**Grant Agreement**

|  |  |  |
| --- | --- | --- |
| **AgriFutures Australia** | **RURAL INDUSTRIES RESEARCH AND DEVELOPMENT CORPORATION** trading as AgriFutures Australia ABN 25 203 754 319 of Building 007, Charles Sturt University, Tooma Way, Wagga Wagga, New South Wales. | |
| **Grantee** | Monaro Farming Systems CMC Incorporated **ABN** 18 981 544 007 of 106 Maybe St Bombala NSW 2632 Australia. | |
| **Administrative Contact:**  **Attention:** **Mrs Zoe Rolfe**  **Title:** Executive Officer | **Telephone:** 0434 510 099  **Email:** executive@monarofs.com.au |
| **Project Name** | Practical Technology Uptake on The Monaro -  Technology Symposium | Hosting a Regional Agricultural |

**DETAILS**

|  |  |
| --- | --- |
| **Commencement Date** | The Commencement Date of this Agreement is «Day, Date Month Year» |
| **Completion Date** | «Day, Date Month Year» |
| **Grant Amount** | «Amount in total»  «Include details of timing for payments, linking to relevant parts of the Grant Activity»  **Payment Schedule**   |  |  | | --- | --- | | **Date** | **Payment** | | ## | 70% | | ## | 20% | | ## | 10% | | **TOTAL** | [insert] | |
| **Grant Activity** | «Insert full description of the Grant Activity including the intended outcomes. To be sure to include any timeframes for the Grant Activity, such as start and end dates, and any reporting requirements» |
| **Conditions** | «Insert any conditions of the Grant» |
| **Address for Tax Invoices** | programs@agrifutures.com.au |
| **AgriFutures Australia Mark** | Q:\Portfolio 4\Programs\Comms\ARENA 7 - Brand\2020 FEB - NEW ART\agrifutures-identity-2020\brand\inline\DIGITAL\agrifutures-brand-master.jpg  To be printed / displayed using in the following colours only:  Print:   * PMS: 7482 CP * CMYK: 90 / 0 93 / 0   DIGITAL:   * RGB: 0 / 178 / 78 * HEX: #00B24E   The AgriFutures Australia Brand must not be altered, distorted or re-created in any way. |

**SPECIAL TERMS**

|  |
| --- |
| This agreement is subject to the following special terms:  *«Insert any terms specific to the research or the arrangement, e.g. IPR rights. If no special terms, insert “Not Applicable”.»* |
| **Note**: All capitalised terms in column one (1) of the Details have the meaning given in column two (2). |

**EXECUTION**

Executed as an agreement on the Terms of the Details, Special Terms, Operative Provisions and Schedules:

|  |
| --- |
| Signed for and on behalf of **RURAL INDUSTRIES RESEARCH AND DEVELOPMENT CORPORATION trading as AgriFutures Australia** ABN 25 203 754 319 by its authorised representative in the presence of: |
|  |
| Signature of Authorised Representative |
|  |
| Name of Authorised Representative  (BLOCK LETTERS) |
|  |
| Date |

|  |
| --- |
| Signed for and on behalf of **«Insert Details»** ABN «ABN» by its authorised representative in the presence of: |
|  |
| Signature of Authorised Representative |
|  |
| Name of Authorised Representative  (BLOCK LETTERS) |
|  |
| Date |

**Note:** By executing this Agreement each signatory represents that he or she is authorised to sign on behalf of their entity.

**GENERAL TERMS**

# Undertaking the Grant Activity

## The Grantee agrees to use the Grant to undertake the Grant Activity in accordance with this Agreement.

## The Grantee:

#### will, in connection with the Grant, act in a professional manner and in accordance with all applicable laws;

#### will ensure that all persons engaged to work on the Grant Activity obtain and maintain and all relevant licences, registrations or other approvals required by applicable laws or as directed by AgriFutures Australia, including but not limited to police checks, Working with Children checks and Working with Vulnerable People checks;

#### will not engage in any act or omission in connection with the Grant that is unlawful, false or misleading, offensive, defamatory or infringes any person’s intellectual property or other rights.

# Payment of the Grant

## AgriFutures Australia agrees to pay the Grant to the Grantee in accordance with this Agreement.

## The parties agree that the amount of the Grant is inclusive of any GST payable and the Grantee agrees to pay all taxes, duties and government charges in connection with the performance of this Agreement.

## **Invoicing and Payment**

#### The Grantee must deliver to AgriFutures Australia a correct and valid tax invoice setting out the Grant amount.

#### A tax invoice is correct and valid if the invoiced amount is correctly calculated in accordance with this agreement and due for payment and complies with the GST Law.

# Spending the Grant

## The Grantee agrees to spend the Grant for the sole purpose of undertaking the Grant Activity, and to provide a statement, in the form required by AgriFutures Australia and signed by the Grantee, verifying that the Grant Activity has been undertaken and the Grant was spent in accordance with his Agreement.

# Notices

## The Grantee agrees to promptly notify AgriFutures Australia of anything reasonably likely to affect the performance of the Grant Activity, including any actual, perceived or potential conflict of interest which could affect the Grantee’s performance of this Agreement and to take action to resolve the conflict.

# Repayment

## If any of the Grant amount has been spent other than in accordance with this Agreement or on expiration or termination of this Agreement is additional to the requirements of the Grant Activity, the grantee agrees to repay that amount to AgriFutures Australia, unless AgriFutures Australia agrees in writing otherwise.

# Acknowledgements and Use of AgriFutures Australia Mark

## The Grantee agrees to acknowledge AgriFutures Australia’s support in any material published in connection with this Agreement and agrees to use any form of acknowledgement AgriFutures Australia reasonably specifies.

## **AgriFutures Australia Grant of Licence**

AgriFutures Australia grants to the Grantee a non-exclusive, non-transferable, revocable, royalty free licence to use the AgriFutures Australia Marks but only for the purposes specified in clause 6.1. This licence is limited to the term and for Australia only.

## **Approval**

All Materials must be approved in writing by AgriFutures Australia before production or publication. AgriFutures Australia may withhold its approval if AgriFutures Australia considers the Material contains inappropriate content.

## **Grantee’s Obligations**

## The Grantee must:

#### ensure that all Materials are produced in a professional manner and with due care and skill and are free from defects;

#### use the AgriFutures Australia Marks exactly as they appear in the [Details](#DETAILS) section and as may be required by AgriFutures Australia from time to time (including in relation to the size, font, colour and positioning of the AgriFutures Australia Marks); and

#### not use the AgriFutures Australia Marks in any manner which may:

##### deceive or cause confusion in trade;

##### bring the AgriFutures Australia Marks or the business of AgriFutures Australia into disrepute;

##### prejudice the exclusiveness or distinctiveness of the AgriFutures Australia Marks; or

##### reduce the goodwill in or the value of the AgriFutures Australia Marks.

## **Ownership of the AgriFutures Australia Marks**

The AgriFutures Australia Marks and any other Intellectual Property belonging to AgriFutures Australia are the exclusive property of AgriFutures Australia. All goodwill arising from use of the AgriFutures Australia Marks belongs to AgriFutures Australia.

# Insurance

## **Insurances to be Maintained**

### The Grantee must, for the term of this Agreement take out and maintain public liability insurance in an amount of not less than $10 million per claim.

## The Grantee must provide to AgriFutures Australia at its request a certificate of currency or the policy for such insurances and inform AgriFutures Australia immediately if the Grantee becomes aware of any actual, threatened or likely claims under any of the insurances referred to above if they relate to the Grant or the Grant Activity.

# Confidential Information and Privacy

## **Confidentiality Obligations**

Each party acknowledges that it may receive confidential information from the other party. The parties must treat all confidential information as confidential and must not use, exploit or disclose the confidential information to any person (except the parties' Representatives and then only to such extent as may be required to enable the parties to comply with the provisions of these Terms) without the prior written consent of the other party. The parties will use the confidential information only for the purpose for which it has been provided.

## **Compliance with Privacy Law**

The Grantee must ensure that any collection, use, disclosure or transfer by the Grantee or the Grantee’s Personnel, of Personal Information in connection with the performance of its obligations under this Agreement complies with the applicable Privacy Law.

# Recordkeeping and Business Ethics

## The Grantee must keep and produce on request by AgriFutures Australia, records in relation the Grant and the Grant Activity supplied under this Agreement (including any documents necessary for tracing purposes) for any period required by relevant law and in any event for a minimum period of seven (7) years.

## **Anti-Bribery laws**

The Grantee must comply with all applicable laws, rules and regulations relating to anti-bribery during the term of this agreement, including Chapter 4, Division 70 of the Criminal Code Act 1995 (Cth) (Australia). The Grantee agrees that it will not corruptly make any offer, payment, promise of gifts or money or any other thing of value to any government official or employee, political party or political candidate (“**Government Official**”) for the purpose of influencing any act or decision of such Government Official, inducing such Government Official to act in violation of their lawful duty or securing any improper advantage in relation to the Grant or this agreement.

## **Business Ethics Laws**

The Grant represents and warrants to AgriFutures Australia that it will comply with the Business Ethics Laws during the term of this agreement in relation to the Grant and Grant Activities or this agreement.

# Liability

## The relationship between AgriFutures Australia and the Grantee is purely contractual and AgriFutures Australia owes no fiduciary duty of any kind whatsoever to the Grantee. The Grantee agrees to accept the Grant at his or her own risk. AgriFutures Australia will not be liable for any fee, loss, injury or death arising during or in connection with the Grant except for obligations expressly stated in this Agreement.

# Grant Activity material

## The Grantee gives (or procures for) AgriFutures Australia a non-exclusive, irrevocable, royalty-free license to use, produce, communicate, publish and adapt all material that is provided to AgriFutures Australia under this Agreement. This includes a right to sub-license that material.

# Termination

## **Termination Events**

Without prejudice to any of its other rights at general law or contained in this Agreement, either party shall have the right to immediately terminate this Agreement by notice in writing to the other party upon the occurrence of one or more of the following events:

#### the other party ceases or threatens to cease to carry on its business;

#### an Insolvency Event occurs in relation to the other party; or

#### the other party commits a material breach of any of the terms of this Agreement, and, where such a breach is capable of remedy, fails to remedy the same within ten (10) Business Days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied.

## **Termination by AgriFutures** **Australia**

AgriFutures Australia may by notice terminate this agreement if it considers that adverse publicity in respect of or its association with the Grantee may damage the reputation or goodwill of AgriFutures Australia or the Commonwealth.

## **Consequences of Termination**

On expiry or termination of this agreement, except as expressly provided elsewhere in this agreement:

#### AgriFutures Australia will not be required to make any further payments of the Grant;

#### the licence granted to the Grantee in respect of the AgriFutures Australia’s Intellectual Property Rights will terminate immediately; and

#### the Grantee must immediately cease all use of the AgriFutures Australia Marks, promptly remove the AgriFutures Australia Marks from any material in its possession or control and use all reasonable endeavours to withdraw from publication and distribution any material containing the AgriFutures Australia Marks.

## **Survival**

#### Termination or expiry of this Agreement does not affect any rights or obligations of the parties that may have accrued before the effective date of termination or expiry.

#### Clauses [1](#Clause_1), [9](#Clause_6), [1](#Clause_7)2, [1](#Clause_8)3, [1](#Clause_9)4, [1](#Clause_10)5, and [Clause 1](#Clause_11)6 survive termination or expiry of this Agreement.

# Disputes

## Without prejudice to either parties’ rights under [Clause 1](#Clause_8)3:

#### if a dispute arises in connection with this Agreement, a party to the dispute must give to the other party or parties to the dispute notice specifying the dispute and requiring its resolution under this [Clause 1](#Clause_8)3 (Notice of Dispute);

#### the Grantee’s representative and the AgriFutures Australia representative must negotiate in good faith with a view to resolving the dispute within two (2) weeks of the date of the Notice of Dispute;

#### if the dispute is not so resolved it shall be referred to the senior executives of AgriFutures Australia and the Grantee who shall negotiate in good faith with a view to resolving the dispute within two (2) weeks of referral of the dispute to the senior executives;

#### if the dispute is not able to be resolved following this process of dispute resolution, either party may take such further legal action or commence proceedings in relation to the dispute or Claim, as they determine is appropriate.

## Despite anything in this [Clause 1](#Clause_8)3, a party may at any time commence court proceedings in relation to any dispute or Claim arising under or in connection with this Agreement where that party seeks urgent interlocutory relief.

## Notwithstanding the existence of a dispute, the parties will continue to perform their obligations under this Agreement.

# Notices

## **Form**

Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this agreement must be in writing, signed by the sender (if an individual) or an authorised officer of the sender and marked for the attention of the person set out or referred to in the Details or, if the recipient has notified otherwise, then marked for attention in the last way notified.

## **Delivery**

Notices must be:

#### left at the address set out or referred to in the details;

#### sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details; or

#### in any other way permitted by law.

However, if the intended recipient has notified a change of postal address, then the communications must be to that address.

## **When Effective**

|  |  |
| --- | --- |
| Method of Notice | When is Notice received? |
| cid:23fe0e89-9681-405c-adc3-7e7a5c6cf500  HAND (HAND DELIVERY) | On date of delivery. |
| cid:75c4ccb2-7bd1-49dd-8fe6-059f72e39b79MAIL (POST)  Sent by post to the Recipients Address | if sent from and to a place within Australia by regular post, at 9:00 am on the fourth Business Day after the date of posting;if sent from a place within Australia to a place outside Australia by airmail, at 9.00 am on the tenth Business Day after the date of posting. |
| cid:bd0f04b2-8551-48fd-bfe5-4ead7a1be5c9EMAIL  Sent to recipient’s email address | If sender’s email system does not receive a delivery failure notification, the date the email is sent. |

# General

## **Terms and Entire Agreement**

This agreement consists of these General Terms, the Details, the Special Terms and any annexures or schedules expressly incorporated and it constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

## **Inconsistency**

If there is an inconsistency between a provision of a Schedule, Details, the Special Terms, or any annexures expressly incorporated and these General Terms then the first-mentioned terms prevail.

## **No Representations or Warranties**

Each party acknowledges that in entering into this agreement they have not relied on any representations or warranties about its subject matter except as expressly provided by this agreement.

## **Variation and Waiver**

A provision of this agreement or a right created under it may not be waived or varied except in writing, signed by the party or parties to be bound. A failure or delay in exercise of a right arising from a breach of this agreement does not constitute a waiver of that right.

## **No Agency or Partnership**

Nothing contained or implied in this agreement is intended to create a partnership between any of the parties or, except as otherwise provided in this agreement, establish any of the parties as an agent or representative of any other party. Except as otherwise provided in this agreement, no party has any authority to bind any other party, or to act for, or to incur any obligation or assume any responsibility on behalf of, any other party in any way.

## **Assignment**

The Grantee may only assign a right under this agreement with AgriFutures Australia’s prior written consent.

## **Consent**

Where the consent or approval of AgriFutures Australia is required under this agreement, AgriFutures Australia may, except as expressly stated, withhold its consent or approval or give it conditionally or unconditionally as it sees fit.

## **Force Majeure**

### If a party (“**Affected Party**”) becomes unable because of Force Majeure to perform an obligation placed on it under this agreement (other than an obligation to pay money), the Affected Party must give the other party prompt written notice of:

* 1. reasonable particulars of the Force Majeure; and
  2. so far as is known, the probable extent to which the Affected Party will be unable to perform the obligation.

1. If clause 11.8(a) applies:
   1. the obligation will be suspended during the Force Majeure;
   2. the Affected Party must use all possible diligence to work around, overcome or remove the Force Majeure as quickly as possible, although it is not required to settle any labour or other dispute creating the Force Majeure on terms contrary to its wishes or to contest the validity or enforceability of any law, regulation or decree by way of legal proceedings; and
   3. a party may, by notice to the other party, terminate this agreement if the Force Majeure continues for 30 continuous days.

## **Remedies Cumulative**

The rights, powers and remedies provided in this agreement are in addition to and not exclusive of the rights, powers and remedies given by law independently of this agreement.

## **Governing Law**

This agreement is governed by the law in force in New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of that place.

## **Counterparts**

This agreement may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

## **Legal Costs**

The parties must each pay their own legal and other expenses relating directly or indirectly to the negotiation, preparation and signing of this agreement and all documents incidental to it.

## **General Interpretation**

Unless the contrary intention appears, in this agreement:

#### references to statutes, regulations, policies, rules or code include references to those statutes, regulations, policies, rules or codes as amended, updated or replaced from time to time;

#### references to the singular includes the plural and vice versa;

#### references to person or individuals include a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any government agency;

#### reference to a party means a party to this agreement and includes the party’s executors, administrators, successors and permitted assigns;

#### an agreement, warranty, representation or obligation which binds or benefits two or more persons under this agreement binds or benefits those persons severally and not jointly or jointly and severally;

#### the words “include” and “including” are not used as, nor are they to be interpreted as, words of limitation;

#### headings are for convenience only and do not affect interpretation.

#### references to dollars is to Australian dollars, unless otherwise stated;

#### a provision of this agreement will not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the agreement or the inclusion of the provision in the agreement; and

#### if an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

# Definitions

In addition to the definitions in the Details, the following words have these meanings in this agreement:

## **Applicable Laws** means all laws, regulations, codes, standards determined by any governmental or regulatory authority and generally applicable industry or self-regulatory standards;

## **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;

**Business Ethics Laws** means the laws applicable to the Research Organisation in relation to:

fundamental human rights and in particular the prohibition of: (A) using child labour and any form of forced or compulsory labour; and (B) organising or supporting any form of discrimination amongst its employees or towards its suppliers and subcontractors;

labour, immigration and prohibition of illegal work; and

anti-money laundering.

## **Confidential Information** means information of every kind:

#### which includes, but is not limited to, all recipes, formulations, specifications, Services, strategies, forecasts, projects, plans, documents and financial information of a party including sales figures, marketing information, computer records, software, trade secrets, drawings, designs, plans, concepts not reduced to product form and all other documents, records and information of a party which is of a confidential nature and is the property of a party or any Related Entity of a party;

#### but does not include information:

##### which is or becomes generally available to the public (other than as a result of the wrongful disclosure by a party or any Related Entity of the party); or

##### which a party can prove was in its possession before disclosure by the other party, which information was not acquired in breach of an obligation of confidence.

## **Commonwealth** means the Commonwealth of Australia.

## **Force Majeure** means, in respect of a party, any reason or cause, other than lack of funds, which could not with reasonable diligence be controlled or prevented by the party, including war, insurrection, riot, civil commotion, strikes, lock-outs, labour or industrial disputes, acts of God, acts or restrictions of governments or governmental agencies, flood, epidemics, storm, power shortages or failures or inability to obtain sufficient labour, raw materials, fuel or utilities.

## **GST Law** means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended (GST Act) or any replacement or other relevant legislation and regulations;

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

#### a party fails to meet its debts as they fall due;

#### an administrator is appointed or a resolution is passed or any steps are taken to appoint, or to pass a resolution to appoint, an administrator to a party;

#### a receiver, a receiver and manager, official manager, trustee, administrator or similar officer is appointed over the assets or undertakings of a party; or

#### a party enters into or resolves to enter any arrangement, composition or comprise with, or assignment for the benefit of its creditors or any class of them other than for the purpose of amalgamation or reconstruction.

## **Intellectual Property Rights** includes any copyright (both present and future); design, patent, trademark, semiconductor, circuit layout or plant breeder rights (whether registered, unregistered or applied for); trade, business, company or domain name; specifications, formulations, Confidential Information (whether in writing or recorded in any form) including trade secrets and know-how, inventions, processes; and any other proprietary, licence or personal rights arising from intellectual activity in the business, industrial, scientific or artistic fields;

## **Material** means equipment, hardware, computer software, data, documentation, designs, drawings, reports, notes, calculations, specifications, photographs, audio-visual materials, recordings, manuals, tools and anything else which is in a material form (which, for the avoidance of doubt, includes information stored in an electronic form);

## **Personal Information** means, in relation to an individual, personal information (as that term is defined in the Privacy Act 1988 (Cth)) that:

#### we transfer to or otherwise make available for use by you in connection with this Grant Agreement; or

#### you or your representatives collect and/or will or may transfer to or otherwise make available to us in connection with this Grant Agreement.

## **Personnel** in respect of a party, means that party’s employees, agents, consultants and subcontractors, and employees of its agents, consultants and subcontractors;

## **Privacy Law** means any legislation affecting or regulating the privacy of personal information (including the collection, storage, use, processing or disclosure of that information), including but not limited to the Privacy Act 1988 (Cth) and any codes of conduct, directives or orders made or issued under that legislation;

## **WHS Legislation** WHS Legislation means the Work Health and Safety Act 2011 and any State or Territory legislation relating to occupational or work health and safety and includes all regulations, codes or guidelines, whether made under that legislation or otherwise, which apply to the parties in performing this agreement and any other activities contemplated by this agreement.