

FUNDING TERMS AND CONDITIONS FOR THE GRANT PERIOD 2010

Recipient's Name:

Project Name:

Researchers' Name/s:

Grant Amount:

The Recipient has been successful in its application for a grant funded by the Channel 7 Children's Research Foundation of SA Inc ('CRF').

CRF will pay the Grant to the Recipient during the 2009 funding year, subject to the terms and conditions set out below.

1. Obligations of Recipient

1.1 The Recipient:

- (a) grants to both CRF and Channel 7 the right to publicise at any time:
 - (i) the name of the Recipient and Researchers, the amount of the Grant, and the title of the Research Project, and
 - (ii) a description of the Research Project, and where any developments made in relation to the Research Project, except where the Recipient has reasonable grounds to believe, and has advised CRF, that such publication may adversely affect the potential commercial value of the Research Project;
- (b) will provide any media release prepared by or on behalf of the Recipient in relation to the Research Project, to the Executive Director of CRF at least 48 hours prior to release. The Recipient authorises CRF to disclose each media release to Channel 7, so that Channel 7 has the first option to release the story;
- (c) will use its best endeavours to ensure that the Researchers forward to CRF any conference abstracts, published papers, and other materials arising from the Research Project as they become available from time to time during the Grant funding period and for a period of 24 months following the end of the Grant funding period;

- (d) will make the Researchers available to appear on media nominated by Channel 7 to describe their research work in relation to the Research Project; except where the Recipient has reasonable grounds to believe, and advises CRF, that such appearance may adversely affect the potential commercial value of the Research Project;
- (e) will acknowledge CRF and the CRF Grant in any public statements, advertising material, research reports, articles or other materials produced by or with the consent of the Recipient;
- (f) will conduct the Research Project in accordance with the research plan and statement of activities set out in the application form, and will endeavour in good faith to achieve the expected outcomes of the Research Project as set out in the application form;
- (g) will conduct the Research Project at all times in accordance with all applicable laws, regulations, guidelines (including without limitation NHMRC guidelines) and industry codes of conduct;
- (h) will obtain and maintain all required licences, permits and legal and ethical approvals and clearances in relation to the Research Project (including without limitation any required licence under the *Gene Technology Act 2001*, and any ethics committee approvals).

1.2 The Recipient warrants that:

- (a) the Research Project has **not** been funded from any other grant giving body or institution;
- (b) if the Research Project receives funding from any other grant giving body or institution, the Recipient will immediately notify the Executive Director of CRF and funding from CRF for the Research Project will be discontinued; and
- (c) should the Recipient fail to notify CRF of the funding of the Research Project from any other grant giving body or institution, resulting in payment of CRF funding to the Recipient, CRF will notify the Recipient that funding for the Research Project has been discontinued and the Recipient will repay the funding received.
- (d) an institutional or administrative levy will not be deducted from the CRF funding provided for the Research Project.

2. Reporting

- 2.1 The Recipient will keep accurate accounts and records ('**Records**') of its expenditure of the Grant money and its receipt of any revenue in relation to the Research Project. The Recipient will provide CRF with copies of its Records upon request by CRF from time to time.
- 2.2 Within 60 days after the end of the fund year (which, subject to any extension granted under clause 2.3, ends on 31 December of the relevant year), the Recipient must:
- (a) provide to CRF a one-page summary, in layman's terms, setting out the key outcomes achieved in relation to the Research Project;
 - (b) complete and return to CRF a proforma reconciliation statement verifying all expenditure of Grant money; and
 - (c) return to CRF any Grant money which the Recipient had not spent as at 31 December of the relevant fund year; or
 - (d) apply in writing to the Executive Director of CRF to request an extension to the period of the grant by no more than twelve (12) months.

3. Intellectual Property

- 3.1 The Recipient owns all and any Intellectual Property arising from the Research Project.
- 3.2 The Recipient grants to CRF the licence rights (if any) set out in Schedule 1 in relation to the Intellectual Property arising from the Research Project. If no licence rights are set out in Schedule 1, the parties agree that the Recipient will not be required to licence any Intellectual Property in the Research Project to CRF under this Agreement.
- 3.3 In this Agreement "**Intellectual Property**" means all intellectual property, including but not limited to:
- (a) patents, copyright, trade marks, registered designs, trade secrets, know-how, circuit layouts, plant variety rights, any right to have confidential information kept confidential, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields; and
 - (b) any application for, and the right to apply for, registration of any of the rights referred to in paragraph (a).

4. Royalties

- 4.1 The Recipient must pay to CRF the royalties (if any) set out in Schedule 2, in the manner and on the terms set out in that Schedule, on the GST-exclusive

revenue received by the Recipient from commercialisation of any part of the Research Project Outcomes.

- 4.2 If no royalties are specified in Schedule 2, the Recipient will negotiate in good faith with CRF to agree a royalty rate (which rate will be determined by assessment of the respective contributions made by CRF and the Recipient to the research, development and commercialisation of the Research Project Outcomes) which the Recipient will pay to CRF in the manner and on terms to be agreed between the parties, on the GST-exclusive revenue the Recipient receives in relation to any commercialisation of any part of the Research Project Outcomes. If the parties are unable to agree the royalty rate, or the terms on which the royalty will be paid by the Recipient under this clause, the matter will be dealt with by the parties as a dispute in accordance with clause 8.
- 4.3 In this Agreement, '**Research Project Outcomes**' means all outcomes arising from the Research Project, including without limitation all discoveries, inventions, products, processes, documents and materials produced or developed by the Recipient during the Research Project.

5. Indemnity and Insurance

- 5.1 The Recipient indemnifies CRF and its personnel ('**those indemnified**') against any liability, loss, claim (including third party claim), damage, expense and cost (on a full indemnity basis and whether incurred by or awarded against CRF) that those indemnified may suffer or incur as a result of, or in relation to, the Research Project, the application form, the funding terms and conditions, or any act or omission, including without limitation negligence, of the Recipient, its employees, agents or contractors.
- 5.2 CRF excludes and the Recipient releases CRF from any liability, loss, claim (including third party claim), damage, expense or cost suffered or incurred by the Recipient in relation to the Research Project, the application form, the funding terms and conditions, the discontinuance or required reimbursement of any Grant money, or any act or omission, including negligence, of CRF, its employees, agents or contractors.
- 5.3 The Recipient must ensure that it takes out and maintains adequate public liability, product liability, professional indemnity, and any other insurance necessary to cover any liability that the Recipient may incur in relation to the Research Project.

6. Discontinuance of Grant Funding

- 6.1 CRF may discontinue the Grant funding immediately upon notice to the Recipient if:
- (a) the Recipient breaches any of the provisions set out in these Funding Terms and Conditions, and fails to remedy the breach within 30 days of receiving written notification from CRF requiring it to do so;

- (b) the Recipient uses any CRF Grant money for a purpose other than the Research Project, except with the prior written consent of CRF;
 - (c) funding is received by the Recipient from a source other than CRF for the same Research Project.
- 6.2 If CRF discontinues the Grant funding for any of the reasons set out in clause 6.1, CRF may in its discretion require the Recipient to refund to CRF any Grant money already paid by CRF to the Recipient.

7. Goods and Services Tax

- 7.1 Where any supply to be made by one party (**GST Supplier**) to another party (**GST Recipient**) under or in connection with this Agreement is subject to GST (other than a supply the consideration for which is specifically described in this Agreement as 'GST inclusive'):
- (a) the consideration payable or to be provided for that supply but for the application of this clause (**GST Exclusive Consideration**) shall be increased by, and the GST Recipient shall pay to the GST Supplier, an amount equal to the GST payable by the GST Supplier in respect of that supply; and
 - (b) the GST Recipient must pay that additional amount at the same time and in the same manner as the GST Exclusive Consideration payable or to be provided for that supply.
- 7.2 If any payment to be made to a party under or in connection with this Agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with clause 7.1(a).
- 7.3 Notwithstanding any other provision of this Agreement, the GST Recipient need not make any payment for a taxable supply made by the GST Supplier under or in connection with this Agreement until the GST Supplier has given the GST Recipient a tax invoice in respect of that taxable supply.
- 7.4 A word or expression used in this clause which is defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cwlth)* has the same meaning in this clause.
- 7.5 It is the understanding of the parties that if the Recipient is registered or required to be registered for GST purposes, the Grant will constitute consideration for a taxable supply made by the Recipient. In those circumstances, the amount of the Grant will be increased in accordance with clause 7.1.

8. Dispute Resolution

- 8.1 A party must not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute (**Dispute**) arising out of this Agreement unless it has complied with this clause 8.
- 8.2 A party claiming that a Dispute has arisen must notify the other party in writing (**Dispute Notice**).
- 8.3 The parties must each use their best endeavours to resolve the Dispute.
- 8.4 If the parties have not been able to resolve the Dispute within 14 days after the issue of a Dispute Notice, either party may refer the dispute to mediation by the Australian Commercial Disputes Centre (**ACDC**) for resolution in accordance with the Guidelines for Commercial Mediation of the ACDC.
- 8.5 Each party must bear its own costs of resolving a Dispute under this clause 8, and the parties to the Dispute must bear equally the costs of any appointed person and independent premises used for resolving or attempting to resolve the Dispute.
- 8.6 If a party to a Dispute does not comply with any provision of clauses 8.1 to 8.4 above, the other party to the Dispute will not be bound by clauses 8.1 to 8.4.
- 8.7 If the Dispute has not been resolved within 45 days from the date of issue of the Dispute Notice (or any longer period agreed between the parties), a party that has complied with clauses 8.1 to 8.4 may terminate the dispute resolution process by giving notice to the other party to the Dispute.

9. Assignment

The Recipient must not transfer or assign, or attempt to transfer or assign any:

- (a) Grant money received from CRF; or
- (b) any of its rights or obligations under these Funding Terms and Conditions or under the application form,

except with the prior written consent of CRF.

10. Governing Law

These Funding Terms and Conditions are governed by the laws of South Australia and the parties submit to the non-exclusive jurisdiction of the courts of South Australia.

Signed by an Authorised
Officer of: **Recipient**

(signature)

Name :

Position :

Date :

Acknowledged by the
Researcher (Chief
Investigator): **Name**

(signature)

Date :

SCHEDULE 1

INTELLECTUAL PROPERTY

1. In this Schedule:

'Intellectual Property Rights' means all intellectual property rights, including but not limited to:

- (a) patents, copyright, trade marks, registered designs, trade secrets, know-how, circuit layouts, plant variety rights, any right to have confidential information kept confidential, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields; and
- (b) any application for, and the right to apply for, registration of any of the rights referred to in paragraph (a).

'Research Project Outcomes' means all outcomes arising from the Research Project, including without limitation all discoveries, inventions, products, processes, documents and materials produced or developed by the Recipient in connection with the Research Project.

2. The Recipient grants to CRF, and will procure that any employer of the Recipient who may own Intellectual Property Rights in the Research Project Outcomes grants to CRF, a non-exclusive, royalty-free licence to the Intellectual Property Rights in Research Project Outcomes on the following basis:

Field of licence (i.e. any limitation on the field in which the Intellectual Property Rights

can be applied by CRF):

.....

Term of licence:.....

Territory of licence:.....

SCHEDULE 2

ROYALTIES

1. Royalties will be payable by the Recipient in accordance with this Schedule 2 if the royalty and payment provisions set out below have been completed.

(a) The Recipient will pay the following royalty to CRF ('**Royalty**');

[insert details of royalty]

(b) The Recipient will pay the Royalty to CRF in accordance with the following payment terms:

[insert payment terms]