of the Recipient's invoices and Reports;
- (c) the Recipient's compliance with its confidentiality and privacy obligations under this Agreement;
- (d) Material (including books and records) in the possession of the Recipient relevant to the Project or this Agreement;
- (e) Assets;
- (f) the records maintained under clause 11.2; and
- (g) any other matters determined by ARENA to be relevant to the Project or this Agreement.

### 12.2 Access by ARENA

- (a) ARENA may, at reasonable times and on giving reasonable notice to the Recipient:
  - (i) access the premises of the Recipient and premises where the Recipient keeps any Assets, to the extent relevant to the performance of this Agreement;

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- (ii) require the provision by the Recipient, its employees, agents or subcontractors, of records and information in a data format and storage medium accessible by ARENA by use of ARENA's existing computer hardware and software;
  - (iii) inspect and copy documentation, books and records, however stored, in the custody or under the control of the Recipient, its employees, agents or subcontractors; and
  - (iv) require assistance in respect of any inquiry into or concerning the Project or this Agreement. For these purposes an inquiry includes any administrative or statutory review, audit or inquiry (whether within or external to ARENA), any request for information directed to ARENA, and any inquiry conducted by Parliament or any Parliamentary committee.
- (b) The Recipient must provide access to its computer hardware and software to the extent necessary for ARENA to exercise its rights under this clause 12, and provide ARENA with any reasonable assistance requested by ARENA to use that hardware and software.

### **12.3 Conduct of audit and access**

ARENA must use reasonable endeavours to ensure that:

- (a) audits performed pursuant to clause 12.1; and
- (b) the exercise of the general rights granted by clause 12.2 by ARENA,

do not unreasonably delay or disrupt in any material respect the Recipient's performance of its obligations under this Agreement or its business.

### **12.4 Costs**

- (a) Except as set out in clause 12.4(b), each Party must bear its own costs of any reviews and audits.
- (b) If the Recipient is able to substantiate that it has incurred direct expenses in ARENA's exercise of the rights granted under clause 12.1 or clause 12.2 which, having regard to the value of this Agreement, are substantial, ARENA and the Recipient will negotiate an appropriate reimbursement. Any reimbursement must not be greater than the direct expenses incurred. The Recipient must not incur any expenses without the prior written agreement of ARENA.

### **12.5 Commonwealth officers**

The rights of ARENA under clause 12.2(a)(i) to 12.2(a)(iii) apply equally to the Auditor-General, Information Commissioner, Privacy Commissioner and Freedom of Information Commissioner and their delegates, for the purpose of performing their statutory functions or powers.

### **12.6 Recipient to comply with Commonwealth officers' requirements**

The Recipient must do all things necessary to comply with the Auditor-General's, Information Commissioner's, Privacy Commissioner's or Freedom of Information Commissioner's or his or her delegate's requirements, notified under clause 12.2, provided such requirements are legally enforceable and within the power of the Auditor-General, Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner, or his or her respective delegate.

### **12.7 No reduction in responsibility**

The requirement for, and participation in, audits does not in any way reduce the Recipient's responsibility to perform its obligations in accordance with this Agreement.

## **12.8 Subcontractor requirements**

The Recipient must ensure that any subcontract entered into for the purpose of this Agreement contains an equivalent clause granting the rights specified in this clause 12.

## **12.9 No restriction**

Nothing in this Agreement reduces, limits or restricts in any way any function, power, right or entitlement of the Auditor-General, Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner or their delegates. The rights of ARENA under this Agreement are in addition to any other power, right or entitlement of the Auditor-General, Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner or their delegates.

## **12.10 Survival**

This clause 12 applies for the Agreement Period and for a period of 7 years from the termination or expiry of this Agreement.

## **13. ARENA Material**

- (a) ARENA will provide to the Recipient ARENA Material and the Recipient must ensure that ARENA Material is used strictly in accordance with any conditions or restrictions specified in item 7 of Schedule 1 and any direction by ARENA.
- (b) ARENA grants to the Recipient, subject to any conditions, restrictions or directions specified by ARENA, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate ARENA Material solely for the purpose of undertaking the Project.
- (c) The Recipient is responsible for the safe keeping and maintenance of ARENA Material.

## **14. Intellectual Property**

### **14.1 Pre-existing Material, Third Party Material and ARENA Material**

This clause 14 does not affect the ownership of the Intellectual Property in any Pre-existing Material, Third Party Material or ARENA Material.

### **14.2 Protection of Intellectual Property**

The Recipient must promptly take all reasonable steps to secure and protect any Intellectual Property arising from the Project.

### **14.3 IP Management Plan**

The Recipient must comply with the IP Management Plan when undertaking the Project.

### **14.4 Third Party Material**

The Recipient must obtain all necessary copyright and other Intellectual Property permissions before making any Third Party Material available for the purpose of this Agreement or the Project.

### **14.5 Intellectual Property in Non-Project Material and Knowledge Sharing Deliverables**

- (a) All Intellectual Property in the Non-Project Material vests in ARENA.
- (b) All Intellectual Property in the Knowledge Sharing Deliverables vests in the Recipient.
- (c) To the extent that ARENA needs to use:

- (i) any Third Party Material or Pre-existing Material to enjoy the full ownership rights in the Non-Project Material; or
- (ii) any Knowledge Sharing Deliverables, or any Third Party Material or Pre-existing Material in the Knowledge Sharing Deliverables,

the Recipient grants to, or must obtain for, ARENA a perpetual, world-wide, fee free, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify, communicate, broadcast, distribute, publish and disseminate that Third Party Material, Pre-existing Material or Knowledge Sharing Deliverable.

- (d) Unless otherwise agreed in writing, ARENA must treat any Confidential Information licensed under this clause 14.5 as confidential in accordance with clause 18 provided that such Material falls within the definition of Confidential Information.
- (e) The licence granted to ARENA under this clause 14.5 in relation to Knowledge Sharing Deliverables is subject to any conditions specified in the Knowledge Sharing Plan.
- (f) ARENA grants to the Recipient a perpetual, world-wide, royalty free, non-exclusive licence (including the right to sublicense) to exploit, use, reproduce, adapt, modify and communicate the Non-Project Material.

#### **14.6 Intellectual Property in Project Material**

- (a) All rights including Intellectual Property in the Project Material will vest in the Recipient on creation.
- (b) The Recipient must exploit the Project Material for the development of the renewable energy industry in Australia and elsewhere and to maximise the national benefits accruing to Australia from that exploitation.

#### **14.7 Warranty**

- (a) The Recipient represents and warrants that:
  - (i) except to the extent disclosed to ARENA in writing, to its actual knowledge or belief, without the need to make additional enquiries, conduct searches or seek legal or patent opinion, it is entitled to provide the Non-Project Material and Knowledge Sharing Deliverables which it provides to ARENA or the Commonwealth and any other Material provided under clause 14.9;
  - (ii) except to the extent disclosed to ARENA in writing, to its actual knowledge or belief, without the need to make additional enquiries, conduct searches or seek legal or patent opinion, the use of the Non-Project Material, Knowledge Sharing Deliverables and any other Material provided to ARENA under clause 14.9, by ARENA or the Commonwealth in accordance with this Agreement will not infringe the Intellectual Property of another person;
  - (iii) the use of:
    - (A) the Pre-existing Material and Third Party Material, disclosed in items 7.2 and 7.3 of Schedule 1; and
    - (B) Pre-existing Material and Third Party Material provided to ARENA by the Recipient,by ARENA or the Commonwealth in accordance with this Agreement will not infringe the Intellectual Property of another person;
  - (iv) except to the extent:

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- (A) disclosed in items 7.2 and 7.3 of Schedule 1; or
  - (B) in the case of any Warranted Material not specified in Schedule 1, notified in writing to ARENA at the time of offering such Warranted Material,
- the Recipient has not entered any agreement regarding, or otherwise dealt with, that Warranted Material that is inconsistent with the rights granted to ARENA as described in this clause 14; and
- (v) it will not enter any agreement in relation to or otherwise deal with that Warranted Material in a manner that restricts the exercise of the rights granted to ARENA as described in this clause 14.

#### **14.8 Remedy for breach of warranty**

If someone reasonably claims, or ARENA reasonably believes that someone is likely to claim, that all or part of the Warranted Materials in the form provided by the Recipient infringes their Intellectual Property, the Recipient must, in addition to the indemnity under clause 17 and to any other rights that ARENA may have against it, promptly, at the Recipient's expense:

- (a) use its reasonable efforts to secure the rights for ARENA to continue to use the affected Warranted Materials free of any claim or liability for infringement; or
- (b) replace or modify the affected Warranted Materials so that the Warranted Materials or the use of them does not infringe the Intellectual Property of any other person without any degradation of the performance or quality of the affected Warranted Materials.

#### **14.9 Provision of Project information for ARENA Purposes**

- (a) The Recipient acknowledges that:
  - (i) ARENA has been established for the purposes set out in the *Australian Renewable Energy Agency Act 2011* (Cth)), including to:
    - (A) improve the competitiveness of renewable energy technologies and increase the supply of renewable energy in Australia;
    - (B) provide financial assistance for research into and development, demonstration, commercialisation and deployment of renewable energy and related technologies; and
    - (C) collect, analyse, interpret and disseminate knowledge about renewable energy and related technologies,

**(ARENA's Purposes);**
  - (ii) in order to fulfil ARENA's Purposes, ARENA intends to undertake ARENA's Activities; and
  - (iii) ARENA will only be able to perform ARENA's Activities if the Recipient gives to ARENA information about the Project.
- (b) ARENA acknowledges that:
  - (i) in order for the Recipient to develop and commercialise the technology that is the primary focus of the Project, the Recipient, and those with whom it has chosen to collaborate to develop and commercialise the technology, are likely to treat certain information arising from the Project as confidential; and
  - (ii) such information, provided that it complies with the definition of Confidential Information, will be dealt with by the Parties in accordance with clause 18.

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- (c) Having regard to the matters referred to in clauses 14.9(a) and 14.9(b), if ARENA requests information (which may include Project Material) from the Recipient that ARENA will use for ARENA's Activities, the Recipient:
- (i) must provide that information as soon as possible to ARENA but no later than 10 Business Days after the date of a written request from ARENA to do so; and
  - (ii) upon provision of that information to ARENA, grants or will procure for the benefit of:
    - (A) ARENA; and
    - (B) the Commonwealth, if requested by ARENA,such licences to use that information as are necessary to enable ARENA or the Commonwealth (as the case may be) to fulfil ARENA's Activities, but not including the right to exploit that Intellectual Property for commercial purposes. The term of any such licence must be perpetual and the licence must be irrevocable, fee free and royalty free.

## 15. Moral Rights

To the extent permitted by applicable Laws and for the benefit of ARENA, the Recipient must use its best endeavours to ensure that:

- (a) each of the Personnel used by the Recipient in the production or creation of the Non-Project Material or Knowledge Sharing Deliverables gives, in a form acceptable to ARENA; and
- (b) any holder of Moral Rights in Third Party Material or Pre-existing Material included in the Non-Project Material or Knowledge Sharing Deliverables gives,

genuine consent in writing to the use of the Material for the Specified Acts, even if such use would otherwise be an infringement of their Moral Rights.

## 16. Knowledge sharing, acknowledgement and public announcements

### 16.1 Knowledge sharing

- (a) The Recipient must:
  - (i) in consultation with ARENA, implement and comply with the Knowledge Sharing Plan;
  - (ii) use its best endeavours to achieve the objectives specified in the Knowledge Sharing Plan;
  - (iii) in consultation with ARENA, undertake the Knowledge Sharing Activities;
  - (iv) ensure that the Knowledge Sharing Activities are disseminated as widely as possible;
  - (i) ensure that the Knowledge Sharing Activities are suitably resourced and coordinated and that they are implemented to the standard required by the Knowledge Sharing Plan;
  - (v) provide the Knowledge Sharing Deliverables to ARENA in accordance with the Knowledge Sharing Plan;

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- (vi) ensure that Knowledge Sharing Deliverables and Project Lessons Learnt are properly captured, securely stored, and reported to ARENA in accordance with the Knowledge Sharing Plan;
- (vii) be reasonably available to answer any queries relating to the Project raised by ARENA; and
- (viii) at the reasonable request of ARENA, participate in relevant meetings, conferences, seminars, workshops, surveys and interviews, deliver presentations and provide briefings to the ARENA Board and ARENA staff and other relevant industry forums on the progress of the Project.

## 16.2 On site demonstrations

- (a) Subject to safety and operational requirements and limitations, during the term of this Agreement and for a period of two years after the expiry or termination of this Agreement, the Recipient must:
  - (i) allow escorted visits by interested persons approved by ARENA or the Recipient (**Visitors**) to sites under the Recipient's control at which activities in relation to the Project are conducted;
  - (ii) use its best endeavours to obtain permission for escorted visits by Visitors to sites not under the Recipient's control at which activities in relation to the Project are conducted; and
  - (iii) demonstrate to Visitors the Project outcomes and relevant technology and provide a detailed explanation of the Project, its performance and the technology and how it was developed including answering Visitors' questions.
- (b) The Recipient must notify the ARENA Representative of any proposed escorted visits by Visitors.
- (c) ARENA may have a representative accompany Visitors during an escorted visit under this clause 16.2.

## 16.3 Acknowledgement of support and disclaimer

The Recipient must:

- (a) in all its publications, promotional or advertising materials, public announcements, events and activities which refer to the Project, or any products, processes or inventions developed as a result of it, acknowledge the financial and other support it has received from ARENA under this Agreement by stating:

*“This project received funding from ARENA.”*

or as otherwise notified in writing by ARENA from time to time, or in a manner otherwise approved in writing by ARENA prior to its use; and

- (b) include in all Material published by the Recipient in relation to the Project, the following disclaimer:

*“The views expressed herein are not necessarily the views of the Australian Government, and the Australian Government does not accept responsibility for any information or advice contained herein.”*

## 16.4 Public announcements by the Recipient

- (a) For the avoidance of doubt, nothing in this clause 16.4 prevents an academic or researcher of the Recipient from making public announcements concerning their research, in

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accordance with the generally accepted standards of academic or researcher freedom and responsibility embodied in the Recipient's code of conduct or internal policies.

- (b) Where the Recipient intends on making a public announcement in relation to the Project or this Agreement, it must use all reasonable endeavours to notify ARENA of its intention to make the public announcement prior to its release or publication.
- (c) The Recipient must, before making a public announcement in relation to the Project, this Agreement, or any transaction contemplated by this Agreement, obtain ARENA's written agreement to the announcement, except if required by Law or a regulatory body (including a relevant stock exchange).
- (d) If the Recipient is required by Law or a regulatory body to make a public announcement in connection with this Agreement or any transaction contemplated by this Agreement, the Recipient must, to the extent practicable, first consult with and take into account the reasonable requirements of ARENA.
- (e) The Recipient must provide to ARENA a copy of any public announcement made in relation to the Project or this Agreement, within 5 Business Days after it is made.

## **16.5 Public announcements by ARENA**

ARENA reserves, and reserves on behalf of the Commonwealth, the right to publicise and report on the awarding of any funding, and may do this by, amongst other means, including the Recipient's name, the amount of the funding, annual expenditure of the Project, and the title and a brief description of the Project in media releases, in general announcements about ARENA's funding program, on its website and in annual reports.

## **16.6 Survival**

This clause 16 applies for the Agreement Period and for a period of 3 years from the date of expiration or termination of this Agreement.

## **17. Indemnity**

### **17.1 Indemnity**

The Recipient agrees to indemnify ARENA from and against any and all Losses incurred by ARENA arising from or in connection with:

- (a) any act or omission by the Recipient, its officers, employees, agents or subcontractors in connection with this Agreement where there was fault on the part of the person whose conduct gave rise to that Loss;
- (b) any breach by the Recipient of its obligations or warranties under this Agreement; or
- (c) the use by ARENA of:
  - (i) the Project Material in accordance with clause 14.9(c); and
  - (ii) the Non-Project Material and Knowledge Sharing Deliverables, including any Pre-existing Material and Third Party Material, in accordance with clause 14.5,

including any claims by third parties about the ownership or right to use Project Material, Non-Project Material, Knowledge Sharing Deliverables, Pre-existing Material or Third Party Material.

### **17.2 Reduction of liability**

The Recipient's liability to ARENA under clause 17.1 will be reduced proportionately to the extent that any fault of ARENA contributed to the relevant Loss.

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### 17.3 Right of indemnity

The right of ARENA to be indemnified under this clause 17 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but ARENA is not entitled to be compensated in excess of the amount of the relevant Loss.

### 17.4 Definitions

In this clause 17:

- (a) **ARENA** includes officers, employees, staff and agents of ARENA; and
- (b) **fault** includes a negligent or unlawful act or omission.

## 18. Confidentiality

### 18.1 Confidential Information not to be disclosed

- (a) Subject to clauses 18.3 and 18.5, a Party must not, without the prior written consent of the other Party, disclose any Confidential Information of the other Party to a third party.
- (b) In giving written consent to the disclosure of Confidential Information, a Party may impose such conditions as it thinks fit, and the other Party agrees to comply with these conditions.

### 18.2 Restricted Information

Subject to clauses 18.3 and 18.5, in disclosing Restricted Information, ARENA must comply with any conditions specified in the Knowledge Sharing Plan.

### 18.3 Databases and aggregation

The Recipient acknowledges that Recipient Confidential Information and Restricted Information provided to ARENA, the Commonwealth or any other person may be:

- (a) provided to a contractor for data handling and analysis services; and
- (b) incorporated into databases or other IT systems, and aggregated into documents or other media for public release, provided that arrangements are in place to maintain confidentiality of Recipient Confidential Information, meet any conditions specified in the Knowledge Sharing Plan in relation to Restricted Information and comply with any privacy obligations.

### 18.4 Written undertakings

- (a) A Party may, at any time, require the other Party to arrange for:
  - (i) its Advisers; or
  - (ii) any other third party, other than a Party's employee, to whom information may be disclosed pursuant to clause 18.5(b) or (c),to give a written undertaking in the form of agreement reasonably acceptable to the other Party and relating to the use and non-disclosure of the other Party's Confidential Information.
- (b) If the other Party receives a request under clause 18.4(a), it must promptly arrange for all such undertakings to be given.

### 18.5 Exceptions to obligations

The obligations on the Parties under this clause 18 will not be taken to have been breached to the extent that Confidential Information or Restricted Information:

- (a) is disclosed in accordance with the Knowledge Sharing Plan;

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- (b) is disclosed by a Party to its Advisers or employees solely in order to comply with obligations, or to exercise rights, under this Agreement;
- (c) is disclosed to a Party's internal management personnel, solely to enable effective management or auditing of Agreement related activities;
- (d) is disclosed by ARENA to the responsible Minister;
- (e) is disclosed by ARENA in response to a request by a House or a Committee of the Parliament of the Commonwealth;
- (f) is shared by ARENA within ARENA's organisation, or with a Commonwealth agency, where this serves the Commonwealth's legitimate interests;
- (g) is disclosed by ARENA to the Auditor-General, Ombudsman, Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner;
- (h) is authorised or required by Law, including under this Agreement, under a licence or otherwise, to be disclosed; or
- (i) is in the public domain otherwise than due to a breach of this clause 18.

### **18.6 Obligations on disclosure**

Where a Party discloses Confidential Information to another person pursuant to clause 18.5 (other than clause 18.5(i)), the disclosing Party must notify the receiving person that the information is Confidential Information.

### **18.7 Additional confidential information**

The Parties may agree in writing after the date of this Agreement that certain additional information is to constitute Confidential Information for the purposes of this Agreement.

### **18.8 Period of confidentiality**

The obligations under this clause 18 continue, notwithstanding the expiry or termination of this Agreement:

- (a) in relation to an item of information described in item 7.4 of Schedule 1, for the period set out in that Schedule in respect of that item; and
- (b) in relation to any information which the Parties agree in writing after the Commencement Date of this Agreement is to constitute Confidential Information for the purposes of this Agreement, for the period agreed by the Parties in writing in respect of that information and in the absence of such agreement, for so long as the information fulfils the definition of Confidential Information.

### **18.9 No reduction in privacy obligations**

Nothing in this clause 18 derogates from any obligation which either Party may have either under the Privacy Act, or under this Agreement, in relation to the protection of personal information as defined in that Act or information that is protected by the *Census and Statistics Act 1905* (Cth), or any other Act, regulation or other legislative instrument requiring secrecy or confidentiality in dealing with information.

### **18.10 Return of information**

At ARENA's request or on the expiry or termination of this Agreement, the Recipient must promptly return all of ARENA's physical and written records containing ARENA Confidential Information, and all documentation relating to that ARENA Confidential Information (including copies), to ARENA in a form reasonably requested by ARENA. Alternatively, if requested by ARENA, the Recipient must destroy such items in the manner specified by ARENA and promptly certify to ARENA in writing that it has done so.

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## 18.11 Confidential Agreement Provisions

Notwithstanding any other provision of this Agreement, ARENA may disclose the provisions of this Agreement except the Confidential Agreement Provisions.

## 19. Freedom of information

- (a) Where ARENA has received a request for access to a document created by, or in the possession of, the Recipient or any subcontractor that relates to the performance of this Agreement (and not to the entry into this Agreement), ARENA may at any time by written notice require the Recipient to provide the document to ARENA and the Recipient must, at no additional cost to ARENA, promptly comply with the notice.
- (b) The Recipient must include in any subcontract relating to the performance of this Agreement provisions that will enable the Recipient to comply with its obligations under this clause 19.
- (c) This clause 19 applies for the Agreement Period and for a period of 7 years from the expiry or termination of this Agreement.

## 20. Protection of personal information

The Recipient must:

- (a) use personal information (as defined in the Privacy Act) provided by ARENA or collected by the Recipient under this Agreement only for the purposes of performing its obligations under this Agreement;
- (b) not do any act or engage in any practice that would breach an Australian Privacy Principle under the Privacy Act if done or engaged in by ARENA;
- (c) not do or omit to do anything that causes ARENA to be in breach of an Australian Privacy Principle;
- (d) comply with any directions, guidelines, determinations or recommendations of the Information Commissioner, Privacy Commissioner or Freedom of Information Commissioner, to the extent that they are not inconsistent with the requirements of this Agreement; and
- (e) ensure that any subcontract entered into for the purpose of fulfilling the Recipient's obligations under this Agreement contains provisions to ensure that the subcontractor has the same awareness and obligations as the Recipient has under this clause 20, including this requirement in relation to subcontracts.

## 21. Conflict of Interest

### 21.1 Warranty

The Recipient warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement no Conflict of Interest exists or is likely to arise in the performance of its obligations under this Agreement.

### 21.2 Notification of a Conflict of Interest

If, during the performance of the Recipient's obligations under this Agreement a Conflict of Interest arises, or appears likely to arise, the Recipient must:

- (a) notify ARENA immediately in writing;
- (b) make full disclosure of all relevant information relating to the conflict; and

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- (c) take such steps as ARENA reasonably requires to resolve or otherwise deal with the conflict.

## 22. Reports

### 22.1 Reporting

The Recipient must provide ARENA with Reports in accordance with Schedule 4.

### 22.2 Acceptance of Report

- (a) When the Recipient provides ARENA with a Report, ARENA will notify the Recipient in writing within 30 days after receiving the Report that it has either:
  - (i) accepted the Report; or
  - (ii) rejected the Report, providing reasons for its rejection.
- (b) If ARENA rejects a Report, the Recipient must reissue the Report in a form that addresses the reasons for the earlier rejection and ARENA will comply with clause 22.2(a) in relation to any reissued Report.
- (c) Acceptance of a Report by ARENA does not constitute a release of the Recipient in respect of any matter, an admission or acceptance that the Recipient's performance complies with this Agreement, or acceptance of the accuracy of the Report.

## 23. Liaison and monitoring progress

### 23.1 Liaison as required

The Recipient must liaise with and report to the ARENA Representative, or any other person nominated by ARENA, as reasonably required by the ARENA Representative or that other person during the Agreement Period.

### 23.2 Progress meetings

The Parties will meet at the times and in the manner reasonably required by ARENA to discuss any issues in relation to this Agreement or the Project. The Recipient must ensure that the Recipient Representative, and ARENA must ensure the ARENA Representative or another ARENA representative, is reasonably available to attend such meetings and answer any queries relating to this Agreement and the Project raised by either Party.

### 23.3 Project management

- (a) The Recipient appoints the person specified in item 9.2 of Schedule 1 as Project manager and the person specified in item 9.3 of Schedule 1 as principal investigator.
- (b) The Project manager and principal investigator are responsible for the day-to-day management of the Project.
- (c) If specified in item 9.4 of Schedule 1, the Parties will establish a Project committee as specified. The Project committee will liaise with and advise the Parties.

### 23.4 Evaluation during the Agreement Period

- (a) In relation to any review or evaluation of the Project, the Recipient must, within 14 Business Days after a notice from ARENA informing the Recipient of such a review or evaluation:
  - (i) provide all reasonable assistance to ARENA;
  - (ii) respond to all reasonable requests from ARENA; and

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- (iii) provide any information reasonably required by ARENA.
- (b) Without limiting clause 23.4(a), at the reasonable request of ARENA, the Recipient must:
  - (i) give ARENA reasonable access to the premises where the Project is being undertaken; and
  - (ii) demonstrate to ARENA any capability or functionality of the technology developed under the Project,

for the purposes of ARENA evaluating and assessing a Report or the progress of the Project against the Milestones.

### **23.5 Evaluation after the Agreement Period**

Subject to clause 18, the Recipient must:

- (a) for up to 5 years after the termination or expiration of this Agreement;
- (b) upon request by ARENA; and
- (c) in a format requested by ARENA,

provide any information reasonably required by ARENA on the implementation and progress of the Project.

## **24. Subcontracting and Personnel**

### **24.1 Subcontracting**

- (a) The Recipient may engage subcontractors to undertake work in relation to the Project.
- (b) The Recipient agrees to give ARENA a copy of any subcontract entered into by the Recipient for the performance of work on the Project, within 14 days after ARENA's request to do so.
- (c) The Recipient is fully responsible for the performance of all its obligations under this Agreement, even though the Recipient may have subcontracted any of them.

### **24.2 Requirements for subcontracts**

The Recipient must:

- (a) not, in any event, enter into a subcontract under this Agreement with a subcontractor named by the Director of Workplace Gender Equality in a report to the responsible Minister as an employer currently not complying with the reporting requirements of the *Workplace Gender Equality Act 2012* (Cth); and
- (b) ensure that any subcontractor complies with:
  - (i) clause 12 (Audit and access);
  - (ii) clause 14 (Intellectual Property);
  - (iii) clause 15 (Moral Rights);
  - (iv) clause 16 (Knowledge sharing, acknowledgement and public announcements);
  - (v) clause 18 (Confidentiality);
  - (vi) clause 19 (Freedom of information);
  - (vii) clause 20 (Protection of personal information);
  - (viii) clause 21 (Conflict of Interest);

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- (ix) clause 23.5 (Evaluation after the Agreement Period);
- (x) clause 30 (Insurance);
- (xi) where applicable, clause 28.3 and item 1 of Schedule 5 (Compliance with the Fair Work (Building Industry) Act);
- (xii) where applicable, clause 28.4 and item 2 of Schedule 5 (Compliance with the Building Code); and
- (xiii) any other relevant obligation arising from this Agreement when carrying out activities for the Project.

### **24.3 Subcontracting issues**

- (a) The Recipient agrees to promptly notify ARENA of any issues or disputes arising under or in relation to a subcontract that:
  - (i) has or may result in the Recipient failing to comply with any of its obligations under this Agreement; or
  - (ii) involves the Recipient withholding payment to a subcontractor.
- (b) On receipt of a notice under clause 24.3(a), ARENA may in its absolute discretion withhold payment of any further funding to the Recipient, pending satisfactory resolution of the issue or dispute as notified to ARENA.

### **24.4 Use of Specified Personnel**

The Recipient must:

- (a) undertake the Project, or any part of the Project to which their particular expertise relates, with the active involvement of, and using the expertise of, the Specified Personnel; and
- (b) ensure that each of the Specified Personnel is aware of and complies with the Recipient's obligations in undertaking the Project.

### **24.5 If the Specified Personnel are not available**

Where one or more of the Specified Personnel is or will become unable or unwilling to be involved in the Project, the Recipient must notify ARENA immediately. The Recipient must:

- (a) if requested by ARENA, provide a replacement person of suitable ability and qualifications at no additional charge and at the earliest opportunity; and
- (b) obtain ARENA's written consent prior to appointing any such replacement person. ARENA's consent will not be unreasonably withheld.

### **24.6 ARENA may request replacement of Personnel**

ARENA may at any time request the Recipient to remove from work in respect of this Agreement any of the Specified Personnel or any of the Recipient's subcontractors or Personnel. The Recipient must promptly arrange for the removal of such subcontractors or Personnel and their replacement in accordance with the process outlined in clause 24.5. ARENA agrees to consult with the Recipient prior to exercising its rights under this clause 24.6.

## 25. Dispute resolution

### 25.1 No arbitration or court proceedings

If a dispute arises in relation to this Agreement (**Dispute**), a Party must comply with this clause 25 before starting arbitration or court proceedings (except proceedings for urgent interlocutory relief). After a Party has sought or obtained any urgent interlocutory relief that Party must follow this clause 25.

### 25.2 Notification

A Party claiming a Dispute has arisen must give the other Party notice setting out details of the Dispute.

### 25.3 Parties to resolve Dispute

During the 14 days after a notice is given under clause 25.2 (or longer period if the Parties agree in writing), each Party must use its reasonable efforts through a meeting of CEOs (or their nominees) to resolve the Dispute. If the Parties cannot resolve the Dispute within that period, they must refer the Dispute to a mediator who is independent of the Parties and appointed by agreement of the Parties if one of them requests.

### 25.4 Appointment of mediator

If the Parties cannot agree on a mediator within 7 days after a request under clause 25.3, the chairperson of LEADR (ACN 008 651 232; e-mail: leadr@leadr.com.au) or the chairperson's nominee will appoint a mediator and the LEADR Mediation Rules will apply to the mediation.

### 25.5 Role of mediator and obligations of Parties

The role of a mediator is to assist in negotiating a resolution of the Dispute. A mediator may not make a binding decision on a Party except if the Party agrees in writing. Unless agreed by the mediator and the Parties, the mediation must be held within 21 days after the request for mediation in clause 25.3. The Parties must attend the mediation and act in good faith to genuinely attempt to resolve the Dispute.

### 25.6 Obligations during dispute

Despite the existence of a Dispute, the Recipient must (unless requested in writing not to do so) continue to perform its obligations under this Agreement.

### 25.7 Confidentiality

Any information or documents disclosed by a Party under this clause 25:

- (a) must be kept confidential; and
- (b) may only be used to attempt to resolve the Dispute.

### 25.8 Termination of process

A Party may terminate the dispute resolution process by giving notice to the other Party after it has complied with clauses 25.1 to 25.5. Clauses 25.6 and 25.7 survive termination of the dispute resolution process.

### 25.9 Costs

Each Party must pay its own costs of complying with this clause 25. The Parties must equally pay the costs of any mediator.

### 25.10 Breach of this clause

If a Party breaches this clause 25, the other Party does not have to comply with this clause 25 in relation to the Dispute.

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## 26. Termination

### 26.1 Termination and reduction

- (a) Without limiting any other rights or remedies ARENA may have arising out of or in connection with this Agreement, if there has been a change in Commonwealth government policy, ARENA may, by notice, terminate this Agreement or reduce the scope of the Project.
- (b) On receipt of a notice of termination or reduction the Recipient must:
  - (i) take all available steps to minimise loss resulting from that termination or reduction and to protect ARENA Material and Non-Project Material; and
  - (ii) continue to undertake any part of the Project not affected by the notice.
- (c) If this Agreement is terminated under this clause 26.1, ARENA is liable only for:
  - (i) payments under clause 4.1 in accordance with this Agreement before the effective date of termination to the extent that those monies have been legally committed for expenditure by the Recipient in accordance with this Agreement and are payable by the Recipient as a current liability (written evidence of which will be required) by the date the Recipient receives the notice of termination; and
  - (ii) subject to clause 26.1(d), reasonable costs actually incurred by the Recipient and directly attributable to the termination.
- (d) ARENA is not liable to pay compensation under clause 26.1(c)(ii) for an amount which would, in addition to any amounts paid or due, or becoming due, to the Recipient under this Agreement, exceed the total funding for the Project specified in item 1 of Schedule 2.
- (e) If the scope of the Project is reduced under this clause 26.1, ARENA's liability to pay the funding or to provide ARENA Material abates in accordance with the reduction in the scope of the Project.
- (f) The Recipient is not entitled to compensation for loss of prospective profits.

### 26.2 Termination for default

- (a) Without limiting any other rights or remedies ARENA may have against the Recipient arising out of or in connection with this Agreement, ARENA may terminate this Agreement effective immediately by giving notice to the Recipient if:
  - (i) the Recipient breaches a material provision of this Agreement where that breach is not capable of remedy;
  - (ii) the Recipient breaches any provision of this Agreement and fails to remedy the breach within 14 days, or any longer period determined by ARENA in its discretion, after receiving notice requiring it to do so;
  - (iii) in the opinion of ARENA, a Conflict of Interest exists which would prevent the Recipient from performing its obligations under this Agreement fairly and independently;
  - (iv) in the reasonable opinion of ARENA, the Recipient has not:
    - (A) provided to ARENA information requested by ARENA in accordance with clause 14.9(c)(i);
    - (B) granted or procured a licence for the benefit of ARENA in accordance with clause 14.9(c)(ii); or

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- (C) granted or procured a licence for the benefit of the Commonwealth in accordance with clause 14.9(c)(ii),  
and fails to remedy this within 14 days, or any longer period determined by ARENA in its discretion, after receiving notice requiring it to do so;
  - (v) the Recipient is unable to obtain Other Contributions, or obtain them in time to enable completion of the Project by the End Date;
  - (vi) ARENA is satisfied that any statement made in the Recipient's application for funding (if any) is incorrect, incomplete, false or misleading in a way which would have affected the original decision to approve the provision of the funding; or
  - (vii) an event specified in clause 26.2(c) happens.
- (b) Without limitation, for the purposes of clause 26.2(a)(i), each of the following constitutes a breach of a material provision:
- (i) breach of warranty under clause 3.2 (Warranties);
  - (ii) breach of clause 3.4 (Risk management);
  - (iii) breach of clause 3.6 (Compliance with WHS Law);
  - (iv) breach of clause 8 (Use of Funds);
  - (v) breach of clause 9 (Repayment);
  - (vi) a failure to comply with clause 12 (Audit and access);
  - (vii) a failure to comply with clause 14 (Intellectual Property);
  - (viii) a failure to comply with clause 16 (Knowledge sharing, acknowledgement and public announcements);
  - (ix) a failure to comply with clause 17 (Indemnity);
  - (x) a failure to comply with clause 18 (Confidentiality);
  - (xi) a failure to comply with clause 20 (Protection of personal information);
  - (xii) a failure to notify ARENA of a Conflict of Interest as required by clause 21 (Conflict of Interest);
  - (xiii) a failure to comply with clause 24 (Subcontracting and Personnel);
  - (xiv) where applicable, a failure to comply with clause 28.3 or item 1 of Schedule 5 (Compliance with the Fair Work (Building Industry) Act);
  - (xv) where applicable, a failure to comply with clause 28.4 or item 2 of Schedule 5 (Compliance with the Building Code); and
  - (xvi) a failure to comply with clause 30 (Insurance).
- (c) The Recipient must notify ARENA immediately if:
- (i) there is any change in the direct or indirect beneficial ownership or control of the Recipient;
  - (ii) the Recipient disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business;
  - (iii) the Recipient ceases to carry on business;
  - (iv) the Recipient ceases to be able to pay its debts as they become due;

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- (v) proceedings are initiated with a view to obtaining an order for the winding up of the Recipient, or any person convenes a meeting for the purpose of considering or passing any resolution for the winding up of the Recipient;
  - (vi) the Recipient applies to come under, the Recipient receives a notice requiring it to show cause why it should not come under, an order has been made for the purpose of placing the Recipient under, or the Recipient otherwise comes under one of the forms of external administration referred to in Chapter 5 of the *Corporations Act 2001* (Cth) or Chapter 11 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) or equivalent provisions in State or Territory legislation in relation to incorporated associations;
  - (vii) the Recipient being a natural person is declared bankrupt or assigns his or her estate for the benefit of creditors;
  - (viii) where the Recipient is a partnership, any step is taken to dissolve that partnership; or
  - (ix) anything analogous to an event referred to in clause 26.2(c)(v), (vi), (vii) or (viii) occurs in relation to the Recipient.
- (d) Without limiting any of ARENA's other rights or remedies, on termination of this Agreement under this clause 26.2, ARENA is not obliged to pay to the Recipient any outstanding amount of funding, except to the extent that those monies have been legally committed for expenditure by the Recipient in accordance with this Agreement and are payable by the Recipient as a current liability (written evidence of which will be required) by the date the Recipient receives the notice of termination.

### **26.3 After termination**

On termination of this Agreement, the Recipient must deal with ARENA Material and ARENA's Confidential Information as reasonably directed by ARENA.

### **26.4 Termination does not affect accrued rights**

Termination of this Agreement does not affect any accrued rights or remedies of a Party.

## **27. Survival**

The following clauses survive the termination or expiry of this Agreement:

- (a) clause 6 (GST);
- (b) clause 9 (Repayment);
- (c) clause 11 (Books and records);
- (d) clause 12 (Audit and access);
- (e) clause 13 (ARENA Material);
- (f) clause 14 (Intellectual Property);
- (g) clause 15 (Moral Rights);
- (h) clause 16 (Knowledge sharing, acknowledgement and public announcements);
- (i) clause 17 (Indemnity);
- (j) clause 18 (Confidentiality);
- (k) clause 19 (Freedom of information);

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- (l) clause 20 (Protection of personal information);
- (m) clause 22 (Reports);
- (n) clause 23.5 (Evaluation after Agreement Period); and
- (o) clause 30 (Insurance),

together with any provision of this Agreement which is expressly, or by implication from its nature, intended to survive the expiry or termination of this Agreement.

## 28. Applicable law

### 28.1 Governing law

This Agreement is governed by the law of the Australian Capital Territory and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

### 28.2 Compliance with law and Commonwealth policies

The Recipient must, in carrying out this Agreement comply with all relevant Law and requirements of the Commonwealth and any State, Territory or local authority and in particular the:

- (a) *Crimes Act 1914* (Cth);
- (b) *Racial Discrimination Act 1975* (Cth);
- (c) *Sex Discrimination Act 1984* (Cth);
- (d) *Disability Discrimination Act 1992* (Cth); and
- (e) *Workplace Gender Equality Act 2012* (Cth).

### 28.3 Compliance with the Fair Work (Building Industry) Act

Item 1 of Schedule 5 applies where:

- (a) as part of the Project, building work (as defined in item 1 of Schedule 5) is carried out under a contract with a value of greater than \$3 million; and
- (b) the contribution made to the funding of the Project by ARENA is:
  - (i) at least \$5 million and represents at least 50% of the total value of the component of the Project attributable to construction work; or
  - (ii) \$10 million or more, irrespective of the proportion of ARENA's funding.

### 28.4 Compliance with the Building Code

Item 2 of Schedule 5 applies where:

- (a) the Project will involve building work (as defined in item 1 of Schedule 5); and
- (b) the contribution made to the funding of the Project by ARENA is:
  - (i) at least \$5 million and represents at least 50% of the total value of the component of the Project attributable to construction work; or
  - (ii) \$10 million or more, irrespective of the proportion of ARENA's funding.

## 29. Unavoidable delay

### 29.1 Effect of unavoidable delay

A Party will not be entitled to exercise its rights and remedies on the default of the other Party (whether at common law or under clause 26) if that default:

- (a) is caused by an act, omission or event that is beyond the reasonable control of that other Party;
- (b) continues for less than 1 month; and
- (c) was not reasonably foreseeable at the time this Agreement was executed.

### 29.2 Resolution of unavoidable delay

In the event of an unavoidable delay under clause 29.1, the Parties will use their best endeavours to resolve the causes of the delay, including adjusting any relevant Milestones.

### 29.3 Non-resolution of unavoidable delay

If the causes of the delay cannot be resolved within 3 months, ARENA may terminate this Agreement, at its sole discretion, in accordance with clause 26.

## 30. Insurance

### 30.1 Obligation to maintain insurance

In connection with the Project, the Recipient must have and maintain:

- (a) for the term of this Agreement, valid and enforceable insurance policies for:
  - (i) public liability;
  - (ii) either professional indemnity or errors and omissions;
  - (iii) workers' compensation as required by law;
  - (iv) insurance for the replacement value of any Asset created or acquired with the Funds; and
  - (v) any additional types specified in item 11 of Schedule 1; and
- (b) for 7 years following the expiry or termination of this Agreement, valid and enforceable insurance policies for either professional indemnity or errors and omissions,

in the amounts specified in item 11 of the Schedule 1.

### 30.2 Confirmation of insurance

The Recipient must, on request by ARENA, provide current relevant confirmation of insurance documentation from its insurers or insurance brokers certifying that it has insurance as required by clause 30.1.

## 31. Notices

### 31.1 Service of Notices

A Notice must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post, facsimile or electronically to the recipient's address for Notices specified in item 12 of Schedule 1, as varied by any Notice given by the recipient to the sender.

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## **31.2 Effective on receipt**

A Notice given in accordance with clause 31.1 takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by facsimile or electronically, when the sender's facsimile system or electronic system generates a message confirming successful transmission of the entire Notice unless, within one Business Day after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

## **32. Miscellaneous**

### **32.1 No security**

- (a) The Recipient must not, except as specified in clause 32.1(b), use any of the following as any form of security for the purpose of obtaining or complying with any form of loan, credit, payment or other interest, or for the preparation of, or in the course of any litigation:
  - (i) any Funds;
  - (ii) this Agreement or any of ARENA's obligations under this Agreement; or
  - (iii) any Assets.
- (b) ARENA may, at its discretion, require the Recipient to provide any Asset as a form of security where there was fault in the part of the Recipient and that fault caused, or is likely to cause, Loss to ARENA, or Loss recoverable by ARENA under clause 9. The Recipient must comply with any such request by ARENA.

### **32.2 Amounts due to ARENA**

- (a) Without limiting any other of ARENA's rights or remedies, any amount owned or payable to ARENA (including by way of refund), or which ARENA is entitled to recover from the Recipient, under this Agreement will be recoverable by ARENA as a debt due and payable to ARENA by the Recipient.
- (b) Without limiting any other of ARENA's rights or remedies, ARENA may set-off any money due for payment by ARENA to the Recipient under this Agreement against any money due for payment by the Recipient to ARENA under this Agreement.

### **32.3 Relationship**

- (a) The Parties must not represent themselves, and must ensure that their officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the other Party, or as otherwise able to bind or represent the other Party.
- (b) This Agreement does not create a relationship of employment, agency or partnership between the Parties.

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[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

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- (c) Neither ARENA nor the Recipient has authority to bind the other or contract in the name of the other in any way or for any purpose.

### **32.4 Waiver**

Waiver of any provision of or right under this Agreement:

- (a) must be in writing signed by the Party entitled to the benefit of that provision or right; and  
(b) is effective only to the extent set out in any written waiver.

### **32.5 Approvals and consents**

Except where this Agreement expressly states otherwise, a Party may, in its discretion, give conditionally or unconditionally or withhold any acceptance, approval or consent under this Agreement.

### **32.6 Entire agreement**

This Agreement constitutes the entire agreement between the Parties and supersedes all communications, negotiations, arrangements and agreements, either oral or written, between the Parties with respect to the subject matter of this Agreement.

### **32.7 Variation**

No agreement or understanding varying or extending this Agreement will be legally binding upon either Party unless agreed in writing and signed by both Parties.

### **32.8 Assignment and novation**

The Recipient may only assign its rights or novate its rights and obligations under this Agreement with the prior written consent of ARENA.

### **32.9 Costs**

Each Party must pay its own costs of negotiating, preparing and executing this Agreement.

### **32.10 Counterparts**

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

### **32.11 No merger**

The rights and obligations of the Parties under this Agreement do not merge on completion of any transaction contemplated by this Agreement.

### **32.12 Further action**

Each Party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Agreement and any transaction contemplated by it.

### **32.13 Severability**

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.

### **32.14 False or misleading information**

The Recipient acknowledges that giving false or misleading information is a serious offence.

### **32.15 No reliance**

The Recipient:

- (a) acknowledges that ARENA is not liable for any advice, comments, consultation, assistance, information or material made available by ARENA or the Commonwealth before the Commencement Date in connection with the Recipient applying for funding through the program (**Information**);

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[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

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- (b) acknowledges that the Information may not be accurate or complete and that the Recipient is responsible for making its own enquiries;
- (c) warrants that it has not, in deciding whether or not to enter into this Agreement, relied on any Information or representation (whether oral or in writing), other than as expressly set out in this Agreement, or any other conduct of ARENA or the Commonwealth or any of its Personnel; and
- (d) waives any right to make any claims in relation to any loss or damage suffered or incurred, whether directly or indirectly, arising out of or in connection with any use of or reliance on the Information.

draft

# Schedule 1 – Agreement particulars

---

## 1. Parties (clause 1.1)

### 1.1 ARENA

Australian Renewable Energy Agency (ARENA)

NewActon Nishi, 2 Phillip Law Street

Canberra City ACT 2601

ABN 35 931 927 899

### 1.2 Recipient

*[Insert name of Recipient]*

*[Insert street address of Recipient]*

*[Insert ABN or ACN of Recipient]*

## 2. Term (clause 2)

### 2.1 Commencement Date

*[Insert the Commencement Date.]*

### 2.2 End Date

*[Insert the End Date.]*

## 3. Proposal Guide (clause 1.1)

*[To be inserted. Note that the Proposal Guide defines Ineligible Expenditure.]*

## 4. ARENA policies and specific requirements (clause 3.1)

Commonwealth Government's Web Content Accessibility Guidelines

*[Insert reference to other relevant policies (if any).]*

## 5. Risk management (clause 3.4)

*[If a Risk Management Plan is not required, insert 'not applicable'.*

*If a Risk Management Plan is required, insert the following:*

*Clause 3.4(a) applies.*

*If independent certification of the Risk Management Plan is required, insert the following:*

*The Recipient must provide certification in relation to the Risk Management Plan by [insert date] (or such later date approved by ARENA in writing).]*

## 6. Assets register (clause 10.3)

*[State whether clause 10.3 applies for the Project.]*

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*[insert name of Recipient]*

ARENA Funding Agreement for the provision of *[insert description]*

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## 7. Intellectual Property

### 7.1 ARENA Material (clause 13)

*[Insert description of Material to be provided by ARENA and any conditions or restrictions on use]*

### 7.2 Pre-existing Material (clause 14)

*[Insert description, warranties and restrictions of Pre-existing Material]*

### 7.3 Third Party Material (clause 14)

*[Insert description, warranties and restrictions of Third Party Material]*

### 7.4 Specified Acts (clauses 1.1 and 15)

*[If ARENA wishes to perform different acts with the Non-Project Material or Knowledge Sharing Deliverables from those listed in the definition of 'Specified Acts' in clause 1.1, this should be specified here. Otherwise, insert 'Not applicable'. ]*

## 8. Confidential Information (clauses 1.1 and 18)

*[Insert each Party's Confidential Information, including any Agreement provisions or Schedule items that are to be kept confidential as well as the period of confidentiality for each item.]*

### 8.1 ARENA Confidential Information

### 8.2 Recipient Confidential Information

Information identified as Confidential Information in the Knowledge Sharing Plan, for the period specified in the Knowledge Sharing Plan or, if no period is specified, *[insert]*.

## 9. Liaison and monitoring (clause 23)

### 9.1 ARENA Representative

*[Insert position and/or name of ARENA's representative.]*

### 9.2 Recipient Representative

*[Insert position and/or name of the Recipient's representative.]*

### 9.3 Principal investigator

*[Insert name and details of principal investigator.]*

### 9.4 Project committee

*[Insert terms for Project committee if you require one to be established. Otherwise insert 'Not applicable'.]*

## 10. Specified Personnel (clause 24)

*[Insert names and positions of Specified Personnel.]*

The person identified in the Knowledge Sharing Plan as Specified Personnel.

## 11. Insurances required (clause 30)

(a) Public liability insurance for an insured amount of \$*[Insert amount]* per occurrence.

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*[insert name of Recipient]*

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- (b) Either professional indemnity or errors and omissions insurance for an insured amount of \$*[Insert amount]* per occurrence.
- (c) Workers compensation as required by law.
- (d) *[Insert any additional types of insurance the Recipient is required to maintain and the amount of that insurance required.]*

## 12. Notice details (clause 31)

### 12.1 ARENA's address for notices

Title: Portfolio Team Leader, Renewable Futures  
Australian Renewable Energy Agency

Street address: NewActon Nishi  
2 Phillip Law Street  
Canberra City ACT 2601

Postal address: GPO Box 643  
Canberra ACT 2601

Email: contracted@arena.gov.au

or such position and address as notified in writing by ARENA from time to time.

### 12.2 Recipient's address for notices:

Title: *[Insert name and position of person to receive Notices]*

Street address: *[Insert physical address]*

Postal address: *[Insert postal address]*

Facsimile: *[Insert facsimile number]*

Email: *[Insert email address]*

## 13. Special Conditions (clause 1.3)

*[Insert any applicable special conditions. Note that these should be carefully considered as they will take precedence over any other terms and conditions set out in the Agreement and the Schedules (see clause 1.3).]*

# Schedule 2 – Milestones and payment

---

## 1. Total funding (clause 4)

The total amount of the funding is \$*[insert amount]* (excluding GST).

## 2. Milestones and payment (clauses 1.1, 4 and 7)

Subject to this Agreement, ARENA will pay the funding to the Recipient in instalments on achievement of Milestones as set out in the table below.

No.	Milestone	Milestone Date	Instalment amount (excluding GST)
1.	<p><i>[Insert Milestones. Consider including the following:</i></p> <ul style="list-style-type: none"> <li><i>• The Recipient has completed and provided to ARENA a workplace health and safety risk assessment that complies with relevant workplace health and safety standards;</i></li> <li><i>• The Recipient has provided, written evidence in accordance with clause 5.2 that the persons (if any) identified in item 6 of this Schedule 2 will provide the Other Contributions;</i></li> <li><i>• a requirement for independent certification of the Milestone</i></li> <li><i>• provision of Knowledge Sharing Deliverables and completion of Knowledge Sharing Activities.]</i></li> </ul>		
	•		
	•		
	•		

## 3. Budget (clauses 1.1 and 8.2)

*[Note: Insert agreed Budget.]*

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*[insert name of Recipient]*

ARENA Funding Agreement for the provision of *[insert description]*

4. Budget variation (clause 8.2)

*[Insert permitted budget tolerance, for example '10% of the total Funds specified in item 1 of this Schedule 2'.]*

5. Recipient Contributions (clause 5.1)

*[Note: Insert amount of financial and in-kind contributions the Recipient must provide to the Project, and the amount and date of each contribution. If there are no Recipient Contributions, insert 'Not applicable'.]*

Recipient Contribution	Due date

6. Other Contributions (clause 5.2)

*[Insert amount of financial and in-kind contributions the Recipient will obtain from third parties for the Project, and the amount and date of each contribution. If there are no Other Contributions, insert 'Not applicable'.]*

Source	Contribution	Due date

7. Bank account (clause 8.5)

*[Insert any additional bank account requirements, if any]*

8. Interest rate (clause 1.1 and 9.4)

*[The ten year Treasury Bond Rate as published in the Australian Financial Review on the Commencement Date.]*



# Schedule 3 – Project details

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1. Project overview

*[Insert Project description]*

The Project includes the Knowledge Sharing Activities.

2. Specific activities of the Project

*[Insert specific activities of the Project]*

3. Outcomes (clauses 3.1 and 10.2)

*[Set out objectives or outcomes, i.e. what the Recipient is to achieve in undertaking the Project.]*

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# Schedule 4 – Reports

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[*Note to applicants: ARENA may change the reporting requirements depending on the Recipient and the Project.*]

## 1. Reports

### 1.1 Required reports

The Recipient will prepare and give to ARENA the following Reports:

- (a) Milestone Reports in accordance with the requirements of item 2 of this Schedule 4;
- (b) financial reports, including the Final Acquittal Report, in accordance with the requirements specified in item 3 of this Schedule 4;
- (c) a Final Project Report in accordance with the requirements specified in item 4 of this Schedule 4; and
- (d) a public dissemination report in accordance with the requirements specified in item 5 of this Schedule 4;
- (e) any other reports required by the Knowledge Sharing Plan;
- (f) [*insert any other Reports required*]; and
- (g) any other written reports that may be reasonably required by ARENA from time to time, including reports which verify how the Funds have been expended in accordance with the Approved Purposes or that the Project has been fully performed.

### 1.2 Submission of Reports

The Recipient must submit each Report to ARENA:

- (a) on compact disk or by electronic mail; and
- (b) in MS Word or pdf format.

## 2. Milestone Reports

### 2.1 Timing

For each Milestone, the Recipient must provide ARENA a report in relation to the Milestone (**Milestone Report**) by the Milestone Date (or such later date approved by ARENA in writing).

### 2.3 Requirements

Each Milestone Report must include:

- (a) the name of the Recipient;
- (b) the Project title;
- (c) the Milestone and period to which the report relates;
- (d) a statement of the Funds, Recipient Contributions (cash) and Other Contributions (cash) received and spent (refer to items 2, 5 and 6 of Schedule 2) certified by an authorised officer of the Recipient;

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[*insert name of Recipient*]

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- (e) a statement of the Recipient Contributions (in-kind) and Other Contributions (in-kind) provided (refer to items 5 and 6 of Schedule 2) certified by an authorised officer of the Recipient;
- (f) details of any unspent Funds;
- (g) confirmation that all Funds were spent for the Approved Purposes and in accordance with this Agreement and that the Recipient has complied with this Agreement;
- (h) confirmation of the number of researchers (calculated on a full time equivalent basis) that are involved in the utilisation of the Funds;
- (i) a Budget update (refer to item 3 of Schedule 2);
- (j) whether the Project is proceeding in accordance with the Budget (refer to item 3 of Schedule 2), including Recipient Contributions and Other Contributions and, if not, an explanation as to why the Budget is not being met, the effect this will have on the Project and the action the Recipient proposes to take to address this;
- (k) a technical report of the Milestone activities, including:
  - (i) a clear summary of the work undertaken in the period to which the report relates;
  - (ii) evidence (including, where possible, pictorial evidence, test results or data) that the activities within the Milestone have been achieved;
  - (iii) reasons why any Milestone activities have not been met, the effect this will have on the Project and the action the Recipient proposes to take to address this (refer to clause 7);
- (l) a statement as to whether the timeframes for the Project are being met and an explanation of any delays that have occurred, including the reasons for those delays, the action the Recipient proposes to take to address the delay and the expected effects (if any) the delay will have on the Project (including subsequent Milestones and the overall completion of the Project);
- (m) any proposed changes to the Project, including to scope, timing, personnel or contributing parties;
- (n) progress on achieving the Outcomes (refer to item 3 of Schedule 3);
- (o) details of any published reports, promotional material, media publicity or other documentation relevant to the Project;
- (p) any other matters specified in the Knowledge Sharing Plan; and
- (q) any other information reasonably requested by ARENA.

### 3. Financial reports

#### 3.1 Timing

The Recipient must provide financial reports to ARENA:

- (a) on or before [*insert dates for interim reports*] (or such later date approved by ARENA in writing); and
- (b) on or before [*insert date for Final Acquittal Report*] (or such later date approved by ARENA in writing) (**Final Acquittal Report**).

### 3.2 Requirements

(a) Financial reports must be in a form acceptable to ARENA and include the following:

	Content	Prepared by
(i)	<p>Audited financial statements in accordance with Accounting Standards and Auditing Standards in respect of the Funds and any Recipient Contributions or Other Contributions, which must include:</p> <p>(A) a definitive statement as to whether the financial information for the Project represents the financial transactions fairly and is based on proper accounts and records;</p> <p>(B) <i>[include the following if Recipient is a company: a separate declaration from the Recipient's directors that the Recipient is solvent, a going concern and able to pay its debts as and when they fall due;]</i> and</p> <p>(C) detail of any Funds returned to ARENA by the Recipient and the reasons for such refund</p>	an Approved Auditor
(ii)	<p>A letter to the Recipient, or a report, including:</p> <p>(A) specific comment on the adequacy of the financial controls being maintained by the Recipient;</p> <p>(B) specific comment on the Recipient's financial position as it relates to any issues affecting the Recipient's ability to repay surplus Funds or complete the Project with available Funds;</p> <p>(C) specific comment on the Recipient's ability to meet its taxation liabilities and any costs associated with any court or tribunal orders made against the Recipient or involving the Recipient;</p> <p>(D) specific comment on the Recipient's compliance with its obligations to pay superannuation entitlements;</p> <p>(E) where there are any qualifications</p>	an Approved Auditor

*[insert name of Recipient]*

ARENA Funding Agreement for the provision of *[insert description]*

	Content	Prepared by
	<p>or limitations on the audit, an outline of the reasons for the qualifications or limitations and the remedial action recommended; and</p> <p>(F) an itemised list of fees paid to officers of the Recipient</p>	
(iii)	A statement of how much the Recipient needs to meet current liabilities under legal commitments entered into by the Recipient pursuant to this Agreement	a Qualified Accountant
(iv)	<p>A certificate:</p> <p>(A) that all Funds, Recipient Contributions and Other Contributions were spent for the purpose of the Project and in accordance with this Agreement and that the Recipient has complied with this Agreement;</p> <p>(B) that salaries and allowances paid to persons involved in the Project are in accordance with any applicable award or agreement in force under any relevant law on industrial or workplace relations;</p> <p>(C) unless the Agreement has expired or terminated, stating the unspent portion of the Funds available for use within the next reporting period; and</p> <p>(D) that, at the time the Report is provided to ARENA, the Recipient is able to pay all its debts as and when they fall due and the Recipient has sufficient resources to discharge all the Recipient's debts at the end of the current financial year</p>	<p><b><i>[Insert, depending on the type of Recipient, e.g.:</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>the Recipient</i></b></li> <li>• <b><i>the CEO or CFO of the Recipient</i></b></li> <li>• <b><i>the Chairperson of the Recipient</i></b></li> <li>• <b><i>the managing partner of the Recipient]</i></b></li> </ul>

- (b) An Approved Auditor is a person who is:
- (ii) registered as a company auditor under the *Corporations Act 2001* (Cth) or an appropriately qualified member of the Institute of Chartered Accountants in Australia, CPA Australia or the Institute of Public Accountants;
  - (i) not a principal, member, shareholder, officer, agent, subcontractor or employee of the Recipient or of a related body corporate; and

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- (ii) not the Recipient's accountant.
- (c) A Qualified Accountant is a person who is a member of the Institute of Chartered Accountants in Australia, CPA Australia or the Institute of Public Accountants and who is acceptable to ARENA.

## 4. Final Project Report

### 4.1 Timing

The Recipient must provide a final project report to ARENA on or before [*insert date*] (or such later date approved by ARENA in writing) (**Final Project Report**).

### 4.2 Requirements

The Final Project Report must cover the entire period of the Project and include:

- (a) the name of the Recipient;
- (b) the Project title;
- (c) a statement of the Funds, Recipient Contributions (cash) and Other Contributions (cash) received and spent (refer to items 2, 5, 6 of Schedule 2) certified by an authorised officer of the Recipient;
- (d) a statement of the Recipient Contributions (in-kind) and Other Contributions (in-kind) provided (refer to items 5 and 6 of Schedule 2) certified by an authorised officer of the Recipient;
- (e) details of any unspent Funds;
- (f) confirmation that all Funds were spent for the Approved Purposes of the Project and in accordance with this Agreement and that the Recipient has complied with this Agreement;
- (g) confirmation of the number of researchers (calculated on a full time equivalent basis) that were involved in the utilisation of the Funds;
- (h) whether the Project was completed in accordance with the Budget (refer to item 3 of Schedule 2), including Recipient Contributions and Other Contributions and, if not, an explanation of why the Budget has not been met;
- (i) a technical report of the Project activities, including:
  - (i) evidence that the Project has been completed, and the Milestones have been achieved;
  - (ii) details of the extent to which the Project achieved the Approved Purposes and Outcomes;
  - (iii) any highlights, breakthroughs or difficulties encountered, including the appropriateness of the approaches used in the development and implementation of the Project, and the transferability of those approaches to other projects; and
  - (iv) conclusions or recommendations (if any) arising from the Project;
- (j) a description of the Intellectual Property arising from the Project during the period to which the report relates;

- (k) details of any published reports, published patents or published patent applications, papers, presentations, promotional material, media publicity or other documentation relevant to the Project;
- (l) subject to confidentiality obligations owed to third parties (including collaborators of the Recipient), any information on the qualitative and quantitative benefits (including projected or future benefits) that have been derived the exploitation of the Intellectual Property arising out of the Project, including:
  - (i) whether any monetary consideration (including royalties, licence fees and milestones) have been received or are to be received by the Recipient;
  - (ii) whether any shares or equity in any corporate entities have been received or are to be received by the Recipient; and
  - (iii) whether any Australian-based suppliers, manufacturers or other entities have been engaged to assist in the development of or exploitation of the Intellectual Property arising out of the Project;
- (m) subject to confidentiality obligations owed to third parties (including collaborators of the Recipient), any information on commercialisation activities undertaken by the Recipient in support of the exploitation of the Intellectual Property arising out of the Project;
- (n) information on how the results of the Project will be publicly disseminated;
- (o) information on how Project Material will be protected and exploited after the expiration of this Agreement;
- (p) any other matters specified in the Knowledge Sharing Plan; and
- (q) any other information reasonably requested by ARENA.

## 5. Public dissemination report

### 5.1 Timing

The Recipient must provide a public dissemination report to ARENA on or before [*insert date*] (or such later date approved by ARENA in writing).

### 5.2 Requirements

- (a) The public dissemination report must:
  - (i) provide an overview of the Project and its outcomes;
  - (ii) be in a form suitable for public dissemination, including on ARENA's website; and
  - (iii) include any other information reasonably requested by ARENA.
- (b) ARENA may amend the public dissemination report after consultation with the Recipient.

## 6. Ad hoc reports

The Recipient must provide ad-hoc reports as required by ARENA from time to time at the time and in the manner reasonably required by ARENA in relation to any significant developments concerning the Project or any significant delays or difficulties encountered in undertaking the Project.

# Schedule 5 – Building and construction activities

## 1. Fair Work (Building Industry) Act (clause 28.3)

Subject to the exclusions specified in the *Fair Work (Building Industry—Accreditation Scheme) Regulations 2005* (Cth), construction projects that utilise funds provided under this Agreement are bound by the application of the accreditation scheme established by the *Fair Work (Building Industry—Accreditation Scheme) Regulations 2005* (Cth) (**the Scheme**) and the following conditions:

- (a) All head contracts for building work under the Project that are valued at \$3 million or more must:
  - (i) be notified to the Office of the Federal Safety Commissioner at the earliest possible opportunity (that is, when approaching the market);
  - (ii) contain a requirement that the builder:
    - (A) is accredited under the Scheme;
    - (B) maintains Scheme accreditation for the life of the contract; and
    - (C) must comply with all conditions of the Scheme accreditation.
- (b) For the purpose of this item 1:
  - (i) **builder** has the meaning given in section 35 of the *Fair Work (Building Industry) Act 2012* (Cth); and
  - (ii) **building work** has the meaning given in section 5 of the *Fair Work (Building Industry) Act 2012* (Cth).

## 2. Building Code (clause 28.4)

- (a) In this item 2, except where the contrary intention is expressed, the following definitions are used:

<b>Building Code</b>	the <i>Building Code 2013</i> (Cth). The Building Code can be downloaded from <a href="http://www.employment.gov.au/building-code-2013">http://www.employment.gov.au/building-code-2013</a>
<b>Guidelines</b>	the Supporting Guidelines for the Building Code. The Supporting Guidelines can be downloaded from <a href="http://www.employment.gov.au/building-code-2013">http://www.employment.gov.au/building-code-2013</a>
<b>Project Parties</b>	all contractors, subcontractors, consultants and employees who perform on site work in relation to the Project.

- (b) Where the Funds specifically relate to building and construction activity, subject to the thresholds specified in the Building Code, the Recipient must comply and ensure that the Project Parties comply with the Building Code.
- (c) The Building Code requires the Recipient to ensure that:
  - (i) all requests for tender, expressions of interest, submissions and invitations to join Common Use Arrangements in relation to the Project made by it, or any of the

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

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Project Parties, contain the commitment to apply the Building Code as set out in the model tender documents referred to in the Guidelines; and

- (ii) all contracts entered into in relation to the Project by it, or any of the Project Parties, contain the commitment to apply the Building Code as set out in the model contract clauses referred to in the Guidelines.
- (d) The Recipient must maintain adequate records of compliance by it, and each of the Project Parties, with the Building Code.
- (e) The Recipient must permit ARENA and those authorised by ARENA, including a person occupying a position in the Fair Work Building Industry Inspectorate, full access to the premises and records of the Recipient and the Project Parties to:
  - (i) inspect any work, material, machinery, appliance, article or facility;
  - (ii) inspect and copy any record relevant to the Project and works governed by this Agreement; and
  - (iii) interview any person,as is necessary to monitor compliance with the Building Code.
- (f) The Recipient undertakes that it, and each of the Project Parties, will agree to a request from ARENA, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
- (g) ARENA and those authorised by it may publish or otherwise disclose information in relation to compliance by the Recipient and the Project Parties with the Building Code. The Recipient must obtain the consent of the Project Parties to the publication or disclosure of information under this item 2(g).
- (h) While acknowledging that value for money is the core principle underpinning decisions on government procurement, when assessing tenders the Recipient may preference contractors, subcontractors and consultants that have demonstrated a commitment to:
  - (i) adding and/or retaining trainees and apprentices;
  - (ii) increasing the participation of women in all aspects of the industry; or
  - (iii) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- (i) The Recipient must not appoint a contractor, subcontractor or consultant in relation to the Project where:
  - (i) the appointment would breach a sanction imposed by the Minister for Employment; or
  - (ii) the contractor, subcontractor or consultant has had a judicial decision against it relating to employee entitlements, not including decisions under appeal, and has not paid the claim.

# Schedule 6 – ARENA's Activities

## 1. ARENA's Activities

- (a) ARENA's Activities are those activities ARENA decides to undertake in order to carry out ARENA's Purposes (refer to clause 14.9).
- (b) The following table provides a non-exhaustive list of the activities that may be undertaken as part of ARENA's Activities:

ARENA's Purposes	The Activities: Examples of what ARENA may need to do to carry out ARENA's Purposes
<p>Research undertaken and publications produced by ARENA for educational purposes</p>	<p>Use targets and reported outcomes from the Project (such as cost reduction or efficiency improvements) to demonstrate the impact ARENA funding has and will have in increasing the uptake of renewable energy.</p> <p>Use examples of the commercialisation success of the Project to show the impact of ARENA funding (for example, royalties received by institutions, researchers employed and investment made by industrial collaborators, etc).</p> <p>Use material agreed and provided to ARENA about the Project in ARENA synthesis documents (for example a portfolio overview document which summarises all of ARENA's investments and articulates how they as a package assist in advancing renewable energy technology in Australia).</p> <p>Explain at conferences, in the media and to stakeholders at, or above, high school science level the innovation the Project has made and why this lowers the cost and increases the efficiency of renewable energy. For example, this could include diagrams showing at a general level what the innovation has been to deliver the improvements or pictures of product being made and the areas where ARENA funded research delivered process improvements and efficiency gains.</p> <p>ARENA will seek reasonable access to visit the locations and speak with the people employed where ARENA funding is being spent to capture the “story” that often cannot be told through reliance on formal reports. Note this may be a story about how a project did not deliver what was anticipated. ARENA views the ability to share and research learning’s and outcomes (positive and negative) as a core part of ARENA's Purposes. The “story” will be consistent with reflect the intent of the Knowledge Sharing Plan and confidentiality obligations in clause 18.</p>
<p>Advocacy or policy development undertaken by ARENA or the Commonwealth</p>	<p>Use the gains made by the Project as examples of why ongoing funding into renewable energy in Australia is warranted. These could be reported in submissions to government enquiries or submitted on an on request basis in</p>

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

ARENA's Purposes	The Activities: Examples of what ARENA may need to do to carry out ARENA's Purposes
	<p>response to government requests.</p> <p>Use projected costs of renewable energy arising from this Project as a lever for increased policy support.</p> <p>Use commercial outcomes as they benefit Australians as material to support ongoing renewable energy R&amp;D support.</p> <p>Acting reasonably, ARENA may request that lead Project Personnel present findings and outcomes from the Project as part of ARENA's sponsored or other relevant events.</p>
<p>Any activity undertaken to fulfil ARENA's reporting and other obligations owed by ARENA to the Commonwealth under Law</p>	<p>As described in this Agreement. In the event that the obligations change, ARENA will meet with the Recipient to describe how this adds new specific definition to ARENA's Purposes and will seek a reasonable outcome.</p> <p>Specifically, ARENA requires access to Material necessary to evaluate and articulate the public benefit arising from the Project.</p> <p>Reporting on Project outcomes in ARENA accountability documents such as annual reports.</p> <p>Data gathered around the Project's performance and the outcomes being achieved in terms of efficiency gains, cost savings (and any other performance measures agreed between Recipient and ARENA) may be used as part of ARENA's Purposes and ARENA's evaluation processes and reporting.</p>
<p>Subject to clause 18, any activity undertaken by ARENA to fulfil its functions as set out in its enabling legislation</p>	<p>As described above.</p>
<p>Subject to clause 18, any activity relating to ARENA's efforts to raise funds for investment in future renewable energy research and development</p>	<p>Publish, promote and market the specific areas of success of this Project (or failures) to demonstrate the capability of ARENA to qualify and manage the selection and funding of renewable energy R&amp;D opportunities in Australia.</p> <p>Use the Project as a case study on how ARENA funding can lead to the increased commercial deployment of renewable energy utilising Australian innovation.</p> <p>Seek to be on the front foot with the issue of Australian funded Intellectual Property being commercialised and manufactured globally. ARENA will seek to use the anticipated commercial success of Australian technology globally as a reason why funds raised will lead to productive deployment in supporting Australian led innovation.</p> <p>ARENA will not seek to commercially exploit any Intellectual</p>

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

ARENA's Purposes	The Activities: Examples of what ARENA may need to do to carry out ARENA's Purposes
	Property existing or arising from the Project beyond the examples cited above in this table.
Any purpose for which ARENA does not receive a pecuniary reward or benefit	As described above.
Any other purpose that the Parties agree in writing is an ARENA purpose	As described above.

draft

# Schedule 7 – Knowledge Sharing Plan

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*[Before you start:*

*Under the Australian Renewable Energy Agency Act 2011 (Cth), ARENA is required to promote the sharing of information and knowledge about renewable energy technologies where appropriate. As such, knowledge sharing is considered an integral element of the Project. It is important that the Knowledge Sharing Plan is aligned firmly with the rationale and purpose of the Project and that it reflects the specific aims and nature of the Project.*

*ARENA's mandate covers the entire innovation chain and therefore the nature and size of the projects/activities which ARENA supports will vary.*

*Knowledge sharing obligations will, therefore, need to be suitably tailored to accommodate this diversity.*

*However, it is important that this flexibility occurs within a consistent framework so that ARENA and the renewable energy sector are able to:*

- ensure that data/information being collected is of high quality;*
- aggregate and analyse data/information across different projects; and*
- make use of the same data/information for different purposes.*

*This template is intended to guide and assist you in developing a Knowledge Sharing Plan for your Project. ARENA expects Knowledge Sharing Plans to generate and disseminate a substantial amount of high value data, information and lessons learned.*

*The specific items of data and information that will be covered by your Knowledge Sharing Plan will be subject to negotiation.*

*While the Knowledge Sharing Plan will be tailored to suit the scope and size of your Project, in developing the Plan, you should consider the following:*

- Objectives – It is important that your Knowledge Sharing Plan has well defined objectives. What critical question/s about renewable energy in Australia is the Project trying to answer? What critical knowledge gap/s is the Project aiming to address? These should be consistent with any Outcomes listed in item 3 of Schedule 3 of the Funding Agreement.*
- End users – To be of value, knowledge needs to be used by someone. Who are the intended end users of the knowledge that will be generated and disseminated under your Knowledge Sharing Plan? If organisations, who within the organisations – e.g. the CEO, technicians, financial officers, or somebody else?*
- Data and data methodology – the likely volume and complexity of the data and information that will be collected; whether and to what extent the data and information collected will require processing or analysis.*
- Implementation – whether knowledge sharing activities will require specialist personnel or IT support, including web-based platforms; whether you will need to use collaborative arrangements with relevant partners.*
- Commercial sensitivities – mechanisms for sharing commercially sensitive information e.g. methods for redacting data, time delays for the release of data, aggregation of data, synthesis reports and small group discussions held under Chatham House rules.*
- Dissemination – a wide range of dissemination strategies beyond written documents; making use of existing opportunities to disseminate knowledge e.g. participation in industry forums, conferences, webinars etc.*

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*[insert name of Recipient]*

ARENA Funding Agreement for the provision of *[insert description]*

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ARENA's business development team and client managers will work with you in the finalisation of your Knowledge Sharing Plan.]

## 1. Introduction

On [insert date] ARENA and [insert name of Recipient] (**Recipient**) entered into a Funding Agreement for the provision of [insert description] (**Funding Agreement**), under which the Recipient has certain knowledge sharing obligations.

The Recipient has developed this Knowledge Sharing Plan in consultation with ARENA, and must comply with this Knowledge Sharing Plan for the term of the Funding Agreement.

Terms used in this Knowledge Sharing Plan which are defined in the Funding Agreement have the same meaning unless the context requires otherwise.

## 2. Purpose

Under the *Australian Renewable Energy Agency Act 2011* (Cth), ARENA is required to promote the sharing of information and knowledge about renewable energy technologies where appropriate. As such, knowledge sharing is considered an integral element of the Project. Effective knowledge sharing is central to ARENA achieving its twin objectives of improving the competitiveness and increasing the supply of renewable energy in Australia.

ARENA invests public money, and knowledge is one of the returns it expects from this investment. Effective knowledge sharing with key players in the Australian energy sector including EPC contractors, DNSPs, regulators, investors, researchers and planners helps to build a stronger, more resilient energy system with increasing levels of renewable energy.

This Knowledge Sharing Plan identifies the data, information and knowledge that will be generated and shared throughout the Project, along with how it will be shared, in accordance with an agreed timetable. In relation to data generated by the Project, it also outlines the methodology that will be used to capture, store, assess and report this data.

## 3. Knowledge sharing objectives

The Recipient must use its best endeavours to contribute to the advancement of the [insert sector] sector's knowledge in [insert number of, or name of, areas] areas.

The Outcomes for the Project are specified in Schedule 3.

The objectives of the Knowledge Sharing Activities (**Knowledge Sharing Objectives**) support delivery of the Outcomes and are:

- (a) increased skills, capacity and knowledge in [insert technology] within Australia;
- (b) production and dissemination of information that advances [insert technology] through the Technology Readiness Levels (as defined by ARENA from time to time) towards commercialisation;
- (c) sharing of high quality research into [insert technology] which enhances Australia's world-class research position and/or addresses conditions specific to Australia [please delete if not applicable];
- (d) increased public awareness and understanding of [insert technology/sector];
- (e) increased understanding of roadblocks to [insert technology] and solutions to address them; [delete if not applicable]
- (f) increased understanding of the challenges experienced when testing requirements for [insert technology] and approaches trialled to overcome them; [delete if not applicable]

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[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

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*[Insert a list of project-specific knowledge objectives. Please be as specific as possible. Some examples might include:*

- (g) increased understanding of the factors affecting economic viability of solar PV with storage integrated with existing diesel generation in [off grid/fringe of grid/grid constrained] areas;*
- (h) increased level of publically accessible online material or tools that inform the plant design of [insert biomass technology and feedstock];*
- (i) improved understanding of design and construction techniques for rooftop integrated photovoltaic systems;*
- (j) improved understanding of methods to reduce the thermal losses overnight and the risk for crystallisation in the piping of plants using molten salt;*
- (k) increased understanding of the performance characteristics of [insert technology] in [insert conditions, location and/or application];*
- (l) increased understanding amongst potential investors and collaborators of the research in [insert technology] and its potential applications in Australia;*
- (m) increased collaboration between ARENA-funded projects and renewable energy sector projects (by industries and/or universities) in the field of [insert technology/research area];*
- (n) improved coordination and collaboration on [insert technology] between governments, industry, the finance sector and the research community, both nationally and internationally;*
- (o) improved understanding of the financing requirements for [insert technology] developments; and*
- (p) improved [insert data area e.g. resource data, generation data, grid constraint information] for [insert technology].]*

The Project is to answer the following critical questions that need to be answered to improve the competitiveness and supply of renewable energy technology in Australia:

- (a) [insert the critical questions the Project will answer]*

#### **4. Key knowledge sharing audiences**

In undertaking the Knowledge Sharing Activities, the Recipient must take into consideration the following audiences:

- (a) ARENA, including the ARENA Executive and Board;*
- (b) the Commonwealth;*
- (c) [insert sector] and allied services companies;*
- (d) investors [delete if not applicable];*
- (e) researchers [delete if not applicable]; and*
- (f) [insert any other groups that would particularly benefit from this knowledge and the Recipient's delivery of the Knowledge Sharing Objectives identified above].*

*[The audiences identified in this section should help you determine the most effective types of knowledge and knowledge sharing activities to use.]*

---

**[insert name of Recipient]**

ARENA Funding Agreement for the provision of **[insert description]**

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## 5. Confidentiality and dissemination of knowledge

In undertaking its legislated knowledge-sharing function, it is anticipated that ARENA may share information with other areas of government and with the public. The Recipient will provide information of varying levels of confidentiality, from little or none to highly valuable and confidential Intellectual Property.

To maximise the knowledge sharing benefit, the Recipient has established a level of confidentiality of information provided to ARENA. Accordingly, information the Recipient shares with ARENA is categorised according to those persons with whom it may be shared as follows:

- (a) the public (unrestricted) – This information may be shared freely within ARENA, with industry participants, and with the public in general.
- (b) the public (restricted) (Restricted Information) – Subject to any restrictions imposed by the Recipient, this information may be shared freely within ARENA, with industry participants, and with the public in general.
- (c) ARENA only (Confidential Information) – this information may be shared freely within ARENA and with other areas of government with equivalent privacy management and control processes and in accordance with clause 18.

Table A identifies the knowledge that will be generated by the Project and those persons with whom it may be shared.

The Recipient must apply the dissemination levels in Table A to knowledge generated by the Project.

The Funding Agreement determines the treatment of Intellectual Property and Confidential Information.

It is the Recipient's responsibility to ensure that any project documentation (including Milestone Reports) prepared for public release does not contain any Confidential Information.



**Table A – List of high value knowledge to be generated by Project**

[Table A should be as comprehensive as possible, clearly identifying the specific knowledge that the Project will generate that will help improve the competitiveness and supply of renewable energy technology. It should also be as specific as possible. It may help to order this knowledge according to the life-cycle stage (refer Table C below)]

Category	Area of operation	Information to be shared	Key audiences	Dissemination			Conditions (if any)	Reasons for commercial sensitivity (if any)
				Public (unrestricted)	Public (restricted) (Restricted Information)	ARENA only (Confidential Information)		
<i>Examples:</i>								
<i>Technical</i> [Please choose from: technical, financial, regulatory, logistical, or societal]	<i>Life cycle analysis; technology performance; feasibility study</i>	<i>plant design; performance data; construction and operating costs; map of supply chain; identifying technical barriers at varying levels of renewable penetration, etc</i>	<i>mine site engineers</i>		<i>Yes</i>		<i>Public release for technical info; cost data only on aggregated basis with other ARENA projects</i>	
<i>Regulatory</i>	<i>Grid connection</i>	<i>Data on number and location of connections, identifying optimal areas for connection and upgrade work</i>	<i>DNSPs, developers applying to DNSPs, regulators</i>		<i>Yes</i>		<i>Delayed release; aggregated</i>	

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

Category	Area of operation	Information to be shared	Key audiences	Dissemination			Conditions (if any)	Reasons for commercial sensitivity (if any)
				Public (unrestricted)	Public (restricted) (Restricted Information)	ARENA only (Confidential Information)		
		<i>planned</i>						
<i>Technical</i>	<i>Solar PV cell design</i>	<i>Improvements made in cell performance and structural reliability</i>	<i>researchers, manufacturers, system designers</i>	<i>Yes</i>				
	<i>Resource, design development</i>	<i>online interactive tool for downloading resource data</i>		<i>Yes</i>			<i>Summary GIS data provided i.e. not 1 min solar files, but just the temperature information in GIS format</i>	

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

## 6. Data

Table B sets out the data that must be generated, collected and stored from the Project to answer the critical questions identified in item 3 of this Knowledge Sharing Plan. [This table may be deleted in consultation with ARENA if your project will not be generating data.]

The Recipient must provide the data specified in Table B to ARENA on a [insert timeframe e.g. monthly/quarterly] basis as specified in Table B.

**Table B – Data management and transfer**

	Overview (description of data)	Collection methodology considerations	Data categories	Sampling frequency	Format (specific data units and components)	Data provider and owner	Data source	Transfer process / how supplied to ARENA
[Insert first critical question as listed in item 3 of this Knowledge Sharing Plan. Each critical question should be listed as a sub-heading in this table with the relevant data points listed under each one.]								
<b>Example:</b>  <i>Economic feasibility assessment</i>	AETA, LCOE cost breakdown table	Subcontractors will provide spreadsheet of figures underpinning financial assessment	<ul style="list-style-type: none"> <li>List specific data points to be captured</li> </ul>	By sec, minute, month, quarter, annually, once only, end of Project	MWh, MW, DNI levels, \$\$\$, labour hours, GIS data	e.g. proponents, consortia member, BOM, technology supplier	e.g. Smart metering, asset specification sheet, asset operation records, asset metering, etc	e.g. automated satellite upload on a daily, weekly, or monthly basis.
			<ul style="list-style-type: none"> <li>Transmission line characteristics, including line impedance data, cable lay and ratings information</li> </ul>					
<b>Study</b>	case study data on minigrid performance	Load demand profiles will be provided by grid operator – agreement in place	<ul style="list-style-type: none"> <li>Total energy demand</li> </ul>	Half hourly over 24 hours for a year	GJ and kWh	Grid operator (privacy conditions apply)	Meter data and gas, diesel billing data form invoices	Spreadsheet to be provided on DVD as so large

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

	Overview (description of data)	Collection methodology considerations	Data categories	Sampling frequency	Format (specific data units and components)	Data provider and owner	Data source	Transfer process / how supplied to ARENA
<i>Enabling data</i>	<i>Resource information and data on biogas locations</i>	<i>Based on test buoys and BOM data, using algorithms, with panning layers</i>	<ul style="list-style-type: none"> <li><i>Naval hazards and boundaries data</i></li> </ul>	<i>Updated quarterly</i>	<i>Geospatial data in line with Office of Spatial Policy standards</i>	<i>Recipient</i>	<i>Geoscience Australia</i>	<i>Via a cloud download</i>

[As well as describing high value knowledge items (in Table A), you will need to clearly specify your methodology for capturing, storing and assessing data from your Project. This will include:

- *defining the form and metrics for collecting the data/information (using Table B above);*
- *describing whether the item requires any specific processing, or handling; and*
- *ensuring data fields proposed to be collected can be accurately and reliably analysed to answer the critical questions identified in your Knowledge Sharing Plan. This may be supported by examples from previous work, the use of existing models or standards, or by demonstrating your approach with sample data. This is fundamental component of your Knowledge Sharing Plan. ARENA may seek expert advice to ensure the veracity of your proposed analysis. ARENA may also contract a third party to collect, store, analyse and report on data across its programs. This would be in addition to the Project-specific analysis and reporting set out in this Knowledge Sharing Plan.*

*Please also outline your arrangements for the proper storage and back-up of the data and information required for knowledge sharing purposes under this Agreement.]*

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

## 7. Knowledge Sharing Activities

The Recipient must undertake Knowledge Sharing Activities as outlined in Table C below.

**Table C – Detailed program of Knowledge Sharing Activities**

Project stage and timeframe	Number and type of Knowledge Sharing Activity	High value knowledge to be shared and provided to ARENA	Intended audience	Further information (optional)
<i>Examples: (note not all examples may be relevant to your project)</i>				
<i>Second phase (October 2014)</i>	<i>One workshop</i>	<i>Outline of research to date and next steps</i>	<i>Researchers Developers</i>	<i>Webinar or presentation to be hosted by university or public forum such as clean energy week</i>
<i>Project completion (insert month)</i>	<i>One journal article and one media article</i>	<i>Advancing the field – practical applications</i>	<i>Financiers Regulators NSPs Energy users Government</i>	<i>Citations to be provided</i>
<i>Project completion (insert month)</i>	<i>Two presentations at industry conferences</i>	<i>Details of experimental results including key design challenges overcome</i>	<i>Researchers Research institutions</i>	
<i>Third milestone (insert month)</i>	<i>One site visit</i>	<i>Overview of technology performance, familiarisation of techniques, demonstration of new uses for equipment</i>	<i>Technology companies Financiers</i>	
<i>Project completion (insert month)</i>	<i>Public impact report</i>	<i>Potential market for technology, standard of research compared to international competitors, international collaboration and co-investment</i>	<i>ARENA Government Early-stage investors Researchers General public</i>	
<i>Feasibility study completed (insert month)</i>	<i>Two reports – one technical for engineers and developers; one</i>	<i>Details of the optimal plant design including the issues identified (supply chain,</i>	<i>ARENA Developers</i>	

[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]

	<i>higher level for senior managers</i>	<i>integration, etc) and the solutions proposed</i>	<i>Financiers Governments</i>	
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*[Knowledge sharing activities may take a variety of forms. Some examples include expert roundtables or peer-assist workshops, public forums, presentations or participation in conferences, site visits, webinars, reports posted online or emailed to stakeholders, data sets, data visualisations and web-based tools, websites or social media platforms, journal articles or posters, models, and staff exchanges/secondments. If the same knowledge is being shared through several different activities (e.g. a report and a presentation) each activity should be listed separately. Table C should be completed with the audience in mind – e.g. are they a senior executive, a technician, or member of the public.]*

## 8. Reporting

### 8.1 Reporting on Knowledge Sharing Activities

- (a) Each Milestone Report must include a description of:
- (i) the Knowledge Sharing Activities completed during the period to which the report relates, including a list of any public reports or knowledge sharing reports;
  - (ii) the outcomes of those Knowledge Sharing Activities; and
  - (iii) any data or documentation developed from the Project during the period to which the report relates.
- (b) The Final Project Report must include details of:
- (i) all of the Knowledge Sharing Activities completed as at the date of the Final Project Report;
  - (ii) analysis of the effectiveness of each of the Knowledge Sharing Activities so completed;
  - (iii) for any on-going Knowledge Sharing Activities, an update of progress in undertaking each Knowledge Sharing Activity; and
  - (iv) an assessment by the Recipient of its success in achieving the Knowledge Sharing Objectives.

### 8.2 Project failure report

In the event of Project failure, the Recipient must, within 20 Business Days after the Project failure, provide a report to ARENA for public release explaining the reasons for the failure and the Project Lessons Learnt.

### 8.3 Schedule of standard metrics (quantitative)

*[Insert timeframe, eg in each Milestone Report or on a financial year basis]* the Recipient must provide to ARENA a prescribed schedule of standard metrics that will provide overall information on the performance of ARENA's investment portfolio, using the following template:

*[At the Project inception, this table should be completed using Project forecasts. Ongoing reporting at each Milestone should report actual recorded costs or performance data. This is a standard requirement across all ARENA-funded projects. The Project-specific data will be kept confidential, but may be used publicly in an aggregated form (e.g. total patents lodged by all ARENA-funded projects or by all projects within a particularly technology category).]*

*[insert name of Recipient]*

ARENA Funding Agreement for the provision of *[insert description]*

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Input	Unit	Total value	Description of category source (i.e estimated, references, based on x analysis)
<b>Other (ARENA portfolio reporting)</b>			
Publications	1		URL
Citations	1		URL
Patents lodged	patent number		
No. of direct employees (on project)	FTE		Across the whole project lifecycle
Monthly page views (if any websites or online tools created)	No.		Unique page views or downloads reported by month

#### 8.4 'Lessons learnt' (qualitative reporting)

Each Milestone Report must include a knowledge sharing report which uses the template provided by ARENA and captures Project Lessons Learnt since the previous Milestone.

Project Lessons Learnt and information that contains Recipient Confidential Information must be released by the Recipient to:

- (a) ARENA;
- (b) the Commonwealth; and
- (c) any other person with whom the information can be shared, on any terms agreed to by the Recipient, acting reasonably, which must be determined by the Recipient on a case by case basis.

*[These short one page reports are intended to capture the nuggets of knowledge that were learnt and perhaps were not a pre-determined learning of the Project. There may be only one key lesson learnt between Milestones or there may be multiple lessons to be captured. These are required in addition to pre-determined knowledge identified in Tables B and C.]*

## 9. Specified Personnel

[Insert name] occupying the position of [insert position] will be the central contact point for ARENA for the Knowledge Sharing Activities.

# Schedule 8 – IP Management Plan

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Classification	Description of IP	IP owner	Criticality to Project	Management strategy
Background IP				
Licences				
Project technology				
Potential licences				

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[insert name of Recipient]

ARENA Funding Agreement for the provision of [insert description]



# Signing page

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**EXECUTED** as an agreement.

**Executed by Australian Renewable Energy Agency (ARENA)** by its duly authorised delegate in the presence of:

\_\_\_\_\_  
Signature of witness



\_\_\_\_\_  
Signature of authorised delegate



\_\_\_\_\_  
Name of witness  
(print)

\_\_\_\_\_  
Name of authorised delegate  
(print)

\_\_\_\_\_  
Date (print)

\_\_\_\_\_  
Position of authorised delegate  
(print)

*[Note to users: Select one of the following execution clauses. Where the Recipient is:*

- *a company, select the first execution block below;*
- *a delegate authority, select the second execution block below;*
- *otherwise, select the third execution block below.]*

**Executed by [insert name of company]** in accordance with section 127 of the Corporations Act 2001

\_\_\_\_\_  
Signature of director



\_\_\_\_\_  
Signature of director/company secretary/sole director and sole company secretary  
(Please delete as applicable)



\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary/sole director and sole company secretary (print)

\_\_\_\_\_  
Date (print)

---

**[insert name of Recipient]**

ARENA Funding Agreement for the provision of **[insert description]**

**Signed** for and on behalf of [*insert contracting party name*] by its duly authorised delegate in the presence of

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised delegate

\_\_\_\_\_  
Name of witness (print)

\_\_\_\_\_  
Name of authorised delegate (print)

\_\_\_\_\_  
Date (print)

\_\_\_\_\_  
Position of authorised delegate (print)

**Signed** by [*insert contracting party name*] in the presence of

\_\_\_\_\_  
Signature of witness



\_\_\_\_\_  
Signature of Recipient



\_\_\_\_\_  
Name of witness (print)

\_\_\_\_\_  
Date (print)

