



## National Industrial Transformation (NIT) Program Funding Agreement

ARENA agrees to provide the ARENA Funding, and the Recipient agrees to complete the Study in accordance with the terms of this Agreement.

*[Drafting note: When editing this template, **please use the existing formatting Styles** in the 'Style pane' – do not copy and paste new styles into the document.]*

### STUDY DETAILS

#### PART 1 – STUDY OVERVIEW

1. Study Title	<i>[Drafting note: ARENA to insert full long name in accordance with ARENA's naming convention] i.e. [GMS Number] [Name] [GMS Number] [study]</i>
2. Contract Number	<i>[Drafting note: ARENA to complete – to be obtained from ARENA's GMS]</i>
3. Recipient	<i>[Drafting note: Recipient to insert full legal name and ABN]</i>
4. Stream	<i>[Drafting note: ARENA to list applicable stream]</i>
5. Guidelines and policies	National Industrial Transformation Program – Program Guidelines 2023 ( <a href="#">webpage</a> )  ARENA Variation Policy ( <a href="https://arena.gov.au/assets/2018/05/arena-funding-agreement-variation-policy.pdf">https://arena.gov.au/assets/2018/05/arena-funding-agreement-variation-policy.pdf</a> )  ARENA Report Writing Tips and Guidelines ( <a href="https://arena.gov.au/assets/2020/03/arena-report-writing-guidelines.pdf">https://arena.gov.au/assets/2020/03/arena-report-writing-guidelines.pdf</a> )

#### PART 2 - KEY STUDY DETAILS

1. Location	<i>[Drafting note: insert the location (state, suburb and street address if available) where the majority of the Study is expected to be delivered and also include details for the head office if different. If the Study is being delivered at multiple locations, these should be listed.]</i>
2. Budget	<i>[Drafting note: insert total Budget amount for the Study, including Recipient Contributions and Other Contributions.]</i>
3. ARENA Funding	<i>[Drafting note: ARENA to complete. Insert dollar amount]</i> (excl. GST) representing <i>[insert]</i> % of Budget
4. Recipient and Other Contributions	<i>[Drafting note: insert dollar amount]</i> (excl. GST) representing <i>[insert]</i> % of Budget for Recipient Contributions and Other Contributions <i>[Drafting note: include both cash and in-kind contributions]</i>
5. Final Milestone Date	<i>[Drafting note: ARENA to list the date of completion of final Milestone.]</i>

<p>6. Specified Personnel</p>	<p><b>[Drafting note:</b> Recipient to list key nominated <b>Study Personnel</b> of the Recipient, the Study Participants or subcontractors who will be carrying out the Study and involved in Knowledge Sharing.]</p> <p><b>Study Personnel:</b> [insert name, position and contact details]</p> <p><b>Knowledge Sharing Personnel:</b> [insert name, position and contact details]</p>
<p>7. Approved subcontractors for Major Subcontract Work (clause 13.1(e) (Undertakings and Acknowledgements))</p>	<p><b>[Drafting note:</b> Recipient to insert name(s) and ABN of any subcontractors of Major Study Work that have been approved by ARENA or mark 'Not Used'. Note that subcontractors can be added after execution with ARENA's written approval, as set out in clause 13.1(e) (Undertakings and Acknowledgements)]</p>
<p>8. Study Participants (clause 18 (Acknowledgement, disclaimer and publicity))</p>	<p><b>[Drafting note:</b> Recipient to insert full legal name and ABN of entities participating in the Study (such as academic or industry bodies). ARENA will confirm if required to be listed in this item. Note that under clause 18 (Acknowledgement, disclaimer and publicity), Study Participants must give an acknowledgement of ARENA's support and their involvement can be publicly disclosed by ARENA. Subcontractors are addressed separately in item 7.]</p>

**PART 3 - OTHER CONTRACT INFORMATION**

<p>1. Acknowledgement of support (clause 18.1 (Acknowledgement, disclaimer and publicity))</p>	<p><b>Acknowledgement</b></p> <p>The Recipient must acknowledge the support received from ARENA by including the following statement:</p> <p style="text-align: center;"><i>This Study received funding from the Australian Renewable Energy Agency (ARENA) as part of ARENA's National Industrial Transformation Program.</i></p>
<p>2. Disclaimer (clause 18.3 (Acknowledgement, disclaimer and publicity))</p>	<p>The Recipient must include the following statement in the Study and in the Study Report:</p> <p style="text-align: center;"><i>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.</i></p>
<p>3. Recipient Confidential Information (clause 19 (Confidentiality))</p>	<p>As specified in the Knowledge Sharing Plan.</p>
<p>4. Address for Notices and other communications (including invoices) (clause 29 (Notices and other communications))</p>	<p><b>ARENA:</b></p> <p>Director, Contract Management Services</p> <p><b>Delivery and email address:</b></p> <p>Level 8, 2 Phillip Law Street          Canberra ACT 2601  <a href="mailto:arenacontracted@arena.gov.au">arenacontracted@arena.gov.au</a></p> <p><b>The Recipient:</b> <b>[Drafting note:</b> Recipient to complete. Insert name and position of person to receive notices]</p> <p><b>Delivery and email address:</b> <b>[Drafting note:</b> Recipient to complete. Insert relevant street address (not PO Box) for hand delivery and email. Note that service cannot be by facsimile or pre-paid post]</p>

## Funding Agreement General Conditions

### 1 Duration of Agreement

This Agreement begins on the Commencement Date and continues until the End Date, unless terminated earlier or extended in accordance with its terms (**Term**).

### 2 Recipient to undertake the Study

Subject to the terms of this Agreement, the Recipient must:

- (a) undertake the Study in accordance with this Agreement;
- (b) satisfy the requirements of the Milestones Deliverables, including meeting the completion dates for the Milestones, as specified in item 1.5 (*Milestones*) of Schedule 1 (*The Study*) and in accordance with clause 5 (*Claims for payment*); and
- (c) complete the Study by the Final Milestone Date.

### 3 Knowledge sharing

3.1 The Recipient must:

- (a) in consultation with ARENA, implement and comply with the Knowledge Sharing Plan; and
- (b) ensure the delivery of the Knowledge Sharing Deliverables,

as set out at item 4 (*Knowledge Sharing Plan*) of Schedule 1 (*The Study*).

3.2 It is the Recipient's responsibility to ensure that any Study documentation or information (including any Knowledge Sharing Deliverables) prepared for public release do not contain any Recipient Confidential Information.

3.3 The Recipient must categorise the documentation and information it provides to ARENA pursuant to the Knowledge Sharing Plan as follows:

- (a) **public:** information that may be shared freely within ARENA, with industry participants, and with the public in general; and
- (b) **Recipient Confidential Information:** information that may only be shared in accordance with clause 19 (*Confidentiality*).

### 4 ARENA Funding

4.1 Notwithstanding any other provision of this Agreement, ARENA's total liability under or in connection with this Agreement, including all ARENA Funding paid or payable, will not exceed an amount equal to the ARENA Funding.

4.2 ARENA may set-off any money due for payment by ARENA to the Recipient under this Agreement against any money owed by the Recipient to ARENA under this Agreement.

### 5 Claims for payment

5.1 Subject to this Agreement, ARENA will pay ARENA Funding to the Recipient in accordance with this clause 5 (*Claims for payment*).

5.2 Before making a claim for payment of ARENA Funding, the Recipient must submit to ARENA by email or by the GMS, all Milestone Deliverables due for the relevant Milestone by the completion date specified in item 1.5 (*Milestones*) of Schedule 1 (*The Study*).

5.3 Upon receipt of a Milestone Deliverable in accordance with clause 5.2 (*Claims for payment*), ARENA will:

- (a) within 5 Business Days, provide the Recipient with notification that the Milestone Deliverable has been received; and
- (b) within 20 Business Days, notify the Recipient, with respect to each Milestone Deliverable, whether it is:
  - (i) accepted; or
  - (ii) not accepted.

5.4 When one or more Milestone Deliverables are not accepted:

- (a) ARENA will provide reasons why the Milestone Deliverable was not accepted; and
- (b) within 10 Business Days (or such longer period notified by ARENA) the Recipient must re-submit the Milestone Deliverable, and ARENA will, within 5 Business Days, notify the Recipient whether the Milestone Deliverable has been:
  - (i) accepted; or
  - (ii) not accepted, in which case ARENA may exercise any of its rights under this Agreement.

5.5 When all Milestone Deliverables due for the relevant Milestone are accepted by ARENA:

- (a) ARENA will notify the Recipient that the Milestone is achieved; and
- (b) the Recipient will make a claim for payment with respect to payment of the relevant Milestone in accordance with clause 5.6 (*Claims for payment*).

5.6 The Recipient may submit a claim for payment of ARENA Funding by providing a correctly rendered invoice which:

- (a) is emailed to the address listed in item 4 of the Study Details or submitted by the GMS;
- (b) meets the requirements of a tax invoice as set out in the GST Law;
- (c) sets out:
  - (i) the agreement number and Study title; and
  - (ii) the amount of ARENA Funding to be paid together with the documentation specified

in item 2 (*Funding and Payment*) of Schedule 1 (*The Study*); and

- (d) is accompanied by a certificate signed and dated by a duly authorised representative of the Recipient stating that:
- (i) the representations set out in clause 12 (*Representations and warranties*) of this Agreement are true and correct in all material respects as at the date the invoice is submitted;
  - (ii) no Material Breach is continuing or would result from the payment of funding by ARENA; and
  - (iii) the Recipient is able, and has sufficient funds, to complete the Study by the Final Milestone Date in accordance with this Agreement.

5.7 Upon satisfaction of the requirements of this clause 5, ARENA must make payment within 30 days after receiving a valid invoice into the account nominated by the Recipient.

## 6 Separate ledger

The Recipient must:

- (a) maintain a separate ledger for the purpose of accounting for, and administering, any ARENA Funding paid to the Recipient for this Study; and
- (b) identify the receipt and expenditure of the ARENA Funding separately within the Recipient's accounting records to ensure that, at all times, the ARENA Funding is identifiable and ascertainable.

## 7 Use of ARENA Funding

7.1 The Recipient must use the ARENA Funding only:

- (a) for the Study;
- (b) for Eligible Expenditure, which must be in accordance with the requirements of the Applicable Guidelines;
- (c) subject to clause 10 (*Changes to the Budget*), as provided in the Budget; and
- (d) in accordance with the terms and conditions set out in this Agreement.

7.2 The Recipient must not spend more than 10% of the total ARENA Funding on Overseas Expenditure, other than for equipment or materials (which includes items such as software).

## 8 Contributions

- 8.1 With the exception of the ARENA Funding, the Recipient is responsible for providing or securing all Contributions, funds and resources, and bearing all costs necessary, to complete the Study, including on account of cost overruns.
- 8.2 The Recipient Contributions and Other Contributions must be provided and used for the Study in accordance with the timeframe in item 2.3 (*Budget*) of Schedule 1 (*The Study*).

8.3 If the Recipient receives any additional contribution to the Study in the form of grant funding from the Commonwealth or a State, Territory or local government other than the ARENA Funding or Contributions specified in the Budget, ARENA may, at its discretion, reduce the amount of ARENA Funding payable under this Agreement by an amount equal to the additional grant funding received by the Recipient.

## 9 Variations

9.1 Without limiting anything else in this Agreement, any variations to this Agreement will be considered by ARENA in accordance with the ARENA Variation Policy.

9.2 Subject to clause 9.3 (*Variations*), no agreement or understanding varying the terms of this Agreement is legally binding upon either party unless the agreement or understanding is in writing and signed by both parties.

9.3 Where a party requires a Minor Variation:

- (a) the party must provide notice to the other party, including details of the proposed variation; and
- (b) where agreed by the parties, ARENA will effect the Minor Variation in accordance with Appendix A.

## 10 Changes to the Budget

10.1 Notwithstanding clause 8 (*Contributions*) and subject to clause 10.2 (*Changes to the Budget*), the Recipient may amend expenditure in the Budget without ARENA's approval where:

- (a) the increase or decrease (taken with all previous changes) in:
  - (i) any individual item in expenditure is less than 10% of the allocated amount for that item; and
  - (ii) the quantum of the Budget is less than 10%; and
- (b) the change, taken with all previous changes, would not result in the total Overseas Expenditure to an amount exceeding 10% of the ARENA Funding, other than for equipment or materials.

10.2 For the avoidance of doubt, the Recipient may not amend any individual item of income in the Budget, including the ARENA Funding or Contributions, and clause 10.1 (*Changes to the Budget*) does not apply to any such amendments.

## 11 Reports

11.1 The Recipient must provide the Reports in accordance with the requirements in item 3 (*Reports*) of Schedule 1 (*The Study*) and in a form and substance satisfactory to ARENA.

11.2 During the Term of this Agreement, and for a period of five years following the Final Milestone Date, upon request by ARENA, provide:

- (a) data with respect to carbon abatement resulting from any Studies that are undertaken as a result of the Study; and
- (b) a report on the number of direct jobs (including any permanent roles, contractors, subcontractors and consultants) created during the Study; and
- (c) such further information as reasonably requested by ARENA with respect to emissions reductions related to the Study.

11.3 In the event this Agreement is terminated by ARENA due to the Recipient being unable to complete the Study due to technical or commercial feasibility reasons, within 20 Business Days after the termination or such longer period as notified by ARENA, the Recipient must provide a report for public release explaining:

- (a) the reasons for such termination; and
- (b) the information, knowledge and lessons learnt (both positive and negative) by the Recipient from the Study.

## 12 Representations and warranties

12.1 The Recipient represents and warrants that:

- (a) **(transaction permitted)**: it will not be breaching any Law, Authorisation, or agreement by signing or performing this Agreement;
- (b) **(no misleading information)**: all information provided to ARENA (including in the Application) is true, correct, and complete in all material respects and is not misleading;
- (c) **(conflicts of interest)**: except as otherwise disclosed in writing to ARENA, to the best of its knowledge after making diligent enquiry, no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement;
- (d) **(employee entitlements)**: it is not subject to any judicial decision against it, relating to employee entitlements (not including decisions under appeal) where it has not paid the claim;
- (e) **(Intellectual Property)**:
  - (i) the use or development of the Licensed Materials by the Recipient to undertake the Study; and
  - (ii) ARENA's use of the Licensed Materials as contemplated in accordance with the requirements of this Agreement,

will not infringe the Intellectual Property Rights or Moral Rights of any person;

- (f) **(legal capacity)**: it has full legal capacity to own its own property, undertake the Study and enter into this Agreement, and to carry out the transactions that each of these contemplate;
- (g) **(financial capacity)**: it has, or will have, sufficient funds to complete the Study;

- (h) **(insolvency)**: no Insolvency Event has occurred, and there are no reasonable grounds to suspect that an Insolvency Event will occur, in respect of the Recipient;

- (i) **(Applicable Guidelines)**: it has complied with the Applicable Guidelines in connection with the Study;

- (j) **(qualifications)**: the Recipient, its Personnel and subcontractors have the necessary experience, skill, knowledge, expertise and competence to undertake the Study, will hold such licences, permits or registrations as are required under law to undertake the Study; and

- (k) **(trustee)**: if the Recipient is a trustee, it enters into this Agreement personally, in its capacity as trustee and without any limitation of its liability as a trustee and has the power to perform its obligations under this Agreement.

12.2 The Recipient acknowledges and agrees that:

- (a) the representations and warranties in clause 12.1 (*Representations and warranties*) will be made on the signing of this Agreement by the Recipient, and be repeated on each date the Recipient submits an invoice to ARENA in accordance with clause 5 (*Claims for payment*); and
- (b) ARENA has entered into this Agreement and performs this Agreement in reliance on the representations and warranties in clause 12.1 (*Representations and warranties*).

## 13 Undertakings and Acknowledgements

13.1 The Recipient must:

- (a) **(Laws)**: comply with all applicable Laws when carrying out the Study;
- (b) **(WHS Law)**:
  - (i) comply with applicable WHS Law; and
  - (ii) immediately notify ARENA of any notifiable incidents under WHS Law, accidents, injuries, or damage to property of a serious nature that occurs in connection with the Study;
- (c) **(privacy)**: comply with applicable privacy laws, including the *Privacy Act 1988* (Cth) and notify ARENA as soon as practicable if an eligible data breach within the meaning of that Act occurs with respect to the Study;
- (d) **(FOI)**: assist ARENA to comply with any request under the *Freedom of Information Act 1982* (Cth) 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;
- (e) **(subcontractors and Study Participants)** in connection with the Study:
  - (i) not enter into a contract with a subcontractor or Study Participant named as an organisation that has not complied

with the *Workplace Gender Equality Act 2012* (Cth);

- (ii) and in relation to Major Subcontract Work, only engage those subcontractors specified in item 7 of the Study Details or otherwise approved by ARENA in writing; and
- (iii) ensure that its contracts with any subcontractors, Study Participants, consultants or other persons participating in the Study contain those provisions necessary to enable the Recipient to comply with its obligations under this Agreement;
- (f) **(insurance)**: in connection with the Study:
  - (i) have and maintain the insurances that would be maintained by a prudent business undertaking the Study; and
  - (ii) ensure that its subcontractors have and maintain appropriate insurance to cover the risk of the subcontractors' works, and, if requested by ARENA, provide certificates or other sufficient evidence to satisfy ARENA that such insurances have been procured and maintained;
- (g) **(books and records)**: at its own cost, until the Final Milestone Date and for a period of five years after the Final Milestone Date, keep, and require its subcontractors to keep, adequate books and records in sufficient detail to enable:
  - (i) all receipts and payments related to the Study to be identified and reported to ARENA; and
  - (ii) the amounts payable by ARENA under this Agreement to be determined or verified;
- (h) **(conflicts)**: if, during the Study, a conflict of interest arises, or appears likely to arise, notify ARENA as soon as practicable in writing, make full disclosure of all relevant information relating to the conflict and take such steps as ARENA reasonably requires to manage the conflict;
- (i) **(Personnel)**:
  - (i) undertake the Study, with the active involvement of, and using the expertise of, the Specified Personnel ensuring they are aware of and comply with the Recipient's obligations under this Agreement; and
  - (ii) notify ARENA as soon as practicable; where one or more of the Specified Personnel is, or will become, unable or unwilling to be involved in the Study; and provide a replacement person of suitable ability and qualifications at the earliest opportunity;
- (j) **(cooperate)**: cooperate with ARENA, including by attending any meetings on ARENA's

reasonable request to discuss any matters in relation to this Agreement or the Study;

- (k) **(standards)**: undertake the Study diligently, efficiently, safely and to a high professional standard, in accordance with this Agreement and all relevant Australian industry standards, codes, best practice and guidelines (including those specified in item 5 of the Study Details) or, where none apply, relevant international industry standards, best practice and guidelines;
- (l) **(reporting)**: comply with the report requirements in this Agreement and as set out in item 3 (*Reports*) of Schedule 1 (*The Study*) and keep ARENA regularly and fully informed regarding the progress of the Study;
- (m) **(notification)**: notwithstanding any other provision of this Agreement, notify ARENA:
  - (i) promptly in writing of any delay or anticipated delay in the achievement of a Milestone, providing the reasons, anticipated impact on the Study and the steps taken to overcome such notified delay and keep ARENA updated as to the status; and
  - (ii) as soon as practicable in writing if the Recipient Contributions and/or Other Contributions provided and used for the Study are increased; and
  - (iii) immediately in writing, if it becomes aware:
    - (A) it has not undertaken the Study as required under this Agreement or has not spent the ARENA Funding in accordance with this Agreement;
    - (B) it has, or may have, committed a Material Breach; or
    - (C) an Insolvency Event has occurred or is likely to occur with respect to the Recipient;
- (n) **(Modern Slavery Act)**:
  - (i) comply with any applicable requirements under the *Modern Slavery Act 2018* (Cth); and
  - (ii) provide information to ARENA as reasonably requested to enable ARENA to comply with its reporting obligations under that Act.

## 14 Intellectual Property and Moral Rights

- 14.1 The parties acknowledge and agree that:
- (a) this Agreement does not affect ownership of the Intellectual Property Rights of a party in any Pre-existing Material or Third Party Material; and
  - (b) all Intellectual Property Rights in Agreement Material vest in the Recipient upon creation.

- 14.2 With respect to the Licensed Materials, the Recipient must grant to, or obtain for, ARENA a perpetual, irrevocable, world-wide, royalty-free, fee-free, non-exclusive licence to use, reproduce, adapt, modify, communicate, broadcast, distribute, publish, disseminate and sublicense the Licensed Materials solely for the purpose of:
- (a) giving effect to the Knowledge Sharing Plan; or
  - (b) to carry out its objectives under the ARENA Act,

but not including the right to exploit the Licensed Materials for commercial purposes.

- 14.3 The Recipient must obtain all consents (including any Moral Rights consents or waivers) necessary to perform its obligations under this Agreement.
- 14.4 If someone claims, or ARENA reasonably believes that someone is likely to claim, that all or part of the Licensed Materials (or their use in accordance with this Agreement) infringe their Intellectual Property Rights or Moral Rights, the Recipient must, at the Recipient's expense:
- (a) use its best efforts to secure the rights for ARENA to continue to use the affected Licensed Materials free of any claim or liability for infringement; or
  - (b) replace or modify the affected Licensed Materials so that their use does not infringe the Intellectual Property Rights or Moral Rights of any other person without any degradation of the performance or quality of the affected Licensed Materials.
- 14.5 For the purposes of this Agreement:
- (a) **Agreement Material** means the Milestone Deliverables and the Knowledge Sharing Deliverables, including any modifications required made clause 14.4(b) (*Intellectual Property and Moral Rights*);
  - (b) **Licensed Materials** means:
    - (i) Agreement Material; and
    - (ii) Pre-existing Material and Third-Party Material that is included, embodied in or attached to the Agreement Material;
  - (c) **Pre-existing Material** means material owned by a party before execution of this Agreement; and
  - (d) **Third Party Material** means material owned by a person who is not a party to this Agreement.

## 15 Change in Control

The Recipient must notify ARENA, as soon as practicable and in writing, of any Change in Control of the Recipient.

## 16 Evaluation

- 16.1 ARENA may, at any time until the Final Milestone Date, undertake an evaluation of the Study, either directly or through a third-party adviser, and the Recipient must:

- (a) at its own cost, provide all reasonable assistance to ARENA, and any adviser, for such review or evaluation; and
- (b) subject to clause 19 (*Confidentiality*), provide any information reasonably required by ARENA on the implementation and progress of the Study in the format requested by ARENA.

- 16.2 The Recipient acknowledges that ARENA may undertake an evaluation of the Study after the Final Milestone at ARENA's own cost and the Recipient agrees to cooperate with ARENA with respect to any such evaluation.

## 17 Audit and access

- 17.1 At any time until the End Date, if requested by ARENA, the Recipient must promptly provide, at its own cost, Audited Financial Statements for the Study in accordance with the requirements specified in item 3 (*Reports*) of Schedule 1 (*The Study*).
- 17.2 During the Term of this Agreement and for five years after the End Date, ARENA or its nominee may:
- (a) conduct audits relevant to the performance of the Recipient's obligations under this Agreement and in respect of the Study; and
  - (b) upon giving the Recipient reasonable notice, require the provision of records and information, and inspect and copy any documentation or records reasonably necessary for that purpose.
- 17.3 The Recipient must provide all reasonable assistance to ARENA and its nominee (if any) for any audit or access under this clause 17 (*Audit and access*).
- 17.4 ARENA will, and will require that any nominee, use reasonable endeavours to minimise any disruption to the Activities caused by any audit or access and will comply with the Recipient's reasonable workplace policies.
- 17.5 The rights of ARENA under this clause 17 (*Audit and access*):
- (a) apply equally to the Auditor-General or an Information Officer (or any nominee) for the purpose of performing the Auditor-General's or Information Officer's statutory functions or powers; and
  - (b) are in addition to, and do not limit, any other function, power, right or entitlement of the Auditor-General or an Information Officer.
- 17.6 Where an audit under this clause 17.1 (*Audit and access*) identifies, in ARENA's reasonable opinion, that the Recipient is in Material Breach of this Agreement, then ARENA may recover from the Recipient the costs incurred in conducting that audit. The Recipient acknowledges and accepts that it is not permitted to use funds included in the Budget to meet any such costs.

## 18 Acknowledgement, disclaimer and publicity

- 18.1 The Recipient must acknowledge the financial and other support received from ARENA:
- (a) in the Study, the Study Report and in any public announcements, events and activities in connection with the Study; and
  - (b) ensuring the form of acknowledgement is as specified in item 1 of the Study Details or as otherwise approved by ARENA prior to its use.
- 18.2 ARENA reserves the right to publicise and report on the awarding of the ARENA Funding, and may include:
- (a) the name of the Recipient Recipient's shareholders and Study Participants;
  - (b) the amount of the ARENA Funding; and
  - (c) a brief description of the Study.
- 18.3 The Recipient must, and must ensure that any Study Participants:
- (a) include a disclaimer as specified in item 2 of the Study Details, or otherwise approved by ARENA, in all published material relating to the Study; and
  - (b) before making a public announcement in connection with this Agreement, obtain ARENA's written consent to the announcement, except if required by Law or a regulatory body, including a relevant stock exchange, in which case ARENA should be notified of any such announcement as soon as practicable.

## 19 Confidentiality

- 19.1 Without limiting clause 3 (*Knowledge Sharing*), ARENA must not, without the prior written consent of the Recipient, disclose any Recipient Confidential Information to another person, except:
- (a) as specified or as contemplated in the Knowledge Sharing Plan;
  - (b) to ARENA's Personnel or advisers, including its Knowledge Sharing Agent;
  - (c) to a Commonwealth agency, where this serves ARENA's or the Commonwealth's legitimate interests;
  - (d) to a House or a Committee of the Parliament of the Commonwealth of Australia, the Auditor-General, the Information Officer or any of the Commonwealth or State or Territory Ombudsmen;
  - (e) to ARENA's responsible Minister or Portfolio Department; or
  - (f) where required by Law, including under a Senate Order.
- 19.2 The Recipient must not, without the prior written consent of ARENA, disclose any ARENA Confidential Information to another person, except:

- (a) where required by Law, in which case ARENA must be notified as soon as practicable before the ARENA Confidential Information is disclosed; and
- (b) to the Recipient's Personnel and professional advisers (and those of any Related Body Corporate) and subcontractors or Study Participants, solely for the purposes of carrying out its obligations under this Agreement or meeting its legal obligations under Law, including with respect to taxation.

- 19.3 The Recipient acknowledges that Recipient Confidential Information provided to ARENA may be provided to a contractor for data handling and analysis services, or 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.

## 20 Suspension of Funding

- 20.1 Without limiting its other rights, upon giving the Recipient at least 10 Business Days' prior notice, ARENA may suspend payment of the ARENA Funding in whole or in part if:
- (a) there is a Material Breach that has continued for a period of 10 Business Days, and is continuing; or
  - (b) the Recipient has received, or requested to receive, grant funding from the Commonwealth or a State, Territory or local government other than the ARENA Funding or Contributions specified in the Budget.
- 20.2 The Recipient must not spend any ARENA Funding after it receives notice from ARENA under clause 20.1 (*Suspension of Funding*) unless and until ARENA notifies the Recipient otherwise.
- 20.3 ARENA's right to suspend payment under clause 20.1 (*Suspension of Funding*) will cease upon ARENA determining, acting reasonably, that the cause of the suspension has been remedied.
- 20.4 Regardless of whether ARENA exercises its right to suspend payment under this clause 20 (*Suspension of Funding*), the Recipient will not be entitled to payment of ARENA Funding unless the conditions to payment in clause 5 (*Claims for payment*) have been satisfied.
- 20.5 Despite any suspension to payment or direction not to spend ARENA Funding in accordance with clause 20.1 (*Suspension of Funding*), the Recipient must continue to comply with any obligations under this Agreement that are not materially affected by any such suspension.

## 21 Termination or reduction in scope for Convenience

- 21.1 Without limiting any other rights or remedies ARENA may have arising out of or in connection with this Agreement, if:
- (a) there has been a change in Commonwealth government policy with respect to ARENA,



funding provided by ARENA or the National Industrial Transformation Program, that relates to ARENA's obligations under this Agreement; or

- (b) ARENA no longer has the legislative power to undertake the National Industrial Transformation Program or otherwise provide the ARENA Funding, as determined by ARENA in its sole discretion, then:
  - (i) ARENA may by notice terminate this Agreement or reduce the scope of the Study effective from the time specified in the notice;
  - (ii) the parties will work cooperatively to facilitate the orderly cessation of the Study or reduction in its scope; and
  - (iii) the Recipient will be entitled to payment in accordance with clause 21.2(b) (*Termination or reduction in scope for convenience*) but will not be entitled to claim any other amount from ARENA.

21.2 If this Agreement is terminated under clause 21.1 (*Termination or reduction in scope for convenience*), ARENA is liable to the Recipient only for:

- (a) payments due under clause 5.1 (*Claims for payment*) in accordance with this Agreement before the effective date of termination, but only to the extent that those monies have been spent or Legally Committed, written evidence of which must be provided by the Recipient to ARENA; and
- (b) where the Recipient has undertaken work on, but not completed, a Milestone at the time the Recipient receives the notice of termination, payment of ARENA Funding in accordance with this Agreement to the extent that those monies have been spent or Legally Committed by the Recipient on that Milestone at the time the Recipient receives the notice of termination, written evidence of which must be provided by the Recipient to ARENA.

21.3 Termination of this Agreement under this clause 21 (*Termination or reduction in scope for convenience*) does not affect any accrued rights or remedies of a party.

## 22 Reduction

22.1 Without limiting its other rights, ARENA may, at its discretion, reduce the amount of any Milestone payment or the overall ARENA Funding payable under this Agreement if, on the date for payment of a Milestone:

- (a) the Recipient has not spent or Legally Committed the ARENA Funding which has been paid to the Recipient in accordance with the Agreement; or
- (b) the Recipient Contributions or Other Contributions due to be used or spent by the Recipient in accordance with this Agreement have not been used, spent or Legally Committed,

by the amount(s) that has not been used, spent or Legally Committed.

## 23 Termination with cause

23.1 Without limiting any other rights or remedies ARENA may have arising out of or in connection with this Agreement, ARENA may, by notice, immediately terminate this Agreement if:

- (a) the Recipient commits a Material Breach (other than an Insolvency Event) and the Material Breach has not been remedied within 20 Business Days (or such other time as agreed by ARENA) of the earlier of:
  - (i) the date on which the Recipient receives notice of the Material Breach from ARENA; and
  - (ii) the date on which the Recipient becomes aware of the Material Breach;
- (b) the Recipient fails to achieve one or more of the Milestones by the time required in item 1.5 (*Milestones*) of Schedule 1 (*The Study*); or

23.2 Without limiting any of ARENA's other rights or remedies, on termination of this Agreement under this clause 23 (*Termination with cause*):

- (a) ARENA is not obliged to pay to the Recipient any outstanding amount of funding under this Agreement; and
- (b) ARENA is entitled to exercise any right to recover from the Recipient, including repayment rights under clause 25 (*Repayment of ARENA Funding*).

## 24 Termination for an Insolvency Event

Without limiting any other rights or remedies ARENA may have arising out of or in connection with this Agreement, ARENA may, to the extent permitted by law, terminate this Agreement by notice if an Insolvency Event occurs with respect to the Recipient.

## 25 Repayment of ARENA Funding

25.1 Notwithstanding anything else in this Agreement, ARENA may recover some or all of the ARENA Funding from the Recipient (as a debt due and payable on demand in accordance with clause 25.2 (*Repayment of ARENA Funding*)) in the circumstances and to the extent specified below:

- (a) (**misspent funds**): the amount of any ARENA Funding which, in ARENA's opinion, acting reasonably, and at any time, has been spent or used other than in accordance with this Agreement;
- (b) (**unspent funds**):
  - (i) the full amount of any ARENA Funding which has not been spent or Legally Committed by the Recipient as at the Final Milestone Date; or
  - (ii) any amount of ARENA Funding which has been paid to the Recipient and not been spent or Legally Committed by the

Recipient as at a due date for payment of further ARENA Funding in accordance with this Agreement;

- (c) **(Contributions not used)**: if, as at the Final Milestone Date, Recipient Contributions or Other Contributions have not been used for the Study, an amount that represents the same proportion of the ARENA Funding as the Recipient Contributions and Other Contributions which have not been used are of the total Recipient Contributions and Other Contributions;
- (d) **(Material Breach)**: an amount equal to all ARENA Funding paid to the Recipient if the Recipient commits a Material Breach (other than an Insolvency Event) and ARENA terminates this Agreement under clause 23 (*Termination with cause*); and
- (e) **(Insolvency Event)**: an amount equal to all ARENA Funding paid to the Recipient if an Insolvency Event occurs in respect of the Recipient and ARENA has terminated this Agreement in accordance with clause 24 (*Termination for an Insolvency Event*).

- 25.2 Where ARENA gives the Recipient a repayment notice under clause 25.1 (*Repayment of ARENA Funding*), the Recipient must, within 20 Business Days of the date of the repayment notice, repay the amount specified in the repayment notice.
- 25.3 ARENA can elect to require repayment of a lesser amount of ARENA Funding than otherwise required under clause 25.1 (*Repayment of ARENA Funding*) and is not required to exercise this discretion for the Recipient's benefit.
- 25.4 The Recipient acknowledges that the amounts to be paid to ARENA under this clause 25 (*Repayment of ARENA Funding*) are a genuine pre-estimate of the losses incurred by ARENA for the defaults described in this clause 25 (*Repayment of ARENA Funding*).
- 25.5 ARENA and the Recipient agree that the amount of any repayments payable to ARENA by the Recipient under this clause 25 (*Repayment of ARENA Funding*), shall not exceed the amount of ARENA Funding paid to the Recipient.
- 25.6 This clause 25 (*Repayment of ARENA Funding*) does not limit any other right or remedy of ARENA.

## 26 Dispute resolution

- 26.1 A party must comply with this clause 26 (*Dispute resolution*) in relation to any dispute, controversy or claim arising out of, relating to or in connection with this Agreement, including any question regarding its existence, validity or termination (**Dispute**), before starting 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 26 (*Dispute resolution*).
- 26.2 Any party claiming a Dispute has arisen must give the other parties to the Dispute a notice setting out details of the Dispute (**Notice of Dispute**).

- 26.3 Within 10 Business Days after a Notice of Dispute is received (or longer period if agreed in writing by the parties), each party must use all reasonable endeavours through a meeting of Senior Management (or their nominees) to resolve the Dispute.
- 26.4 If the Dispute is not resolved within 10 Business Days under clause 26.3 (*Dispute resolution*), the Dispute shall be referred to a mediator upon either party's request. If the parties cannot agree on a mediator within 7 days after the request, the chair of the Resolution Institute or the chair's nominee will appoint a mediator.
- 26.5 Unless agreed by the parties, the mediation must be held within 21 days after the request for mediation in clause 26.4 (*Dispute resolution*). The parties must attend the mediation and act in good faith to genuinely attempt to resolve the Dispute.
- 26.6 Any information or documents disclosed by a party under this clause 26 (*Dispute resolution*) must be kept confidential and may only be used to attempt to resolve the Dispute.
- 26.7 Each party must pay its own costs of complying with this clause 26 (*Dispute resolution*) and the parties must equally pay the costs of any mediator.
- 26.8 A party may terminate the dispute resolution process by giving notice to the other party after it has complied with clauses 26.1 (*Dispute resolution*) through 26.5 (*Dispute resolution*). Clauses 26.6 and 26.7 (*Dispute resolution*) survive termination of the dispute resolution process.
- 26.9 If a party breaches any clauses from clause 26.1 through 26.8 (*Dispute resolution*), the other party does not have to comply with those clauses in relation to the Dispute.
- 26.10 For the purpose of this clause 26 (*Dispute resolution*), a Dispute does not include a dispute arising in relation to clause 20 (*Suspension of Funding*), clause 23 (*Termination with cause*), or clause 25 (*Repayment of ARENA Funding*).

## 27 Liability and Indemnity

- 27.1 The Recipient will at all times indemnify ARENA and its Personnel (referred to in this clause 27 (*Liability and Indemnity*) as **those indemnified**) from and against any loss, damage, cost, expense or liability (including legal costs on a solicitor and own client basis) arising out of or as a consequence of:
  - (a) the Licensed Materials (including the use of the Licensed Materials by ARENA or its Personnel) infringing or allegedly infringing the Intellectual Property Rights or Moral Rights of any person;
  - (b) any material breach of this Agreement by the Recipient; or
  - (c) any negligent or wrongful or unlawful act or omission on the part of the Recipient, its Personnel or subcontractors.
- 27.2 The Recipient's liability to indemnify those indemnified will be reduced proportionally to the extent that any breach of this Agreement by those

indemnified, or any negligent act or omission of those indemnified, contributed to the loss.

- 27.3 Neither party will be liable to the other party for Consequential Loss arising under or in connection with this Agreement.

## 28 GST

- 28.1 In this clause 28 (GST):
- (a) unless otherwise stated, 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; and
  - (b) a reference to a party or an entity includes the representative member of any GST group of which the relevant party or entity is a member.
- 28.2 Unless otherwise expressly stated, all prices or other sums payable, or consideration to be provided to a party under this Agreement, are exclusive of GST.
- 28.3 Subject to this clause 28 (GST), if a party (**Supplier**) makes a taxable supply to another party (**GST Recipient**) under or in connection with this Agreement in respect of which GST is payable, the GST Recipient must pay the Supplier an additional amount equal to the GST payable on the supply (unless the consideration for the taxable supply was specified to include GST) which is payable at the same time that any part of the consideration for the supply is first paid or provided. The Supplier must provide a tax invoice to the GST Recipient in accordance with the GST Law.
- 28.4 If an adjustment event arises in respect of a taxable supply made by a Supplier under this Agreement, the amount payable by the GST Recipient will be recalculated to reflect the adjustment event and a payment will be made by the GST Recipient to the Supplier or by the Supplier to the GST Recipient as the case requires. The Supplier must provide an adjustment note to the GST Recipient in accordance with the GST Law.
- 28.5 If the GST payable in relation to a supply is less than the amount the GST Recipient has paid the Supplier under clause 28.3 (GST), the Supplier is only obligated to pay a refund of GST to the GST Recipient to the extent the Supplier receives a refund of that GST from the Commissioner.
- 28.6 If a payment to a party under this Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled on the acquisition of the supply to which that loss, cost or expense relates.
- 28.7 This clause 28 (GST) will survive the termination of this Agreement by any party.

## 29 Notices and other communications

- 29.1 Any notice, approval, consent or other communication (**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 email to the recipient's address specified in item 4 of the Study Details (or as updated by written notice from time to time), or in the case of notices or other communications to ARENA, via the GMS.

- 29.2 Any notice takes effect when it is taken to be received and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by email, on the day and at the time it is sent (as recorded on the sender's equipment), unless the sender receives an automated message that the email has not been delivered; or
- (c) if sent via the GMS, on the day and at the time it is recorded on the GMS as being received,

but if the delivery 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.

## 30 Miscellaneous

- 30.1 Clauses 3 (*Knowledge Sharing*); 4.1 and 4.2 (*ARENA Funding*); 13.1(d) (*FOI*); 14 (*Intellectual Property and Moral Rights*); 13.1(f) (*Insurance*); 13.1(g) (*Books and Records*); 16.2 (*Evaluation*); 17 (*Audits and Access*); 18 (*Acknowledgement, Disclaimer and Publicity*); 19 (*Confidentiality*); 21.2(b) (*Termination or reduction in scope for convenience*), 23.2 and 23 (*Termination with cause*); 25 (*Repayment of ARENA Funding*); 26 (*Dispute Resolution*); 27 (*Liability and Indemnity*); 28 (GST); 30.16 (*Miscellaneous*); and 32 (*Interpretation*) survive the expiry or termination of this Agreement, together with any provision of this Agreement which expressly or by implication from its nature is intended to survive the expiry or termination of this Agreement.
- 30.2 The Recipient must not, without the prior written consent of ARENA, use the ARENA Funding or this Agreement 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.
- 30.3 Except where this Agreement expressly states otherwise, a party may in its absolute discretion, give conditionally or unconditionally, or withhold, any acceptance, agreement, approval or consent under this Agreement.
- 30.4 The Recipient may only assign its rights or novate its rights and obligations under this Agreement with the prior written consent of ARENA.
- 30.5 ARENA may assign its rights or novate any or all of its rights and obligations under this Agreement if it is to an Authority or an entity where the ultimate legal or beneficial interest is held by an Authority.
- 30.6 Where the Recipient subcontracts any aspect of the Study, it is fully responsible for:
- (a) undertaking the Study and for the performance of all of its obligations under this Agreement; and

- (b) its subcontractors' acts and omissions.
- 30.7 Each party must pay its own costs of negotiating, preparing, executing and varying this Agreement.
- 30.8 The Recipient must pay any taxes and duties payable in respect of this Agreement and the Study.
- 30.9 This Agreement may be executed in counterparts. All executed counterparts constitute one document.
- 30.10 This Agreement may be executed by electronic signature, which will be considered as an original signature for all purposes and will have the same force and effect as an original signature.
- 30.11 This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
- 30.12 Each party must do, at its own cost, everything reasonably necessary (including executing documents) to give full effect to this Agreement and any transaction contemplated by it.
- 30.13 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.
- 30.14 Waiver of any provision of or right under this Agreement must be in writing and signed by the party entitled to the benefit of that provision or right and is effective only to the extent set out in any written waiver.
- 30.15 This Agreement does not create a relationship of employment, agency or partnership between the parties. 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.
- 30.16 This Agreement is governed by the law of the Australian Capital Territory and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the Australian Capital Territory.

## 31 Definitions

- 31.1 Except where the contrary intention is expressed, capitalised:
- Accounting Standards** means the 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;
- Agreement** means this agreement between ARENA and the Recipient (including the Schedules and any attachments), as varied from time to time in accordance with its terms;
- Applicable Guidelines** means the Guidelines listed at item 4 of the Study Details;

**Application** means the application submitted by, for, or on behalf of the Recipient under the Applicable Guidelines in relation to the Study;

**Approved Auditor** means a person who is:

- (a) registered as a company auditor under the *Corporations Act 2001* (Cth) or an appropriately qualified member of the Chartered Accountants Australia and New Zealand, CPA Australia or the Institute of Public Accountants;
- (b) not a principal, member, shareholder, officer, agent, subcontractor or employee of the Recipient, a Study Participant or a Related Body Corporate of the Recipient or a Study Participant; and
- (c) not the Recipient's accountant;

**ARENA** means the Australian Renewable Energy Agency (ABN 35 931 927 899) of 2 Phillip Law St, Canberra ACT 2601;

**ARENA Act** means the *Australian Renewable Energy Agency Act 2011* (Cth);

**ARENA Confidential Information** means Confidential Information of ARENA;

**ARENA Funding** means the amount specified in item 2.1 (*ARENA Funding*) of Schedule 1 (*The Study*);

**Audited Financial Statements** means financial statements in respect of the ARENA Funding prepared by an Approved Auditor in accordance with item of Schedule 1 (*The Study*);

**Authorisation** means any authorisation, approval, licence, permit, consent, determination, certificate, notice, requirement or permission from any Authority which must be obtained or satisfied (as the case may be) to undertake the Study;

**Authority** means any Commonwealth, State, Territory, local or foreign government or semi-governmental authority, court, administrative or other judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality or any other person having jurisdiction in connection with work required for the Study;

**Budget** means the total budget for the Study set out in item 2.3 (*Budget*) of Schedule 1 (*The Study*), as may be varied or updated from time to time;

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the ACT;

**Change in Control** means, in relation to an entity, a change in the direct or indirect power or capacity of a person to:

- (a) determine the outcome of decisions about the financial and operating policies of the entity; or
- (b) control the membership of the board of directors of the entity,

whether or not the power has statutory, legal or equitable force or is based on statutory, legal or

equitable rights and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of the entity or otherwise, but not including a change in control resulting from ordinary course trading on a stock exchange in the shares of the entity;

**Claim** means a distress, attachment or other execution levied or enforced upon or against the assets of a person, and in the case of legal proceedings or other order or process requiring payment (other than a statutory demand or a bankruptcy notice) which is not withdrawn or dismissed within 10 Business Days;

**Commencement Date** means the date on which this Agreement is signed by ARENA;

**Confidential Information** means information that is by its nature confidential and which a party knows or ought to know is confidential, but not including information that is or becomes public knowledge otherwise than by breach of this Agreement or any other confidentiality obligation;

**Consequential Loss** means loss or anticipated loss of profits or revenue, loss of production, loss of business opportunity, loss of or damage to goodwill or reputation, loss of use or any other similar loss, but excludes:

- (a) loss recoverable under a policy of insurance to the extent of the amount recovered or that should have been recovered but for a breach of the policy or failure to insure in accordance with this Agreement;
- (b) loss arising from death or personal injury;
- (c) loss arising from criminal acts, fraudulent conduct or wilful misconduct committed by the Recipient or its Personnel;
- (d) loss arising from an infringement of any Intellectual Property Right or Moral Rights by the Recipient or its Personnel;
- (e) loss arising from breach of clauses 13.1(b) (*Undertakings and Acknowledgements*) or 19 (*Confidentiality*) by the Recipient or its Personnel;
- (f) loss arising from liability which by Law the parties cannot contract out of; and
- (g) any amounts expressly payable by the Recipient to ARENA under this Agreement;

**Contributions** means both the Recipient Contributions and the Other Contributions;

**Controller** has the meaning given to it in section 9 of the *Corporations Act 2001* (Cth);

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

**Dispute** has the meaning given in clause 26.1 (*Dispute resolution*);

**Eligible Expenditure** has the meaning set out in the Applicable Guidelines and means expenditure

(inclusive of GST but less related input tax credits the Recipient is entitled to claim) incurred by the Recipient on the Study:

- (a) after the date of this Agreement that qualifies as eligible expenditure under the Applicable Guidelines; and/or
- (b) that ARENA otherwise approves as eligible expenditure for the purposes of this Agreement as permitted in the Applicable Guidelines;

**End Date** means the date on which the Recipient has performed all of its obligations under this Agreement (including provision of Knowledge Sharing Deliverables) or the date of its earlier termination;

**External Controller** means an administrator, Controller, trustee, provisional liquidator, liquidator or any other person holding or appointed to an analogous office or acting or purporting to act in an analogous capacity;

**Final Milestone Date** means the date by which the final Milestone is to be completed, as set out in item 1.5 (*Milestones*) of Schedule 1 (*The Study*);

**General Conditions** means clauses 1 (*Duration of Agreement*) to 32 (*Interpretation*) of this Agreement;

**GMS** means ARENA's grant management system;

**GST Law** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

**Information Officer** means the Information Commissioner, the Freedom of Information Commissioner and the Privacy Commissioner appointed in accordance with section 14 of the *Australian Information Commissioner Act 2010* (Cth), or a delegate of that person;

**Insolvency Event** means the occurrence of any of the following events:

- (a) in relation to a corporation, its Liquidation, the appointment of an External Controller to the corporation or any of its property, it ceasing or threatening to cease carrying on its business; it being deemed to be, or stating that it is, unable to pay its debts as and when they fall due; or it entering into a Scheme;
- (b) in relation to an individual, that person becoming an insolvent under administration as defined in section 9 of the *Corporations Act 2001* (Cth); or
- (c) in relation to any person, the person is served with a Claim or anything analogous to or having a similar effect to anything described above in this definition under the law of the relevant jurisdiction;

**Intellectual Property Rights** means all intellectual property rights, including:

- (a) copyright, patents, trademarks (including goodwill in those marks), designs, trade secrets, know how, rights in circuit layouts,

domain names and any right to have confidential information kept confidential;

- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere,

whether or not such rights are registered or capable of being registered;

**Knowledge Sharing Agent** means (if applicable) the third party engaged by ARENA to perform knowledge sharing activities;

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

**Knowledge Sharing Deliverables** means the activities and deliverables to be provided by the Recipient in accordance with item 4.6 (*Knowledge Sharing Deliverables*) of Schedule 1 (*The Study*);

**Knowledge Sharing Plan** means the knowledge sharing plan in item 4 (*Knowledge Sharing Plan*) of Schedule 1 (*The Study*) (including the Knowledge Sharing Deliverables), as varied by agreement in writing between the parties from time to time;

**Legally Committed** means, at any time, a present or accrued obligation on the Recipient under contract or at law to pay money to a third party, excluding any future obligation to make payment which is subject to any outstanding condition to payment or other contingency that has not been satisfied at that time, or which the Recipient has a right to cancel, suspend or terminate under the contract or under law;

**Liquidation** means a winding up or liquidation (whether voluntary or involuntary), provisional liquidation, dissolution, deregistration, or steps are taken (including the calling of meetings or the filing of applications), orders are made or resolutions are passed to give effect to any of the above;

**Major Subcontract Work** means any work undertaken for the purpose of the Study and performed by a subcontractor:

- (a) which has a total contract sum in excess of 20% of the Budget; or
- (b) which ARENA determines, acting reasonably may have a material impact on the progress or performance of work on the Study or achievement of Outcomes;

**Material Breach** means any breach of the following clauses of this Agreement:

- (a) clause 2 (*Recipient to undertake the Study*);
- (b) clause 7 (*Use of ARENA Funding*);
- (c) clause 12 (*Representations and Warranties*);

- (d) clause 14 (*Intellectual Property and Moral Rights*); or

a breach of a material nature of any of the following clauses:

- (e) clause 19 (*Confidentiality*),
- (f) clause 3.1 (*Knowledge Sharing*);
- (g) clause 8 (*Contributions*);
- (h) clause 11 (*Reports*);
- (i) clause 13.1(a) (*Laws*);
- (j) clause 13.1(b) (*WHS Law*);
- (k) clause 13.1(c) (*Privacy*);
- (l) clause 13.1(d) (*FOI*);
- (m) clause 13.1(h) (*Conflicts*); or
- (n) clause 13.1(l) (*Reporting*).

**Milestone Deliverables** means those deliverables specified in item 1.5 (*Milestones*) of Schedule 1 (*The Study*);

**Milestones** means the milestones set out in item 1.5 (*Milestones*) of Schedule 1 (*The Study*);

**Minor Variation** means a variation:

- (a) by way of extension to the dates specified in the Study Details or Schedule 1 (*The Study*);
- (b) to the approved subcontractors for Major Subcontract Work in item 12 of the Study Details;
- (c) to the Address for Notices specified in item 17 of the Study Details;
- (d) to the Specified Personnel specified in the Study Details;
- (e) to elements of the Study as described in item 1.1 of Schedule 1 (*The Study*);
- (f) to the Budget, provided the variation does not amend the Contributions, increase ARENA Funding or would not result in the total Overseas Expenditure exceeding 10% of the ARENA Funding, other than for equipment or materials;
- (g) to the Knowledge Sharing Plan,
- (h) that does not or is not likely to materially affect the Study or Outcomes (including the Budget, Milestones and reports) or the extent of the Recipient's obligations or costs in undertaking the Study;

**Modern Slavery** has the same meaning as in the *Modern Slavery Act 2018* (Cth);

**Moral Rights** has the meaning given to that term in the *Copyright Act 1968* (Cth) and includes a right of a similar nature that is conferrable by statute and that exists or comes to exist anywhere in the world;

**Other Contributions** means the financial and in-kind contributions specified in item 2.3 (*Budget*) of Schedule 1 (*The Study*);

**Outcomes** means the outcomes for the Study, as set out in item 1.4 (*Outcomes*) of Schedule 1 (*The Study*);

**Overseas Expenditure** means the incurred or paid expenditure of cash (or equivalent) on goods and services procured from a non-Australian entity and overseas travel;

**Personnel** means, in relation to a party, any employee, officer, agent or professional adviser of that party and:

- (a) in the case of the Recipient, also of any subcontractor; and
- (b) in the case of ARENA, including staff made available under section 62 of the ARENA Act;

**Portfolio Department** means the Department of Climate Change, Energy, the Environment and Water or such other Department as determined by an Administrative Arrangements Order;

**Project** means the project utilising the technology solution in the Study which may be delivered by the Recipient;

**Study Report** means the report required to be provided in accordance with item 1.5 (*Milestones*) of Schedule 1 (*The Study*);

**Recipient** means the party specified in item 3 of the Study Details;

**Recipient Confidential Information** means Confidential Information of the Recipient which is identified in item 3 of the Study Details for the period of time specified in item 3 of the Study Details, or such other information as identified by the Recipient in writing to ARENA;

**Recipient Contributions** means the financial and in-kind contributions specified in item 2.3 (*Budget*) of Schedule 1 (*The Study*);

**Related Body Corporate** has the meaning given to that term in section 9 of the *Corporations Act 2001* (Cth);

**Resolution Institute** means the dispute resolution association with that name and ABN 69 008 651 232 (or any dispute resolution association which replaces it or which substantially succeeds to its powers or functions) and the following contact details:

Level 1, 13-15 Bridge Street  
Sydney NSW 2000;  
Email: [info@resolution.institute](mailto:info@resolution.institute);  
Phone: +61 2 9251 3366;

**Scheme** means an arrangement, assignment, composition or moratorium with or for the benefit of creditors or any class or group of creditors (including an administration or arrangement under Part 5.3A of the *Corporations Act 2001* (Cth)), other than for the purposes of a solvent reconstruction or amalgamation as approved by ARENA;

**Senior Management** means the Chief Executive Officer in the case of the Recipient and in the case

of ARENA, a senior member of management nominated by ARENA;

**Specified Personnel** means the nominated Personnel of the Recipient, a Study Participant or subcontractor identified at item 6 of the Study Details;

**Study** means the study to be delivered under this Agreement, including all deliverables, as described in Schedule 1 (*The Study*);

**Study Details** means the Study Details at the beginning of this Agreement;

**Study Participants** means the entities specified in item 8 of the Study Details;

**Study Work Plan** means the extract of the plan provided by the Recipient in its Application attached at Appendix B (*Study Work Plan*); and

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

## 32 Interpretation

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

- (a) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (b) a reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes;
- (c) the singular includes the plural and vice versa, and a gender includes other genders;
- (d) another grammatical form of a defined word or expression has a corresponding meaning;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (g) 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;
- (h) 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;
- (i) 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;

- (j) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Agreement or any part of it;
- (k) a reference to an obligation includes a warranty or representation and a reference to a failure to comply with, or breach of, an obligation includes a breach of warranty or representation;
- (l) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (m) headings are for ease of reference only and do not affect interpretation.

32.2 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) General Conditions;
- (b) Study Details;
- (c) Schedule 1 (*The Study*);
- (d) other Schedules;
- (e) Appendix A (*Minor Variations to this Agreement*);
- (f) Appendix B (*Study Work Plan*);
- (g) any attachments to the Schedules; and
- (h) documents incorporated by reference in this Agreement.



# Schedule 1 – The Study

## 1. Study

### 1.1 Summary of the Study

*[Drafting note: The 250 word (max) “Study Summary” from Application Form to be included]*

### 1.2 Study Participants and/or approved subcontractors for Major Subcontract Work

*[Drafting note: Recipient to complete. Clearly outline the role of each on the Study Participant and approved subcontractors for Major Subcontract Work.]*

Organisation	Role	Description of role in the Study
[Consultant]	[Study Participant/ approved subcontractor for Major Subcontract Work]	[Recipient] has engaged Consultant XXX to assist in delivering the Study report.

### 1.3 Outputs

The Recipient will deliver the following outputs from the Study:

- A finalised [*Feasibility or Engineering – select as appropriate*] Study Report as described at item 4.6 (*Knowledge Sharing Deliverables*) of Schedule 1 (*The Study*); and
- Other knowledge Sharing Deliverables as set out in item 4 (*Knowledge Sharing Plan*) of Schedule 1 (*The Study*).

### 1.4 Outcomes

*[Drafting Note: the below text is to be included for Feasibility Studies, delete text not used:]*

The Study will achieve the following Outcomes:

- enable a decision by the Recipient to:
  - proceed to fund implementation of the studied Project;
  - proceed to a more detailed engineering study (FEED); or
  - terminate further development of the studied Project;
- inform industry of the barriers to implementation of the studied Project and potential solutions to these barriers;
- accelerate uptake of similar projects across industry; and
- enable accelerated transformational improvement in industrial renewable energy and/or energy efficiency and greenhouse gas emissions compared to baseline or business as usual.

*[Drafting Note: the below text is to be included for Engineering Studies, delete text not used:]*

The Study will achieve the following Outcomes:

- enable a Final Investment Decision regarding whether or not to proceed with funding implementation of the studied Project;
- inform industry of the barriers to implementation of the studied Project and potential solutions to these barriers;
- accelerate uptake of similar projects across industry; and
- enable accelerated transformational improvement in industrial renewable energy and/or energy efficiency and greenhouse gas emissions compared to baseline or business as usual.

## 1.5 Milestones (clause 2 (Recipient to undertake the Study))

The Recipient must achieve the following Milestones and provide the Milestone Deliverables and any Reports in a form and substance satisfactory to ARENA, by the Completion date of the relevant Milestone.

No.	Description of Milestone and Milestone Deliverables	Completion date	Amount of Milestone payment (GST excl.)
1.	<p><b>Study Initiated</b></p> <p>D1.1 Provision of documentation evidencing that the Study has commenced in accordance with the Study Work Plan at Appendix B (Study Work Plan)</p> <p><i>[Drafting note: documentary requirements to be settled by ARENA, which may include items such as invoices, purchase orders, etc. Completion date may be varied at ARENA's discretion]</i></p>	<p><i>[Drafting note: One month from the Commencement Date.]</i></p>	<p><i>[Drafting note: 20% of the ARENA Funding]</i></p> <p><i>[insert amount]</i></p>
2.	<p><b>Study Update Report</b> <i>[Drafting note: Milestone applies only for Engineering Studies – Streams 1B and 2B]</i></p> <p>D1A.1 Provision of Study Update Report in accordance with item 3 of Schedule 1.</p>	<p><i>[Drafting note: Twelve (12) months from the Commencement Date]</i></p>	<p><i>[Drafting note: 40% of ARENA funding.]</i></p> <p><i>[insert amount]</i></p>
3.	<p><b>Final Milestone Date (Study completion)</b></p> <p>D2.1 Provision of the finalised Study Report in accordance with item KS4 of the Knowledge Sharing Plan at Schedule 1 (The Study).</p> <p>D2.3 Completion of Knowledge Sharing Deliverables due in the reporting period, in accordance with item 4.6 (Knowledge Sharing Deliverables) of the Knowledge Sharing Plan at Schedule 1 (The Study).</p> <p>D2.4 Provision of a Final Financial Statement, in accordance with item 3 (Reports) of Schedule 1 (The Study).</p> <p>D.2.5 Provision of a Final Report in accordance with item 3 (Reports) of Schedule 1 (The Study).</p>	<p><i>[Drafting note: for Feasibility Studies: Twelve (12) months from the Commencement Date; for Engineering Studies: 24 months from the Commencement Date]</i></p>	<p><i>[Drafting note: Balance of ARENA funding.]</i></p> <p><i>[insert amount]</i></p>

## 2. Funding and Payment

### 2.1 ARENA Funding

The total amount of funding provided by ARENA under this Agreement will not exceed \$*[insert]* (excluding GST).

### 2.2 Payment of ARENA Funding

The ARENA Funding will be provided as Milestone payments as specified in item 1.5 (Milestones) of Schedule 1 (The Study) in accordance with clause 5.7 (Claims for payment).

### 2.3 Budget

*[Drafting note: The below budget is provided to the Recipient as a guide with respect to the form of the Budget required by ARENA. Recipient and Other Contributions to be checked by ARENA against the original approval documents]*

All amounts in the table below are in AUD and GST exclusive.

Budget	Milestone 1	Milestone 1A	Milestone 2	Total Income
ARENA				
Recipient (cash)				
Recipient (in-kind)				
[Entity 1] (cash)				
[Entity 1] (in-kind)				
<i>Sub-Total Other Contributions</i>				
<b>Total income</b>				
Expenditure				
Salaries				
Contractors				
Consultants				
Due Diligence				
Equipment				
Consumables				
Travel				
Other [if used please define]				
<b>Total expenditure</b>				

### 3. Reports

Report Type	Requirements
<b>Study Update Report</b>	<p>The Study Update Report must include an update on:</p> <ul style="list-style-type: none"> <li>(a) whether the Study is proceeding in accordance with the Budget and, if it is not, an explanation of why the Budget is not being met, the effect this will have on the Study and the action the Recipient proposes to take to address this;</li> <li>(b) the progress on achieving the Outcomes;</li> <li>(c) any major issues or developments which have arisen and the effect they will have on the Study; and</li> <li>(d) any proposed changes to the Study.</li> </ul> <p><i>[Drafting note: ARENA to complete. Study Update Reports apply to Engineering Studies only.]</i></p>
<b>Final Report</b>	<p>The Final Report must include:</p> <ul style="list-style-type: none"> <li>(a) a description and analysis of the progress of the Study, including: <ul style="list-style-type: none"> <li>(i) evidence that the Study has been completed, and the Milestones have been achieved; and</li> <li>(ii) confirmation as to whether and how the Recipient intends to proceed with the area of study following the results of the Study;</li> </ul> </li> <li>(b) statistics for the number of direct jobs (including any permanent roles, contractors, subcontractors and consultants) created during any construction and operation phases of the Study;</li> </ul>

Report Type	Requirements
	<ul style="list-style-type: none"> <li>(c) data with respect to carbon abatement resulting from any Projects that are undertaken as a result of the Study;</li> <li>(d) analysis of the effectiveness of each of the Knowledge Sharing Deliverables completed;</li> <li>(e) for any on-going Knowledge Sharing Deliverables, an update of progress in undertaking each Knowledge Sharing Deliverable; and</li> <li>(f) if bound by the <i>Modern Slavery Act 2018</i> (Cth), a copy of the most recent Modern Slavery Statement that has been prepared. If not bound by the <i>Modern Slavery Act 2018</i> (Cth), if requested by ARENA, a statement setting out what checks and actions have been undertaken by the Recipient to address risks of Modern Slavery with respect to the Recipient's suppliers.</li> </ul>
<p><b>Final Financial Statement</b></p> <p><i>To be certified by the Recipient's Chief Financial Officer (or such other person approved by ARENA)</i></p>	<p>The Final Financial Statement must provide and certify:</p> <ul style="list-style-type: none"> <li>(a) that all ARENA Funding, Recipient Contributions and Other Contributions were spent for the purpose of the Study in accordance with this Agreement and that the Recipient has complied with this Agreement;</li> <li>(b) that salaries and allowances paid to persons involved in the Study are in accordance with any applicable award or agreement in force under any relevant law on industrial or workplace relations;</li> <li>(c) a Budget update (including actual expenditure to date vs budget expenditure) in a format similar to that set out in item 2.3 (<i>Budget</i>) of Schedule 1 (<i>The Study</i>); and</li> <li>(d) a definitive statement as to whether the financial information for the Study represents the financial transactions fairly and is based on proper accounts and records and evidence to support that statement.</li> </ul>
<p><i>If requested by ARENA under clause 17.1 (Audit and access):</i></p> <p><b>Audited Financial Statements</b></p> <p><i>To be prepared by an Approved Auditor in accordance with Accounting Standards in respect of the ARENA Funding, Recipient Contributions and Other Contributions.</i></p>	<p>The Audited Financial Statements must include:</p> <ul style="list-style-type: none"> <li>(a) a definitive statement as to whether the financial information for the Study represents the financial transactions fairly and is based on proper accounts and records;</li> <li>(b) if the 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; and</li> <li>(c) detail of any ARENA Funding returned to ARENA by the Recipient and the reasons for such refund.</li> </ul>

## 4. Knowledge Sharing Plan

### 4.1 Knowledge sharing context

Under the ARENA Act, ARENA's mandate is to promote the sharing of information and knowledge about renewable energy technologies, with the objective of accelerating the development and growth of Australia's renewable energy sector.

### 4.2 Knowledge Sharing Objectives

The knowledge sharing objective of the Study is to provide sufficient information that can lead to replicability and improved final investment decision making across similar industrial settings.

The Study must comply with the Applicable Guidelines, and specifically must address the following:

*[Drafting note: delete items (a) to (f) below if not a Feasibility Study]*

- (a) investigate a technology solution that improves the energy efficiency and/or increases the use of renewable energy and reduces the greenhouse gas emissions of an industrial;
- (b) investigate the costs and benefits of the technology, and how it would perform compared to the existing or 'business as usual' industrial process technology. This should consider any potential impacts on operability, environmental benefits and scheduling of the plant;
- (c) establish whether or not the potential technology is technically and commercially viable at the proposed site;
- (d) enable the Recipient to reach a conclusion on whether or not further development of the proposed technology solution is cost-effective, with the aim of deploying the technology permanently;
- (e) particularly consider whether the technology is sufficiently well-developed and identify any specific barriers to deployment within the industrial process; [and]
- (f) provide an estimated amount of any additional grant funding required to implement the Project and the basis for this estimate;

*[Drafting note: delete items (g) to (v) below if not an Engineering Study]*

- (g) technical approach including but not limited to performance and commissioning and acquisition of materials, expertise etc;
- (h) plan for how and when the intervention would be deployed and how any disruption to existing processes would be managed;
- (i) process flow diagrams;
- (j) process and Instrumentation Diagrams;
- (k) electrical diagrams;
- (l) facility plot plan;
- (m) civil and structural design and layout;
- (n) piping and mechanical design;
- (o) defined budget and scope for the Project;
- (p) carbon reduction by volume, cost and/ or analysis of other benefits;

- (q) health and safety, and permitting;
- (r) planning and consent;
- (s) environmental impacts;
- (t) Project delivery requirements and scheduling including identified contractors;
- (u) Project risks and risk management strategy; and
- (v) an estimated amount of any additional grant funding required to implement the Project and the basis for this estimate.

#### **4.3 Key Performance Metrics**

The key performance metrics are the relevant metrics that enable the calculations of the energy efficiency, energy use, and greenhouse gas emissions for the solution studied in comparison to the current base case.

#### **4.4 Knowledge Sharing Stakeholders / Target Audiences**

The target audience for the Study is companies and supporting industry participants with similar industrial processes which they are looking to transform to improve energy efficiency and/or significantly reduce greenhouse gas emissions resulting from the use of energy.

#### **4.5 Knowledge Sharing Agent**

ARENA may engage a consultant [*insert organisation name if known*] to act as an ARENA Knowledge Sharing Agent. ARENA reserves the right to engage a Knowledge Sharing Agent at any time.

#### **4.6 Knowledge Sharing Deliverables**

ARENA may make requests for particular topics to be covered through ad hoc reports, as required. Where ARENA has not made a specific request, topics are to be relevant and/or topical and have an appreciation for the key audiences. For the avoidance of doubt, business development and marketing material is not considered to be Knowledge Sharing Deliverables.

All deliverables are to be:

- (a) prepared to a standard acceptable to ARENA;
- (b) readily accessible and searchable; and
- (c) submitted in final form for revision.

Public reports must reflect ARENA's Report Writing Tips & Guidelines which will be provided by ARENA to the Recipient or can be found on ARENA's website. Public deliverables may be published on a public platform determined by ARENA. Any sensitive information (information not for public release) is to be provided as a confidential addendum for ARENA (as Recipient Confidential Information) or as agreed with ARENA. Public deliverables must be approved by ARENA prior to publishing.

<b>KS Item No.</b>	<b>Deliverable title</b>	<b>Purpose</b>	<b>Frequency</b>	<b>When</b>	<b>Accessibility - public or confidential</b>	<b>Content and delivery</b>
KS1.	ARENA 15-minute survey	Efficient qualitative and quantitative data gathering. ARENA may use this information in anonymised portfolio analysis and reporting.	Quarterly	From Commencement Date to Final Milestone Date	Confidential, except where the information is anonymised and aggregated ARENA may share the information publicly	ARENA will provide a link to the survey each quarter.
KS2.	Lessons learnt report	Public information readily accessible, usable and searchable.	Once	6 months from Commencement Date	Public	The Recipient will complete a summary outline of lessons learnt from the period.
KS3.	Participation in ARENA and/or Industry event	Share Study information with other ARENA funded projects and/or key stakeholders.	At least once	From Commencement Date to the Final Milestone Date (evidence due at Final Milestone)	Public, or as agreed by the parties	Recipient to provide documentation (i.e., slides, word document, pdf etc) to ARENA following attendance, to contain sufficient information to be read as a standalone document.
KS4.	Study Report	Share findings with the market	Once	Final Milestone Date	Public Confidential information may be provided in a Confidential Addendum or a separate confidential report, as agreed with ARENA	Public report to be published on a public platform determined by ARENA. See item 4.8 ( <i>Study Report Outline</i> ) of Schedule 1 ( <i>The Study</i> ).
KS5.	Ad hoc reports, products and activities	Capture information not yet known	No more than one per year	As required until the final Milestone date	Identified at time of request	Format and topic to be agreed at the time of request.

## 4.7 Study Report

A finalised [Feasibility or Engineering – select as appropriate] Study Report that:

*[Drafting note: Recipient to complete]*

- (a) Investigates [insert technology/process solution] that [improves the energy efficiency and/or increases the renewable energy use - select as appropriate] and reduces the greenhouse gas emissions of [insert industrial process];
- (b) Meets the Knowledge Sharing Objectives identified item 4.2 (*Knowledge Sharing Objectives*) of this Knowledge Sharing Plan; and
- (c) Conforms with the Study Report outline at item 4.8 (*Study Report Outline*) of this Knowledge Sharing Plan, or as otherwise agreed with ARENA.

## 4.8 Study Report Outline

The Study Report is expected to include the following, or as otherwise agreed with ARENA:

*[Drafting note: delete items (a) to (f) below if not a Feasibility Study]*

- (a) Executive Summary;
  - (i) must contain sufficient information to be read as a standalone document and should highlight the key results/takeaways of the Study; and
  - (ii) must contain a table identifying the location of responses to the Knowledge Sharing Objectives identified in item 4.2 (*Knowledge Sharing Objectives*) of the Knowledge Sharing Plan in Schedule 1 (*The Study*);
- (b) Introduction;
  - (i) Industry background and Project drivers;
  - (ii) Project overview;
  - (iii) Scope and objectives - the issue/ problem being addressed;
  - (iv) the technology / process solution/s chosen for study; and
  - (v) why this solution/s was chosen;
- (c) Key results and outcomes;
  - (i) technical viability, including barriers and how these can be addressed;
  - (ii) commercial viability, including barriers and how these can be addressed;
  - (iii) other considerations (such as regulatory, process integration, supply chain limitations, feedstock comparison etc);
  - (iv) high level economic analysis, including the costs and benefits of the Project, alongside how it would perform with regards to the existing process (including any potential impacts on operability, environmental benefits and scheduling of the plant); and
  - (v) key performance indicators of the studied solution metrics vs BAU case;
    - (A) energy use and greenhouse gas emissions; and
    - (B) energy efficiency and energy productivity;
- (d) Potential replicability;
  - (i) addressable market – high level quantification and rationale; and
  - (ii) potential energy and emissions reduction - high level quantification and rationale;
- (e) Conclusion and next steps;
  - (i) key findings and lessons learnt;
  - (ii) implications for industry; and
  - (iii) next steps;
- (f) Confidential addendum (**See Note 1 below**):
  - (i) Detailed economic analysis including a financial model or similar (in Excel).

*[Drafting note: delete items (g) to (l) below if not an Engineering Study]*

- (g) Executive Summary;



- (i) must contain sufficient information to be read as a standalone document and should highlight the key results/takeaways of the Study; and
  - (ii) must contain a table identifying the location of responses to the Knowledge Sharing Objectives identified item 4.2 (*Knowledge Sharing Objectives*) of the Knowledge Sharing Plan in Schedule 1 (*The Study*);
- (h) Introduction;
- (i) Industry background and Project drivers;
  - (ii) Project overview;
  - (iii) Scope and objectives - the issue/ problem being addressed;
  - (iv) the technology / process solution/s chosen for study;
  - (v) why this solution/s was chosen; and
  - (vi) methodology summary;
- (i) Key results and outcomes;
- (i) technical viability, including barriers and how these can be addressed;
  - (ii) commercial viability, including barriers and how these can be addressed;
  - (iii) other considerations (such as regulatory, process integration, supply chain limitations, feedstock comparison etc);
  - (iv) high level economic analysis, including the costs and benefits of the Project, alongside how it would perform with regards to the existing process (including any potential impacts on operability, environmental benefits and scheduling of the plant); and
  - (v) key performance indicators of the studied solution metrics vs BAU case;
    - (A) energy use and greenhouse gas emissions; and
    - (B) energy efficiency and energy productivity;
  - (vi) High level site layout;
  - (vii) High level process flow diagram;
  - (viii) Final high level solution layout;
  - (ix) High level +/- 25% CAPEX outline;
  - (x) High level OPEX outline;
  - (xi) Key risks and mitigation;
  - (xii) Electrical diagrams;
  - (xiii) Civil and structural design and layout;
  - (xiv) Piping and mechanical design;
  - (xv) Health and safety, and permitting;
  - (xvi) Planning and consent;
  - (xvii) Environmental impacts;
  - (xviii) Carbon reduction by volume, cost and/ or analysis of other benefits; and
  - (xix) Technical approach to implementation including but not limited to:
    - (A) General integration plan;
    - (B) Project risks and risk management strategy;
    - (C) performance and commissioning and acquisition of materials, expertise etc;
    - (D) Plan for how and when the intervention would be deployed and how any disruption to existing processes would be managed; and
    - (E) Project delivery requirements and scheduling including identified contractors;
- (j) Potential replicability;
- (i) addressable market – high level quantification and rationale; and

- (ii) potential energy and emissions reduction - high level quantification and rationale;
- (k) Conclusions and next steps;
  - (i) Key findings and lessons learnt;
  - (ii) Implications for industry; and
  - (iii) Investment decision and pathway for implementation; and
- (l) Confidential addendum (See Note 1 below);
  - (i) Full facility plot plan;
  - (ii) Detailed process flow diagram;
  - (iii) Detailed Solution Design;
  - (iv) Process and Instrumentation Diagrams (PIDs);
  - (v) Defined budget and scope for the Project;
    - (A) Detailed CAPEX breakdown to derive +/- 25% CAPEX; and
    - (B) Detailed OPEX breakdown to derive OPEX;
  - (vi) Financial Investment Decision;
    - (A) Key decision criteria;
    - (B) Economic analysis, including sensitivity to changes in key assumptions and variables; and
    - (C) An estimated amount of any additional grant funding required to implement the Project and the basis for this estimate.

**[Note 1: Technically and commercially sensitive information should be moved to the Confidential Addendum, which will be treated as confidential and will not be published by ARENA.]**

# Signing page – ARENA

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**EXECUTED as an agreement.**

**SIGNED** for and behalf of the **Australian Renewable Energy Agency** by its duly authorised delegate in the presence of:

.....  
Signature of Authorised Delegate

.....  
Signature of Witness

.....  
Name of Authorised Delegate  
(Please print)

.....  
Name of Witness  
(Please print)

.....  
Position of Authorised Delegate  
(Please print)

.....  
Date

# Signing page – Recipient

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**EXECUTED as an agreement.**

**EXECUTED** by [*insert*] (**ABN** [*insert*]) in accordance with the requirements of section 127 of the *Corporations Act 2001* (Cth) by:

.....  
Signature of Director

.....  
Signature of Director/Company Secretary  
(Please delete as applicable)

.....  
Name of Director  
(Please print)

.....  
Name of Director/Company Secretary  
(Please print)

.....  
Date

.....  
Date

# Appendix A – Minor Variations to this Agreement (Clause 9.3 (*Variations*))

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This Appendix is intended to set out the process for effecting Minor Variations, to record details of Minor Variations for administrative purposes and to be updated as Minor Variations are effected.

Where the parties agree to a Minor Variation in accordance with clause 9.3 (*Variations*), ARENA will send the Recipient an updated version of the table below containing details of the Minor Variations currently in effect. This Appendix will be deemed to have been amended accordingly. If there is any inconsistency between a Minor Variation and this Appendix, then the Minor Variation will prevail to the extent of the inconsistency.

**[Drafting note: ARENA to update the table below and send to the Recipient once a Minor Variation is agreed - the table is intended to be an up-to-date record of all Minor Variations.]**

Minor Variation No.	Date of Minor Variation	Nature of Minor Variation	Details of Minor Variation
	<i>[insert]</i>	<i>[Insert as directed by ARENA / agreed by the parties]</i>	<i>[Insert brief details]</i>

# Appendix B – Study Work Plan

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*[Drafting note: insert Study Plan from Application. Note that ARENA may request amendments to the Work Plan in line with final ARENA delegate approval to include information as required by this Funding Agreement.]*