

QDSA HDR Scholarship Funding Agreement

Parties

University [Insert 1st party name] [Insert 1st party ACN/ABN/ARBN]
of [Insert 1st party address]

QDSA The University of Queensland ABN 63 942 912 684 as the administrator for the Queensland Defence Science Alliance, a body corporate constituted under the *University of Queensland Act 1998* (Qld) of Brisbane in the State of Queensland 4072

Background

- A QDSA supports research into [Insert area of research] including by granting Scholarship funds to support postgraduate student thesis projects.
- B The University has applied to QDSA for the Scholarship for the purpose of supporting the Student to perform the Project.
- C QDSA has evaluated and approved the application for the Scholarship to support the Student.
- D The University accepts the Scholarship for the Student on the terms and conditions set out in this agreement.

Operative terms

1 Definitions and interpretation

1.1 Definitions

In this agreement:

Alliance Agreement	means the agreement between QDSA, the University, the State of Queensland acting through the Department of Environment and Science, the Commonwealth of Australia represented by the Defence Science and Technology Group of the Department of Defence and the other universities nominated as member universities.
Background IP	of a party means Intellectual Property rights that are: (a) in existence at the Commencement Date; (b) created or developed by that party during the Project Period independently of the Project; or (c) assigned or licensed to that party during the Project Period independently of the Project; and made available by that party for the purpose of carrying out the Project
Commencement Date	means the date the last party signs this agreement.
Confidential Information	with respect to a party means any information disclosed by the other party in relation to the Project.
Eligibility Requirements	means the eligibility requirements specified in Schedule 1 (if any).
Final Report	means a report setting out a description of the outcomes of the Project (if any).
HDR	means Higher Degree by Research.

Intellectual Property means all industrial and intellectual property rights anywhere in the world, whether registered or unregistered, including: (a) patent rights, trade mark rights, copyright, plant breeders' rights, rights in relation to inventions, trade names, business names, company names, indications of origin, designs, plant varieties, semiconductors, circuit layouts and related confidential information or knowhow; (b) any right of registration of, provisional applications for, claim of priority from, continuation of or division of such rights; and (c) all other intellectual property as defined in article 2 of the *Convention Establishing the World Intellectual Property Organisation 1967*.

Interruption or Leave means any interruption to candidature or leave greater than 14 days and approved by the University, in accordance with the University's policies and procedures.

Progress Report means a report setting out a description of the progress of the Project and, if applicable, a synopsis of what further work must be done to complete the Project.

Project means the project described in Schedule 1.

Project IP means all Intellectual Property that is brought into existence by a party in undertaking the Project using the Scholarship funding, but excludes any Background IP and copyright in the Student's work, including any Thesis and related works.

Project Period means the period specified in Schedule 1 as extended by any period of Interruption or Leave.

Scholarship means the amount of money being provided for or on behalf of the Student and the purposes for which that amount must be used, as specified in Schedule 1.

Student means the postgraduate student of the University.

Special Conditions means the special conditions specified in Schedule 1 (if any).

Supervisor means the supervisor specified in Schedule 1 (if any).

Term means the term specified in clause 8.1.

Thesis The material outcomes of a sustained program of supervised research undertaken by a candidate whilst enrolled in a HDR program.

1.2 Interpretation

In this agreement:

- (a) no rule of construction applies to the disadvantage of

the party that drafts this agreement on the basis that the party suggested the relevant drafting;

- (b) references to a party mean QDSA or the University and references to the parties mean both QDSA and the University; and
- (c) words such as “includes” and “including” do not impose any limitation on the construction of general language that is followed by specific examples.

2 Grant of Funding

2.1 Grant

- (a) QDSA agrees to provide the Scholarship to the University for the purpose of contributing to support for the Student to carry out the Project.
- (b) The amount will be specified in Schedule 1 and will be conditional on:
 - (i) the Student receiving a living allowance and tuition Scholarship from the University;
 - (ii) the Student receiving support for any prototyping or equipment costs required for the Project as specified in Schedule 1; and
 - (iii) the Eligibility Requirements being met.

2.2 Accountability

- (a) The Scholarship will be paid directly to the student while working on the Project for the Project Period.
- (b) Scholarships will be competitively selected for award.

2.3 Acknowledgement

QDSA acknowledges and agrees that:

- (a) the Project involves research;
- (b) the nature of research means that the Project may not result in any outcome, product or commercial Intellectual Property rights; and
- (c) the University is not obliged to create any outcome, product or commercial Intellectual Property rights as a result of the Project.

2.4 Unused Scholarship funds

The University acknowledges that if any Scholarship funds distributed are not spent (whether in part or whole), it may be required, upon written notice, to return those Scholarship funds to the QDSA to be held and distributed in accordance with the Alliance Agreement.

3 Payment of Funding

3.1 Payment

QDSA must pay the Scholarship to the University at the times specified in Schedule 2 by electronic transfer to the account nominated by the University from time to time.

3.2 Invoices

The University must invoice QDSA for the Scholarship prior to the Commencement Date.

3.3 Late payment

If QDSA fails to pay the Scholarship in accordance with this agreement, without limiting any other remedies available to the University, the University may suspend performance of the University's obligations under this agreement until the outstanding amounts are paid.

4 Candidature

4.1 Scholarship duration

The duration of the Scholarship is for the Project Period and shall be in accordance with the University's policies and procedures, including provisions for leave. The duration of the Student's Thesis is unaffected by the Project Period.

4.2 Thesis

Copyright in the Student's work, including any Thesis, will remain with the Student.

4.3 Examination

Notwithstanding the Project, the examination of the Thesis must be in accordance with the University's policies and procedures. No additional conditions may be imposed.

5 Obligation of confidence

The Student may be expected to enter into a confidentiality agreement in order to undertake the Project.

6 Intellectual Property

6.1 Background IP

Each party grants to the other party a world-wide, perpetual, non-exclusive, non-transferable, royalty free licence to use that party's Background IP:

- (a) during the Term, strictly for the purpose of conducting the Project; and
- (b) if the use of the Project IP is reliant on the Background IP, to the extent required to use the Project IP under this agreement.

6.2 Ownership of Project IP

- (a) The parties agree that the Project IP will be owned by the University, or otherwise in accordance with the University's Intellectual Property rights policies and procedures.
- (b) To the extent necessary to give effect to clause 6.2(a), QDSA assigns all right, title and interest in the Project IP to the University from the date such Project IP is created.
- (c) QDSA must sign all documents and perform all acts as reasonably required by the University to give effect to the assignment contemplated by clause 6.2(b).

6.3 Warranty

QDSA represents and warrants to the University that:

- (a) to the best of that party's knowledge as at the date of this agreement (without having made any enquiries), the assignment contemplated by clause 6.2(b) that party and use of the Project IP created by that party will not infringe the Intellectual Property rights of any third party; and
- (b) that party is not aware of any allegation that the assignment contemplated by clause 6.2(b) by that party and use of the Project IP created by that party infringes the Intellectual Property rights of any third party.

6.4 Notice of allegations of infringement

QDSA must give the University prompt notice of any allegation that the assignment contemplated by clause 6.2(b) or use of Project IP infringes the Intellectual Property rights of any third party.

6.5 Licence of Project IP

- (a) The University hereby grants to QDSA a non-exclusive, non-transferable, royalty free, perpetual, worldwide licence to use the Progress Reports and Final Report in the usual course of the QDSA's internal activities.
- (b) For clarity the licence contemplated by clause 6.5(a) does not include the right to commercialise the Project IP or the right to sublicense to any third parties.
- (c) QDSA acknowledges that the University may commercialise any Intellectual Property rights arising from the Project in its discretion.

7 Publication

- (a) QDSA acknowledges that the University and the Student may publish and otherwise disclose the results of the Project.
- (b) Where the Project IP includes Confidential Information

and forms part of the Thesis, the University must adhere to and ensure the Student follows their policies and procedures regarding Intellectual Property rights and confidentiality.

- (c) The University and the Student must acknowledge the contribution of QDSA in any publications directly relating to the results of the Project and provide a copy of any publications to QDSA.
- (d) The University acknowledges that QDSA may disclose the existence of the Project and QDSA's support of the Project publicly or to any third party.
- (e) Each party must not use any trade mark or logo of the other party without the other party's prior consent to the specific use.

8 Term and Termination

8.1 Term

This agreement commences on the Commencement Date and continues until the end of the latest Project Period, unless terminated earlier in accordance with this clause 8.

8.2 Termination for breach

Either party may terminate this agreement immediately by notice to the other party if the other party:

- (a) commits a material breach of this agreement; and
- (b) fails to remedy that breach within 30 days of notice requiring the other party to remedy that breach.

8.3 Termination for insolvency

Either party may terminate this agreement immediately by notice to the other party if the other party:

- (a) commits an act of insolvency;
- (b) has a controller, receiver, receiver and manager or administrator appointed;
- (c) goes into liquidation (other than for the purpose of reconstruction); or
- (d) is unable to pay its debts when due.

8.4 Cessation or suspension of Scholarship

- (a) QDSA acknowledges that if the Student:
 - (i) fails to achieve an adequate level of performance as determined by the University; or
 - (ii) does not remain enrolled full-time,the University may elect to terminate this agreement by written notice to QDSA or replace the Student.
- (b) QDSA acknowledges that if the Student takes a period of Interruption or unpaid Leave then:
 - (i) the University will notify QDSA;
 - (ii) the University will suspend payments to that Student for the duration of that Interruption or Leave; and
 - (iii) the Project Period applicable to the relevant Project is automatically extended by the duration of the Interruption or Leave.
- (c) If the candidate requests a change of project under the University's policies and procedures, the University will consult with QDSA to determine whether the Project remains within the scope of the Scholarship.

8.5 Waiver

Each party expressly waives any rights it may have had to terminate this agreement other than in accordance with this clause 8.

8.6 Post-termination or expiration

Following termination or expiration of this agreement, the parties agree that:

- (a) The University will refund any remaining Scholarship funds that have not been used or committed to supporting the Student to carry out the Project;

- (b) accrued rights and remedies of a party will not be affected; and
- (c) clauses 5, 9 and 11(a), and any other provisions intended by the parties to survive termination or expiration, will survive termination or expiration of this agreement and will not be affected by such termination or expiration.

9 Limitation of Liability

9.1 Limitation

Subject to clauses 9.2 and 9.3, each party's liability to the other party in connection with this agreement for any loss or damage however caused (including due to the negligence of that party) is limited to the amount of the Scholarship received.

9.2 Consequential loss

Subject to clause 9.3, each party is not liable to the other party in connection with this agreement for any loss or damage however caused (including due to the negligence of that party) that constitutes consequential loss, indirect loss, loss of profits, loss of revenue, loss of reputation, loss of bargain or loss of opportunity.

9.3 Requirements of law

If any applicable legislation prohibits the limitation or exclusion of liability by a party in the manner contemplated by this clause 9 with respect to particular loss or damage, then:

- (a) the relevant limitation or exclusion does not apply to that loss or damage; and
- (b) that party's liability is only limited or excluded with respect to that loss or damage in the manner permitted under that legislation (if any).

9.4 Application

This clause 9 applies to all loss or damage suffered by a party in connection with this agreement irrespective of the type of breach or other conduct giving rise to that loss or damage.

10 GST

- (a) Words or expressions including the term "Tax Invoice" used in this clause 10 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (the "GST Law") or, if not so defined, then which are defined in the *Competition and Consumer Act 2010* (Cth), have the same meaning in this clause 10.
- (b) The parties acknowledge that all amounts payable under or in connection with this agreement are expressed on a GST exclusive basis.
- (c) If any supply made under this agreement is a taxable supply, the recipient must pay to the supplier, in respect of that taxable supply, an additional amount equal to the GST payable by the supplier in respect of that taxable supply.
- (d) The recipient must pay the amount payable under clause 10(c) at the same time as payment must be made for the taxable supply, provided the supplier has given the recipient a Tax Invoice for that payment stating the amount of GST paid or payable by the supplier in respect of the supply to which the Tax Invoice relates.

11 General

- (a) Each party must do all things necessary or desirable to give effect to the provisions of this agreement including by signing all documents and performing all acts.
- (b) Any notice, consent, approval, acknowledgement, verification or report contemplated by this agreement must be given in writing.
- (c) If an event beyond the reasonable control of either party occurs that adversely affects either party's ability to perform any obligations under this agreement, then the affected party will not be liable for, or in breach of

this agreement as a result of, any failure by the affected party to perform those obligations as a direct or indirect result of that event.

- (d) The parties may agree in good faith on Special Conditions that apply in addition to, or vary terms in this agreement.
- (e) This agreement may be altered only in writing signed by the duly authorised representative of each party.
- (f) Unless otherwise expressly contemplated, where a provision of this agreement contemplates that a party may exercise its discretion then that party is entitled to exercise that discretion absolutely, with or without conditions and without being required to act reasonably or give reasons.
- (g) This agreement contains the entire agreement of the parties and supersedes all prior representations, conduct and agreements, with respect to its subject matter, except to the extent that any express guarantees have been given by a party as contemplated by section 59 of the *Australian Consumer Law* (Cth).

- (h) Each party is responsible for its own costs of entering into and performing this agreement.
- (i) The laws of Queensland, Australia apply to this agreement and each party irrevocably submits to the non-exclusive jurisdiction of the courts of Queensland, Australia and courts competent to hear appeals from those courts.
- (j) To the extent that any portion of this agreement is void or otherwise unenforceable then that portion will be severed and this agreement will be construed as if the severable portion had never existed.
- (k) This agreement will be validly executed if signed in any number of counterparts and the counterparts taken together will constitute one agreement.
- (l) Each party may communicate its execution of this agreement by successfully transmitting an executed copy of this agreement by facsimile or email to the other party.

Execution

Signed as an agreement

SIGNED for and on behalf of

[Insert 1st party name] [Insert 1st party ACN/ABN/ARBN]

by its duly authorised officer:

.....
 Authorised representative Witness

.....
 (Print Name) (Print Name)
 Date:

SIGNED for and on behalf of

THE UNIVERSITY OF QUEENSLAND

by its duly authorised officer: in the presence of:

.....
 Director Research Partnerships Witness (Print Name)

.....
 Date:

Schedule 1

Student name or description	[insert]
Enrolled program	[insert]
Eligibility Requirements	<p>The Student must:</p> <ul style="list-style-type: none"> • be an Australian citizen or permanent resident for security purposes; • be an enrolled in an approved HDR program at a member university, being Central Queensland University, James Cook University, Griffith University, Queensland University of Technology, University of the Sunshine Coast, University of Southern Queensland and the University of Queensland; • be at a point in candidature to translate HDR findings into Defence capability to align with the Project; • provide a letter of support from their principal supervisor; and • be able to work with a Defence sponsor provided by QDSA.
Project	<p>The candidate will be required to utilise their HDR research findings as a basis for demonstrating in a capability demonstrator the application of those findings for the Australian Defence Force (ADF).</p> <p>The cohort of successful applicants will present their capability design to representatives from the ADF in a final pitch.</p>
Intended commencement date	[insert]
Project Period	Three (3) months from the Intended commencement date (or such later date as agreed between the parties)
Supervisor	[insert]
Faculty / School	[insert]
Scholarship amount provided	[Up to \$20,000 (AUD)]
Prototyping or equipment costs	[Up to \$5,000 (AUD) for any prototyping or equipment costs required for the Project]
Total funding amount	[Up to \$25,000 (AUD)]
Payment terms	30 days from receipt of valid tax invoice
Special Conditions	[insert] or Not applicable.

Schedule 2

Payment schedule

[Insert payment schedule. e.g.]

	Due date	Amount (excluding GST)
First payment	[Commencement Date]	[Up to \$25,000 (AUD)]
Second payment	NA	NA
Total		[Up to \$25,000 (AUD)]