Student Project Agreement

**(Funded Research Project)**

|  |  |  |
| --- | --- | --- |
| **PARTIES** | | |
| **UNSW** | The University of New South Wales ABN 57 195 873 179, a body corporate established pursuant to the *University of New South Wales Act* *1989* (NSW) of UNSW Sydney NSW 2052, Australia | |
| **Sponsor** | [Insert legal name of Sponsor] ABN [insert ABN] of [address] | |
| **Student** | [insert Student name] of [address] | |
| **DETAILS** | | |
| **CONTACT DETAILS** | | |
| **Address for notices** (clause 13) | **UNSW address:**  Attention: [insert]  Address: [insert]  Phone: [insert]  Email: [insert] | |
| **Sponsor address:**  Attention: [insert]  Address: [insert]  Phone: [insert]  Email: [insert] | |
| **Student address:**  Address: [insert] | |
| **PROJECT** | | |
| **Project** (clause 1) | *[Give a brief summary or description of the project to be undertaken and the role of the Student, or refer to an annexed Project Brief]* | |
| **Start Date** (clause 1.1) | [insert] | |
| **Completion Date** (clause 1.1) | [insert] | |
| **Project Milestones** (clause 1.2) | Year 1  Year 2  Year 3 | *Specify any stages of the project that may be completed or must be completed by certain dates, including final dates for submission of a thesis.*  *Alternatively, this may refer to an annexed Project Brief.* |
| **Supervisors** (clause 1.3) | **Sponsor Supervisor:** [insert name]  Supervision to be provided: [insert]  **UNSW Supervisor:** [insert name]  Supervision to be provided:[insert] | |
| **CONTRIBUTIONS** | | |
| Financial Contribution | |  |  | | --- | --- | |  | | | **Payment invoicing dates** | **Fee payable (excl. GST)** | | [insert] | [insert] | | [insert] | [insert] | | [insert] | [insert] | | **Subtotal:** | **[insert]** | | **GST** | **[insert]** | | **TOTAL** | **[insert]** | | |
| In-kind Contribution | *[insert details of information, resources, access to personnel, facilities and other in-kind contributions of the Sponsor to the Project]* | |

* 1. The Project
     1. The parties must:
        1. start the Project on the Start Date; and
        2. use reasonable endeavours to complete the Project on or near the Completion Date.
     2. UNSW and the Student must use all reasonable efforts to ensure that the Project is conducted in accordance with this agreement and the Project Brief, including by using reasonable efforts to meet any Project Milestones.
     3. The Student will be supervised during the Project by both the Sponsor Supervisor and the UNSW Supervisor.
     4. The parties acknowledge that research work is of its nature uncertain and that particular outcomes or results from the Project cannot be guaranteed. Neither UNSW nor the Student make any undertaking or representation that the Project will lead to any particular outcome or result. Neither UNSW nor the Student will be liable to the Sponsor for any loss or damage whether arising from a failure on the part of UNSW or the Student to perform work under this agreement on time or within the estimated costs of the Project, or otherwise, provided that UNSW or the Student (as applicable) has used their reasonable endeavours to perform their obligations under this agreement.
     5. If the Project requires approval by UNSW’s ethics and/or biosafety committees (or similar), UNSW must use reasonable endeavours to obtain that approval. Before such approvals are obtained, neither UNSW nor the Student is required to commence the Project.
  2. Sponsor’s obligations
     1. The Sponsor must:
        1. provide to UNSW the Financial Contribution and In-kind Contribution;
        2. co-operate with UNSW and make available to the Student in accordance with the Project Brief all other assistance, Material, equipment, facilities and resources to;
        3. provide timely instructions and responses to UNSW’s reasonable requests on all matters related to the performance of the Project,

as reasonably necessary for the Student to conduct the Project and otherwise discharge their obligations under this agreement.

* + 1. The Sponsor must ensure that the Sponsor Supervisor provides such supervision for the Student in the manner set out in the Details.
    2. The Sponsor will provide the services of the Sponsor Supervisor at its own cost and neither UNSW nor the Student will be liable to make any payment to the Sponsor or the Sponsor Supervisor in respect of the supervision of the Student.
  1. Students’ obligations
     1. The Student must:
        1. conduct the Project in accordance with applicable standards, awards, laws and regulations, including the Australian Code for the Responsible Conduct of Research;
        2. conduct the Project in a diligent manner and to a high professional standard;
        3. comply with all relevant UNSW Policies, including UNSW’s Intellectual Property Policy;
        4. observe all reasonable directions and requirements for or in connection with access to the premises and facilities of the Sponsor and UNSW; and
        5. comply with all reasonable directions of UNSW in connection with the Project.
     2. The Student consents to UNSW communicating to the Sponsor any details on the progress of the Project and the quality of the Student’s academic performance.
     3. The Student consents to the Sponsor or UNSW publishing the name of the Student and a general description of the Project for promotional or educational purposes.
  2. UNSW’s Obligations
     1. For the Project Period, UNSW must use reasonable efforts to ensure that the Student:
        1. is involved in the Project in accordance with the Project Brief;
        2. remains a full-time student of UNSW;
        3. complies with all requirements of the accreditation sought by the Student, including the completion of academic requirements, assessment and attendance;
        4. otherwise complies with their obligations under this agreement and applicable UNSW Policies.
     2. UNSW must ensure that the UNSW Supervisor provides such supervision for the Student in the manner set out in the Details.
     3. UNSW must apply the Financial Contribution for the benefit of the Student and for the purposes of the Project in the manner set out in the Project Brief.
     4. UNSW must report to the Sponsor on the progress of the Student and the application of the Sponsor’s Contribution to the Project at least annually, or at some other regular interval, as agreed by UNSW and the Sponsor.
  3. Payment
     1. Unless specified otherwise, all monetary amounts expressed in this agreement are exclusive of GST.
     2. The Sponsor must pay to UNSW the amount specified on any Tax Invoice issued in accordance with the Details in respect of the Financial Contribution by the due date specified on that Tax Invoice, or if no due date is specified, within 30 days after the Tax Invoice is issued.
     3. If any supply under this agreement is a Taxable Supply, the party making the supply may, in addition to any payment for the supply, recover the amount of the GST applicable to the supply.
     4. Any amount of GST payable for a supply will be payable at the same time as the payment for the supply to which it relates
  4. Intellectual Property
     1. Each party grants to the other party a non-exclusive, irrevocable, non-transferable, royalty-free licence for the duration of the Project to use their Existing Material solely for the purpose of conducting the Project.
     2. Except as otherwise specified in this agreement, each party acknowledges that nothing in this agreement assigns any Intellectual Property Rights in that party’s Existing Material to another party.
     3. All Project Intellectual Property will vest in UNSW upon creation (except that the Student owns copyright in his/her thesis). The Sponsor and Student assign to UNSW all right, title and interest in the Project Intellectual Property and agree to do all things reasonably necessary to give effect to such ownership and assignment (including, in the case of the Sponsor, ensuring its employees, contractors and agents do the same).
     4. UNSW grants to the Sponsor and Student an irrevocable, non-exclusive, non-transferable, royalty-free, perpetual licence (not including a right to sub-licence) to use the Project Intellectual Property for the purpose of conducting the Project for the duration of the Project and, in the case of the Sponsor, for the Sponsor’s internal purposes (not including Commercialisation) following completion of the Project.
     5. The Student grants UNSW a royalty free, irrevocable, perpetual, non-exclusive, world-wide licence (including the right of sub-licence) to reproduce, communicate, adapt and exploit the Intellectual Property Rights referred to in clause 6.4 as are necessary to exploit the Project Intellectual Property.
     6. This agreement does not serve to override any rights to the benefits of commercialisation the Student may be entitled to under the UNSW Intellectual Property Policy, in relation to Intellectual Property Rights contributed to, or developed by the Student in the Project.
     7. The Student unconditionally and irrevocably grants to UNSW, its assignees and successors or any persons authorised by UNSW, consent to reproduce, publish, communicate, adapt and exploit any copyright works (**Works**) that have been or will be generated by the Student in relation to the Project, even if such acts or omissions would otherwise infringe the Student’s Moral Rights in the Works.
     8. While UNSW and the Sponsor will use reasonable efforts to respect the Student’s Moral Rights, the Student acknowledges that UNSW and the Sponsor may not be able to do so in all cases. In particular, the Student waives any right to claim infringement of any Moral Rights in relation to the Works and releases UNSW and the Sponsor from any claim arising from:
        1. the adaptation, amendment, revision, addition or deletion of any part of the Works;
        2. the combination of the Works with any other copyright works; or
        3. publication of material or research incorporating the Works, with the Student’s name omitted.
  5. Confidential Information

The Student:

* + - 1. may use Confidential Information of another party solely for the purposes of this agreement;
      2. must not disclose Confidential Information to any third party without the written consent of UNSW;
      3. not copy, in whole or in part, Confidential Information except as is reasonably necessary for the purpose of the Project; and
      4. take precautions to protect Confidential Information to which they obtain access against loss, unauthorised access or misuse.
  1. Publications
     1. The Sponsor acknowledges that UNSW has obligations under its governing statues to ensure that the Student is able to complete the requirements of their candidature and that this obligation extends to submitting a Student’s thesis for examination and depositing in the library a copy of the Student’s complete thesis of work submitted for a higher degree. Nothing in this agreement affects the operation of relevant UNSW Policies, or creates any obligations contrary to UNSW Policies.
     2. The Student is entitled to Publish the results of the Project. The Student must give notice of any proposed Publication to UNSW and the Sponsor at least 30 days before the proposed submission date for the Publication.
     3. UNSW and/or the Sponsor may, acting reasonably, within that 30 day period do any one or more of the following:
        1. require the Student to delay Publication for no more than 60 days to allow the relevant non-publishing party to file patent applications or take other measures to preserve its proprietary rights; or
        2. require the Student to remove specified Confidential Information from the Publication.
     4. The Student must acknowledge the financial and other support provided by the Sponsor in every Publication.
     5. Upon the reasonable request of the Sponsor, UNSW and the Student must ensure that no Publications are made for a period not exceeding 12 months after the completion of the Project.
  2. Insurance
     1. UNSW and the Sponsor must:
        1. maintain adequate insurance protection to cover its obligations under this agreement; and
        2. on request, provide evidence to the other of the terms and currency of all insurance policies required under this agreement.
     2. A party may act as its own insurer but only to the extent that it will be able to adequately meet its obligations under this agreement.
     3. UNSW must cover the Student under its own insurance policies and will be liable for the acts or omissions of the Student, save for acts involving fraud or other wilful acts or omissions causing loss.
  3. Term and Termination
     1. The agreement commences on the Commencement Date and continues until the Project is completed in accordance with this agreement, unless terminated earlier in accordance with this clause 10.
     2. A party may terminate this agreement with immediate effect by giving notice to the other party if:
        1. that other party breaches any material term of this agreement not capable of remedy; or
        2. that other party breaches any material term of this agreement capable of remedy and fails to remedy the breach within 30 days after receiving notice requiring it to do so.
     3. UNSW may terminate this agreement with immediate effect by giving notice to the Sponsor if any event of insolvency occurs in relation to the Sponsor (whether or not notified) including any step to appoint a receiver, administrator, trustee in bankruptcy or liquidator.
  4. After termination
     1. On termination:
        1. the Sponsor must pay to UNSW all unpaid Financial Contributions due to UNSW at the date of termination;
        2. the Student and if applicable, the Sponsor, must deliver to UNSW the Project Results in their current form;
        3. if requested by a party (**Requesting Party**), the other party must return to the Requesting Party all:
           1. Existing Material of the Requesting Party in the other party’s possession or control; and
           2. Confidential Information of the Requesting Party in material form (including those parts of all notes or records of the other party containing Confidential Information of the Requesting Party) in the other party’s possession or control.
     2. If UNSW terminates this agreement under clause 10.2 due to the default or insolvency of the Sponsor, then the Sponsor must pay UNSW any reasonable costs incurred by UNSW directly attributable to the termination of this agreement.
     3. Clauses 3.3, 6 - 9, this clause 11 and all clauses required to give them effect survive the expiration or termination of this agreement.
  5. No waiver
     1. A party’s agreement to waive a right or entitlement under this agreement is only effective if that party gives written notice of that waiver to the party seeking the benefit of the waiver.
     2. Waiver by a party of anything that another party must do under this agreement is not a waiver of any other right or entitlement under this agreement.
     3. A failure or delay in exercising a right arising from a breach of this agreement is not a waiver of that right.
  6. Notices
     1. A party notifying or giving notice under this agreement must notify:
        1. in writing;
        2. addressed to the address of the recipient specified in the Contract Details or as varied by notice given in accordance with this clause; and
        3. left at or sent by post or facsimile to that address.
     2. A notice given in accordance with clause 13.1 will be taken to have been received:
        1. if delivered by hand to the recipient's address, on the date of delivery;
        2. if sent by post, 3 working days after the posting (or 7 days after posting if posted to or from a place outside Australia); and
        3. if sent by facsimile, when the sender’s facsimile system generates a message confirming successful transmission of the total number of pages of the notice, unless within 8 business hours after that transmission, the recipient informs the sender that it has not received the entire notice..
  7. General
     1. This agreement may only be varied in writing by the parties.
     2. A party must not assign its rights or obligations under this agreement without the prior written consent of the other party except that UNSW may assign its rights and obligations under this agreement to NSi by notice in writing to the Sponsor.
     3. This agreement constitutes the entire agreement between the parties in relation to its subject matter and supersedes any previous agreement of the parties, or any other communication or representation made, in relation to its subject matter.
     4. If a provision of this agreement is invalid, illegal or unenforceable, then to the extent of the invalidity, illegality or unenforceability, that provision must be ignored in the interpretation of this agreement. All other provisions of this agreement remain in full force and effect.
     5. Each party must do or cause to be done all acts and things necessary or desirable to give effect to this agreement and each party must refrain from doing all acts and things that could hinder performance by any party of this agreement.
     6. A party may execute this agreement by signing a counterpart. All counterparts constitute one document when taken together. A signed copy of this agreement made by photocopy, facsimile or PDF Adobe format will be considered an original and execution of this agreement will have occurred when each party holds such copy signed by the other party or parties to this agreement.
     7. Nothing in this agreement creates a relationship of employer and employee, principal and agent, or partnership between the parties. A party has no authority to act for any other party or to create or assume a responsibility for an obligation of any other party.
     8. Each party must:
        1. do or cause to be done all acts and things necessary or desirable to give effect to; and
        2. refrain from doing all acts and things that could hinder performance by any party of,

this agreement.

* + 1. This agreement is governed by and must be construed in accordance with the laws of New South Wales. Each party:
       1. irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and all courts that have jurisdiction to hear appeals from them; and
       2. waives any right to object to proceedings being brought in those courts for any reason.
  1. Definitions and interpretation
     1. In this agreement, unless the context requires otherwise:

**Commercialisation** in relation to Project Intellectual Property, means to manufacture, sell, hire or otherwise exploit a product or process, or to provide a service, incorporating the Project Intellectual Property, or to license Project Intellectual Property to any third party to do any of those things;

**Confidential Information** means all know how, financial information and other commercially valuable information in whatever form including unpatented inventions, trade secrets, formulae, graphs, drawings, designs, biological materials, samples, devices, models and other materials of whatever description which a party claims is confidential to itself and over which it has full control and includes all other such information that may be in the possession of a party’s employees or management. Information is not confidential if:

* + - 1. it is or becomes part of the public domain unless it came into the public domain by a breach of confidentiality;
      2. it is obtained lawfully from a third party without any breach of confidentiality;
      3. it is already known by the recipient party (as shown by its written records) before the date of disclosure to it;
      4. it is independently developed by an employee of the recipient party who has no knowledge of the disclosure under this agreement;
      5. required to be disclosed by a court, rule or governmental law or regulation, or the rules of any stock exchange, provided that the party making the disclosure provides prompt notice to the other party of any such requirement; or
      6. it is required to be disclosed pursuant to this agreement;

**Contributions** means the in-kind and financial contributions to the Project by the Sponsor as specified in the Details;

**Existing Material** of a party means all Material provided by one party to another party for the purposes of this agreement that is:

* + - 1. in existence prior to commencement of this agreement; or
      2. independently developed by any person outside the Project or this agreement;

**Intellectual Property Rights** means all rights resulting from intellectual activity whether capable of protection by statute, common law or in equity and including copyright, discoveries, inventions, patent rights, registered and unregistered trade marks, design rights, circuit layouts, plant varieties, confidential information and all rights and interests of a like nature, together with any and all documentation relating to such rights and interests;

**Material** means all materials in any form including all data, information, records, documents, databases and software (including source code and object code), other works and material and the subject matter of any category of Intellectual Property Rights;

**Moral Rights** means all present and future rights of integrity of authorship, rights of attribution of authorship, rights not to have authorship falsely attributed, and rights of a similar nature conferred by statute anywhere in the world;

**NSi** means New South Innovations Pty Limited (ABN 25 000 263 025), wholly owned subsidiary of UNSW responsible for managing and entering into agreements in relation to commercialisation of UNSW Intellectual Property Rights;

**Project** means the research project and activities described in the Details, work or assistance that the Student may be involved with using any facilities, Intellectual Property or Materials provided by or owned by the Sponsor;

**Project Brief** means the document or documents agreed by the parties as constituting the project brief, a copy of which is annexed to this agreement;

**Project Intellectual Property** means all Intellectual Property Rights in the Project Results, but does not include Intellectual Property Rights in Existing Material;

**Project Period** means the period of time from the Commencement Date to the Expiry Date;

**Project Results** means all results of the Project, including all data, information, records, documents, inventions, discoveries, processes, products, know-how, methodologies and software (including source code and object code), brought into existence as part of performing the Project;

**Publication** means any publication of any kind and in any format including any thesis, conference paper, article, book, broadcast or other means of public disclosure by the Student arising out of, or in relation to, the Project, and **Publish** has a corresponding meaning;

**Sponsor Supervisor** means the person appointed by the Sponsor designated in the Details to supervise the Student during the Project;

**UNSW Policies** means statutes, regulations and policies established by the University Council (or delegates) and published by UNSW from time to time;

**UNSW Supervisor** means the person appointed by UNSW designated in the Details to supervise the Student during the Project.

* + 1. Unless the context otherwise requires:
       1. a word defined in the Details has a corresponding meaning in this agreement;
       2. any use of the verb ‘includes’, or of words such as ‘for example’ or ‘such as’, do not limit anything else that is included in general speech;
       3. a word which denotes the singular denotes the plural and vice versa;
       4. where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
       5. where a word is defined in the *Corporations Act* 2001 (Cth) or *A New Tax System (Goods and Services Tax) Act* 1999(Cth), then that word has a corresponding meaning;
       6. a reference to any legislation includes that legislation as amended, re-enacted consolidated or substituted;
       7. a reference to a person includes a partnership and a body whether corporate or otherwise; and
       8. a reference to a thing or amount is a reference to the whole and each part of it.
    2. Headings are for convenience only and do not affect the interpretation of this agreement.
    3. This agreement may not be construed adversely to a party just because that party prepared it.
    4. In the event of an inconsistency between the terms and conditions of this agreement and a UNSW Policy, the terms and conditions of this agreement take precedence to the extent of the inconsistency.

**Executed as an agreement**

|  |  |
| --- | --- |
| **Signed** for and on behalf of the **University of New South Wales** by an authorised person: |  |
|  |  |
| Signature |  |
|  |  |
| Name (please print) |  |
| Date of signing |  |  |

|  |  |  |
| --- | --- | --- |
| **Signed** for and on behalf of the **Sponsor** by an authorised person: |  |  |
|  |  |
| Signature |  |
|  |  |
| Name (please print) |  |
| Date of signing |  |

|  |  |  |
| --- | --- | --- |
| **Signed** by the **Student**: |  |  |
|  |  |
| Signature |  |
|  |  |
| Name (please print) |  |
| Date of signing |  |  |

Annexure: Project Brief

**Project title**: [insert]

**Project details**: [insert]

**Budget:** [insert]