

FUNDING AGREEMENT 2017-2021

Parties

**The Minister for Agriculture and Water Resources on behalf of the
Commonwealth of Australia represented by the
Department of Agriculture and Water Resources
(ABN 24 113 085 695)**

and

**Australian Livestock Export Corporation Limited
(ABN 88 082 408 740)**

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AGREEMENT DATE: 6 April 2017

BETWEEN The **MINISTER FOR AGRICULTURE AND WATER RESOURCES, ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA**, represented by the Department of Agriculture and Water Resources ABN 24 113 085 695, 18 Marcus Clarke Street, Canberra ACT 2601 (**Commonwealth**).

AND **AUSTRALIAN LIVESTOCK EXPORT CORPORATION LIMITED** ABN 88 082 408 740, a Research and Development Corporation having its registered office at Level 1, 40 Mount Street, North Sydney NSW 2060 (**LiveCorp**).

BACKGROUND

- A. The Australian Government and Australia's primary producers recognise the need to invest in rural research and development.
- B. Australia's rural research and development corporations (RDCs) are the mechanism by which primary producers and the government co-invest in research and development for industry and community benefits.
- C. In 1997 the government and industry agreed to a restructure of the red meat and livestock industry's research and marketing arrangements, resulting in three industry-owned research and development corporations looking after the research, development and marketing interests of the red meat livestock, processing and export industries.
- D. LiveCorp was declared by the Minister to be the Livestock Export Marketing Body and the Livestock Export Research Body for the purposes of sections 60(3) and 60(3A) of the *Australian Meat and Live-stock Industry Act 1997 (Cth)* (Act).
- E. LiveCorp and Meat & Livestock Australia Limited (MLA) have shared responsibilities for livestock export marketing and promotion and research and development.
- F. A Donor Arrangement between the Commonwealth and LiveCorp came into effect on 6 July 1998 and LiveCorp was subsequently declared as an approved donor for the purposes of section 61 of the Act. The Donor Arrangement enables MLA to receive Commonwealth Matching Payments for amounts contributed by LiveCorp for research and development.

- G. Funding agreements came into effect in June 2005, on 22 June 2007 and 28 June 2010, setting out terms and conditions for payment by the Commonwealth to LiveCorp under the Act.
- H. The Commonwealth and LiveCorp have agreed to enter into a further funding agreement on the terms and conditions set out in this Agreement.
- I. This Agreement recognises that responsibility for corporate governance resides with the board and management of LiveCorp.
- J. This Agreement outlines similar terms entered into with other RDCs and is intended to provide clarity, consistency and transparency across the management and accountability frameworks applicable to LiveCorp and all RDCs.
- K. This Agreement also provides for the performance of LiveCorp to be reviewed by the Commonwealth and, in circumstances where issues are identified, the ability for appropriate responses to be developed.

PART ONE – GENERAL REQUIREMENTS

1. DEFINITIONS

In this Agreement, unless the contrary intention appears:

'Act' means the *Australian Meat and Live-stock Industry Act 1997 (Cth)*, including any regulations or other instruments made under that Act.

'Activities' means specific tasks or projects performed as part of a Program.

'Agreement' means this funding agreement and any schedules and annexures to it.

'Agreement Date' means the date on which this Agreement has been signed by both parties.

'Agreement-related Assets and Liabilities' means any assets obtained and liabilities incurred by LiveCorp through use of the Funds (including employee liabilities and other contractual commitments incurred by LiveCorp in applying the Funds in accordance with this Agreement).

'Agri-Political Activity' means engaging in or financing any form of external or internal political campaigning, but does not include an activity required or authorised under the *Corporations Act 2001 (Cth)* or another law. Agri-Political Activity does not include any of the following:

- (a) LiveCorp, or an officer of LiveCorp, recommending a candidate for election to the Board;
- (b) LiveCorp making statements or providing information to the Industry on matters related to LiveCorp's objects in the proper performance of LiveCorp's functions and the proper furtherance of its objects;
- (c) use by another person, for Agri-Political purposes, of a report or other publication prepared or financed by LiveCorp in accordance with this Agreement;
- (d) the use by an officer of LiveCorp, or an employee of LiveCorp of his or her own funds to conduct a campaign for election to the Board or the board of any entity engaging in Agri-Political Activity or;
- (e) consultation with an Industry Representative Body.

'Annual Operational Plan' means the plan to implement LiveCorp's Strategic Plan, developed in accordance with clause 32 of this Agreement.

'Annual Report' means a report prepared by the Directors of LiveCorp in accordance with Chapter 2M of the Corporations Act and clause 33 of this Agreement.

'Audit Committee' means the Board committee responsible for providing guidance and recommendations to assist the Board and LiveCorp in fulfilling its responsibilities relating to accounting, reporting and compliance practices of LiveCorp (currently known as the Finance, Audit and Remuneration Committee).

'Balanced Portfolio' means a Research and Development investment portfolio that includes a balance between long-term and short-term, high-risk and low-risk, and strategic and adaptive research needs, including consideration of the livestock species and supply chain elements.

'Board' means the Board of LiveCorp.

'Business Day' means a day on which Australian banks are open for general banking business in the Australian Capital Territory, excluding Saturdays and Sundays.

'Business Hours' means the hours between 9.00am and 5.00pm on a Business Day.

'Commonwealth Matching Payments' means funds paid to MLA under section 66 of the Act.

'Confidential Information' means information including, but not limited to, Levy Payer Information, for which all of the following requirements are satisfied:

- (a) the information is given by one party (the disclosing party) to the other (the receiving party) for, or in connection with, this Agreement;
- (b) the information is by nature confidential;
- (c) the disclosing party informs the receiving party that the information is confidential before or when the disclosing party gives the information to the receiving party. This may be by marking a document confidential or otherwise advising the receiving party that the information is confidential;

but does not include information which:

- (d) is or becomes public knowledge other than by breach of the Agreement or by any other unlawful means; or
- (e) is in the possession of the receiving party without restriction in relation to disclosure before being given by the disclosing party; or
- (f) has been independently developed or acquired by the receiving party.

'Cost Allocation Policy' means LiveCorp's policy for allocating direct and indirect costs across its Research and Development Activities, Marketing Activities and Programs.

'Department' means:

- (a) the Department of Agriculture and Water Resources which represents the interest of the Commonwealth of Australia in this Agreement; or
- (b) if the Act is administered by a Minister of State other than the Minister for Agriculture and Water Resources—the Department of State administered by that Minister.

'Director' means a person appointed or elected to the office of director of LiveCorp in accordance with the LiveCorp Constitution.

'Donor Arrangement' means the arrangement under the Act which is the subject of the Deed of Agreement between the Commonwealth and LiveCorp, which enables MLA to obtain Commonwealth Matching Payments for Research and Development expenditures sourced from Funds contributed to MLA by LiveCorp.

'Effective Date' means the date this Agreement becomes effective, being the day after the Agreement Date.

'Electronic Communication' has the same meaning as in the *Electronic Transactions Act 1999*.

'Evaluation Framework' means a framework developed in accordance with clause 31 of this Agreement.

'Extension' means facilitating the adoption of Research and Development by persons or organisations engaged in the Industry through activities which educate and inform them about opportunities for change or which develop their capacity to adopt changes.

'Financial Year' means each period from 1 July to the following 30 June occurring during the term of this Agreement, or any part of such a period occurring at the beginning or end of the term of this Agreement.

'Former Agreement' means the previous Agreement between the Commonwealth and LiveCorp entered into on 28 June 2010.

'Fraud Control Plan' means a plan that meets the minimum acceptable compliance levels as stated in the most current version of the Australian Standard for *Fraud and*

Corruption Control (AS8001–2008) prepared and maintained by LiveCorp specifying measures to minimise the risk of fraud within LiveCorp in accordance with clause 25.4.

'Funds' means each of the following:

- (a) Marketing Funds;
- (b) Research and Development Funds;
- (c) income earned or derived by LiveCorp from Marketing Funds and Research and Development Funds; and
- (d) the proceeds of the sale or other disposition of assets acquired with the Funds referred to in clauses (a) to (c) of this definition.

'Guidelines' means each of the following;

- (a) the Rural Research, Development and Extension Priorities;
- (b) the national Science and Research Priorities determined by the Minister for Industry, Innovation and Science;
- (c) other priorities or directions communicated to LiveCorp by Commonwealth from time to time in writing;
- (d) the Levy Principles and Guidelines, being the guidelines relating to the introduction of new levies or changes to existing levies.

'Independent Director' means a Director who consistent with the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations (Third Edition) (2014) is free of any interest, position, association or relationship that might influence, or reasonably be perceived to influence, in a material respect his or her capacity to bring an independent judgement to bear on issues before the Board and to act in the best interests of LiveCorp and its members generally.

'Industry' means the Australian livestock export industry.

'Industry Representative Body' means an organisation that represents an Australian industry and undertakes Agri-Political Activities or activities that aim to influence public policy and resource allocation decisions.

'Insolvency Event' means:

- (a) that LiveCorp disposes of the whole or part of its assets, operations or business other than in the ordinary course of business; or
- (b) that LiveCorp ceases to carry on business; or
- (c) that LiveCorp ceases to be able to pay its debts as they become due; or

- (d) any step is taken by a mortgagee to take possession or dispose of the whole or part of LiveCorp's assets, operations or business; or
- (e) any step is taken to enter into any compromise or arrangement between LiveCorp and its creditors or a class of them; or
- (f) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator or other like person of the whole or part of LiveCorp's assets, operations or business.

'Intellectual Property' means all copyright, all rights in relation to inventions (including patents), plant varieties, registered and unregistered trademarks, designs, confidential information (including trade secrets and know how), circuit layouts and all other rights resulting from the intellectual activity in the industrial, scientific, literary or artistic fields.

'Intellectual Property Management Plan' means a plan prepared and maintained by LiveCorp specifying the procedures for management, adoption and commercialisation of Intellectual Property created by LiveCorp in accordance with clause 25.4 of this Agreement.

'Levy' means a levy, tax or charge required to be paid under the Levy Legislation.

'Levy Legislation' means the *Primary Industries (Excise) Levies Act 1999*, *Primary Industries (Customs) Charges Act 1999* and the *Primary Industries Levies and Charges Collections Act 1991*.

'Levy Payers' means the persons who are required to pay amounts in accordance with Levy Legislation for the purposes of the Industry.

'LiveCorp Constitution' means the Memorandum of Association and Articles of Association for LiveCorp and includes any amendment to the LiveCorp Constitution.

'Livestock Export Marketing Body' means the body declared by the Minister; under section 60(3) of the Act; to be the marketing body for the purposes of Division 2 of Part 3 of the Act.

'Livestock Export Research Body' means the body declared by the Minister; under section 60(3A) of the Act; to be the research body for the purposes of Division 2 of Part 3 of the Act.

'Marketing Activities' means activities intended to encourage preference in export markets for Australian livestock to the benefit of the livestock export industry, but does not include Research and Development.

'Marketing Funds' means the payments made to LiveCorp under section 64A of the Act.

'Minister' means the Commonwealth Minister who from time to time has responsibility for the Act and includes a delegate of the Minister.

'MLA' means Meat & Livestock Australia Limited.

'Nomination Committee' means the committee responsible for recommending to the Board necessary and desirable-director-candidates to stand for election, consistent with the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations (Third Edition) (2014) (currently known as the Selection Committee).

'Performance Review' means a review conducted in accordance with clause 18 of this Agreement.

'Performance Review Report' means a report prepared in accordance with clause 18 of this Agreement.

'Prescribed Industry Body' means a prescribed industry body for the purposes of section 59 of the Act.

'Program' means Activities that collectively deliver services or benefits to the Industry or the community with the aim of achieving a planned outcome.

'R&D Expenditure' means expenditure on Activities that qualify as Research and Development Activities.

'RD&E Framework' means the National Primary Industries Research, Development and Extension Framework – Statement of Intent.

'RDCs' means the statutory and industry-owned research and development corporations declared under legislation.

'Research and Development' means systematic experimentation and analysis in any field of science, technology, economics or business (including the study of the social or environmental consequences of the adoption of new technology) carried out with the object of:

- (a) acquiring knowledge that may be of use in achieving or furthering an objective of the Industry, including knowledge that may be used for the purpose of improving any aspect of the livestock export industry; or
- (b) applying such knowledge for the purpose of achieving or furthering such an objective, including through Extension.

‘Research and Development Activities’ means Activities in accordance with the Act that is carried out by LiveCorp or with its support for the purposes of Research and Development.

‘Research and Development Funds’ means payments paid to LiveCorp consistent with section 64B of the Act.

‘Risk Management Plan’ means the plan prepared and maintained by LiveCorp specifying the measures to be implemented to manage its material, commercial, legal and administrative risks in accordance with clause 25.4 of this Agreement.

‘Skills Based Board’ means a Board which would possess an appropriate mix of the qualifications and experience as described at clause 14.3.

‘Strategic Plan’ means the plan developed by LiveCorp in accordance with clause 30 of this Agreement.

‘Voluntary Contributions’ means payments received by LiveCorp for the purpose of Research and Development and excludes amounts of Levy and Funds.

2. INTERPRETATION

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

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph or schedule is to a clause or paragraph of, or schedule to, this Agreement;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to Australia Eastern Standard Time (AEST);

- (g) 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;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) 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;
- (j) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (k) 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;
- (l) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (m) headings are for ease of reference only and do not affect interpretation.

3. TERM AND OPERATION OF THIS AGREEMENT

3.1 This Agreement:

- (a) takes effect on the Effective Date, and expires four years after the Agreement Date;
- (b) constitutes the entire agreement between the parties as to its subject matter; and
- (c) subject to clause 3.2, in relation to its subject matter, supersedes any prior understanding or agreement between the parties and any prior condition, warranty, indemnity or representation imposed, given or made by a party.

3.2 The termination of the Former Agreement does not affect the rights or liabilities of a party which accrued on or before the termination of the Former Agreement.

3.3 The parties must, at least six months before the expiry of this Agreement, commence renegotiation of the Agreement in good faith with a view to entering into a new agreement relating to the subject matter of this Agreement on terms and conditions as agreed by the parties. If the parties are unable to agree on the terms of a new Agreement to replace this Agreement within that six month period, then the parties

agree that the Agreement will continue in full force and effect for an additional six months, or such other period as agreed between the parties, unless one of the parties notifies the other party in writing it does not wish to extend the Agreement.

- 3.4 This Agreement may only be altered by an agreement in writing signed by both parties.

4. ACCESS TO RECORDS AND USE OF INFORMATION

Access by the Commonwealth

- 4.1 The Commonwealth or its representative may, for the purpose of monitoring compliance by LiveCorp with this Agreement and the Act, at reasonable times and on giving reasonable notice:

- (a) access premises occupied by or under the control of LiveCorp;
- (b) require the provision by LiveCorp of data, records, accounts and other financial material (in a data format and storage material accessible by the Commonwealth) and any property of the Commonwealth in the possession or under the control of LiveCorp, its officers, employees or agents; and
- (c) inspect and copy documentation, books and records, however stored, in the possession or under the control of LiveCorp, its officers, employees, or agents.

- 4.2 LiveCorp must co-operate fully with the Commonwealth or its representative to enable them to exercise their rights under clause 4.

- 4.3 The rights of the Commonwealth under clause 4.1 apply equally to the Auditor-General or a delegate of the Auditor-General, or the Australian Information Commissioner or a delegate of the Australian Information Commissioner, for the purpose of performing the Auditor-General's or Australian Information Commissioner's statutory functions or powers.

Confidential Information

- 4.4 Each party must, in respect of Confidential Information given by the other party:
- (a) use that Confidential Information only for the purposes of administering or enforcing this Agreement or the Act; and
 - (b) not disclose that Confidential Information to any person (other than employees or advisers of that party with a need to know such Confidential Information for the purposes of administering or enforcing this Agreement or the Act) without

the prior approval in writing from the other party and subject to any reasonable conditions or restrictions imposed by the other party in giving approval.

- 4.5 A party will not be in breach of this clause to the extent that it is legally obliged to make a particular use or disclosure of Confidential Information.
- 4.6 The Commonwealth will not be in breach of clause 4.4 in respect of Confidential Information given by LiveCorp and held by the Commonwealth where:
- (a) a request is made by Parliament (including a committee of Parliament) for that information to be given to Parliament, provided that the Commonwealth notifies Parliament of the confidential nature of the information and requests Parliament hold and deal with that information on an in camera basis; or
 - (b) the Department shares the Confidential Information with another Commonwealth entity, where this serves the Commonwealth's legitimate interests, provided that the Department notifies the other Commonwealth entity of the confidential nature of the information.

Use of Reports

- 4.7 LiveCorp grants the Commonwealth a permanent, irrevocable, royalty-free worldwide non-exclusive licence to use, reproduce, modify, adapt, distribute, communicate and publish all or part of any report or plan provided to the Commonwealth under this Agreement, excluding:
- (a) any Confidential Information (except to the extent permitted by clause 4.4); and
 - (b) any material, including any image or text, identified by LiveCorp as being material in which a third party owns all or part of the copyright.
- 4.8 If LiveCorp includes any material in which a third party owns all or part of the copyright in any report or plan provided to the Commonwealth under this Agreement, LiveCorp must use its best endeavours to obtain from that third party, at LiveCorp's own cost, a licence of such material for the Commonwealth on terms equivalent to those set out in clause 4.7.
- 4.9 Where LiveCorp are unable to obtain such a licence for the Commonwealth, LiveCorp must:
- (a) notify the Commonwealth where third party copyright is included in any report or plan provided to the Commonwealth under this Agreement; and

- (b) clearly identify third party copyright in any report or plan provided to the Commonwealth under this Agreement.

5. INDEMNITY

- 5.1 LiveCorp indemnifies the Commonwealth, its officers and agents against all expenses, losses, damages and costs (on a solicitor and own client basis and whether incurred by or awarded against the person claiming the indemnity) sustained or incurred as a result, whether directly or indirectly, of:
 - (a) any breach of this Agreement by LiveCorp;
 - (b) any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or wilful misconduct of LiveCorp or its officers employees or agents; or
 - (c) a claim, action or proceeding that the use by the Commonwealth of material for which it has a licence under this Agreement infringes the rights (including any Intellectual Property rights) of any person.
- 5.2 The amount payable under an indemnity under clause 5.1 is reduced to the extent that the expenses, losses, damages and costs concerned were caused or contributed to by a breach of this Agreement by, or a negligent act or omission of the Commonwealth, or a negligent act or omission or wilful misconduct of an officer or agent of the Commonwealth.
- 5.3 LiveCorp agrees that a person indemnified under clause 5.1 may recover a payment under an indemnity in this Agreement before the person makes the payment in respect of which the indemnity is given.
- 5.4 The indemnities in this Agreement are irrevocable and survive the termination of this Agreement.
- 5.5 LiveCorp agrees that the Commonwealth holds the benefit of an indemnity under clause 5 in favour of an officer or agent of the Commonwealth in trust for the officer or agent.

6. AUTHORISATION OF PERSONS TO ACT

- 6.1 The rights, functions and powers of the Commonwealth under this Agreement may be exercised and performed on behalf of the Commonwealth by the Minister or a delegate of the Minister or the Department.

- 6.2 Performance of an obligation of the Commonwealth under this Agreement by the Minister or a delegate of the Minister or the Department is taken to be performance of the obligation by the Commonwealth.

7. RELATIONSHIP

- 7.1 This Agreement does not create a relationship of employment, agency or partnership between the parties.

8. ASSIGNMENT

- 8.1 LiveCorp must not assign or novate this Agreement or any right or obligation under this Agreement unless LiveCorp:
- (a) is not in breach of this Agreement;
 - (b) obtains the prior written consent of the Commonwealth; and
 - (c) ensures that the assignee agrees to be bound by all of LiveCorp's obligations under this Agreement.

9. WAIVER

- 9.1 Waiver of any provision of or right under this Agreement:
- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
 - (b) is effective only to the extent set out in any written waiver.

10. SEVERABILITY

- 10.1 Part or all of any provision of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining provisions of this Agreement continue in force.

11. GOVERNING LAW AND JURISDICTION

- 11.1 This Agreement is governed by the law applicable in the Australian Capital Territory.
- 11.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory in relation to matters arising in connection with this Agreement.

12. RESOLUTION OF DISPUTES

- 12.1 Except where a party seeks urgent interlocutory relief, the parties agree to deal with a dispute arising under this Agreement in accordance with Clause 12 before commencing any legal proceedings.

- 12.2 The party claiming that there is a dispute will send the other party a written notice setting out the nature of the dispute.
- 12.3 During the 10 Business Days (or such longer period agreed to in writing by the parties to the dispute) after a notice is given under Clause 12.2 each party to the dispute must use reasonable efforts to resolve the dispute through a meeting of representatives of each party.
- 12.4 If the dispute is not resolved by the parties at the meeting referred to in clause 12.3 the parties must refer the dispute to mediation, which must be conducted in Canberra (or elsewhere as agreed in writing between the parties), in accordance with the Institute of Arbitrators and Mediators of Australia Mediation Rules (in operation from time to time).
- 12.5 Despite the existence of a dispute, both parties must, unless requested in writing by the other party not to do so, continue to perform their respective obligations under this Agreement.
- 12.6 If there is no resolution of the dispute within 20 Business Days of the commencement of the mediation (or such extended time as the parties may agree in writing before the expiration of that period), then either party may commence legal proceedings in respect of the dispute. Unless otherwise agreed by the parties the mediation will be deemed to commence on the appointment of the mediator.

13. NOTICE

- 13.1 A party giving notice or notifying under this Agreement must do so in writing or by Electronic Communication:

- (a) directed to the recipient's address specified in this clause, as varied by any notice; or
- (b) hand delivered or sent by prepaid post or Electronic Communication to that address.

- 13.2 The parties' addresses are:

Commonwealth	The Secretary Department of Agriculture and Water Resources GPO Box 858 CANBERRA CITY ACT 2601
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	Email: Daryl.Quinlivan@agriculture.gov.au cc RDCGovernance@agriculture.gov.au
Australian Livestock Export Corporation Limited	Chief Executive Officer LiveCorp PO Box 1174, NORTH SYDNEY NSW 2059 Email: sbrown@livecorp.com.au cc livecorp@livecorp.com.au

13.3 A notice given in accordance with clause 13.1 is taken to be received if:

- (a) hand delivered—on delivery; or
- (b) if sent by prepaid post—5 Business Days after the date of posting; or
- (c) if sent by Electronic Communication—at the time that would be the time of receipt under the *Electronic Transactions Act 1999*.

PART 2 – MANAGEMENT AND GOVERNANCE OF LIVECORP

14. CORPORATE GOVERNANCE

14.1 LiveCorp must maintain, implement and regularly review a framework of good corporate governance practice to ensure proper use and management of the Funds, which should draw on better practice guides, including Guidelines provided by the Commonwealth and the *ASX Corporate Governance Council's Corporate Governance Principles and Recommendations (Third Edition) (2014)*.

14.2 The framework at Clause 14.1 must include a governance policy which includes a clear statement of LiveCorp's commitment to effective governance and cover:

- (a) Board charter;
- (b) matters reserved for the Board;
- (c) Board delegations of authority;
- (d) charter of the Audit Committee and Nomination Committee;
- (e) Board appointments, composition (including requirements for diversity and a number of Independent Directors) renewal and succession planning;
- (f) regular Board performance evaluations; and
- (g) code of conduct for Directors and senior management.

LIVECORP BOARD

- 14.3 LiveCorp must use its best endeavours to establish a skills based board of directors which can demonstrate collective expertise against each of the following:
- (a) legal, compliance and corporate governance;
 - (b) production and/or exporting in the meat and livestock industry;
 - (c) finance and business management;
 - (d) risk management and fraud control;
 - (e) domestic and international market development of products and international trade; and
 - (f) Research and Development administration and commercialisation.
- 14.4 LiveCorp must ensure the Board's skills base is regularly reviewed and where gaps are identified, provide directors with the resources to help develop and maintain the required skills and knowledge to fill those gaps.
- 14.5 The Nomination Committee and the Audit Committee must each comprise a majority of independent members.

DISCLOSURE OF PECUNIARY INTERESTS

- 14.6 If a person is appointed as a member of an LiveCorp committee or panel concerned with the selection and funding of Research and Development Activities and/or Marketing Activities and has a pecuniary interest that relates to the affairs under consideration by the committee or panel, that person must disclose that interest in accordance with any instructions given by LiveCorp.

15. ROLE OF COMPANY

- 15.1 LiveCorp must ensure that it effectively represents and reflects the interests of its members and Levy Payers in respect of the Industry's Research and Development and Marketing interests.
- 15.2 LiveCorp must use its reasonable endeavours to ensure Levy Payers who are not members of LiveCorp are advised of their entitlement to become, and how they may become, members of LiveCorp.
- 15.3 LiveCorp must not use Funds to:
- (a) engage in Agri-Political Activity or activities that aim to influence public policy and resource allocation decisions;

- (b) act as an Industry Representative Body or provide information or an opinion which states or implies to stakeholders that LiveCorp is an Industry Representative Body; and
- (c) encourage or support a campaign for the election of a candidate, person or party for public office.

This does not preclude the collection of information or the balanced analysis of that information to inform the general community, industry and governments.

COMPANY CONSTITUTION

15.4 LiveCorp must ensure that the LiveCorp Constitution remains appropriate to a body performing the functions of the declared Livestock Export Marketing Body and/or Livestock Export Research Body and:

- (a) any proposed changes to the LiveCorp Constitution are discussed with the Commonwealth;
- (b) the Commonwealth is provided with a copy of each notice of a resolution to modify the LiveCorp Constitution, at the same time as it gives notice of the resolution to its members; and
- (c) as soon as practicable after any modification of the LiveCorp Constitution is made, give the Commonwealth notice setting out the modification and explaining its effect.

15.5 LiveCorp must use its reasonable endeavours to ensure that members of LiveCorp comprise a substantial proportion of all Levy Payers.

16. NOTIFICATION OF SIGNIFICANT ISSUES

16.1 LiveCorp must give reasonable notice to the Commonwealth if it becomes aware of any issues that will materially affect or have affected LiveCorp or any of its subsidiaries' ability to achieve the objectives stated in its Strategic Plan or comply with its obligations under this Agreement or the Act.

17. CONFLICT OF INTEREST

17.1 LiveCorp warrants that, at the Agreement Date, no conflict of interests exists or is likely to arise in the performance of its obligations under this Agreement.

17.2 If a conflict of interest, or risk of a conflict of interest, arises in the performance of LiveCorp's obligations under this Agreement, LiveCorp must notify the Commonwealth

of that conflict or risk and take steps acceptable to the Commonwealth to resolve or avoid the conflict.

18. REVIEW OF PERFORMANCE

- 18.1 LiveCorp must complete a Performance Review and deliver the final Performance Review Report to the Commonwealth at least six months before the expiry of this Agreement, but no more than 12 months before the expiry of this Agreement, without the agreement of the Commonwealth.
- 18.2 LiveCorp must agree the terms of reference with the Commonwealth at least three months before the Performance Review commences.
- 18.3 LiveCorp must engage, at its own cost, an independent organisation to undertake the Performance Review and prepare the Performance Review Report. The organisation engaged to undertake the Performance Review must not, within the previous four years, have carried out any corporate governance activity or reviews, performance audit or similar reviews of LiveCorp.
- 18.4 The terms of reference for the Performance Review must take into account LiveCorp's performance in:
- (a) meeting its obligations under this Agreement and the Act;
 - (b) implementing governance arrangements and practices for ensuring proper use and management of the Funds;
 - (c) meeting the planned outcomes and targets of its Strategic Plan;
 - (d) delivering benefits to members, Levy Payers, Industry and the broader community;
 - (e) satisfying the Research & Development and Marketing interests and meeting the needs of members, Levy Payers and the Industry;
 - (f) managing and investing Funds under the Donor Arrangement;
 - (g) consulting with Levy Payers and Prescribed Industry Bodies and other stakeholders; and
 - (h) any other matters consistent with LiveCorp's Strategic Plan and the Act the Commonwealth requires the Performance Review to cover.
- 18.5 LiveCorp must ensure the Performance Review and the Performance Review Report addresses all aspects of the agreed terms of reference.

- 18.6 LiveCorp must provide the Commonwealth with a copy of the draft Performance Review Report at the same time as LiveCorp receives a copy.
- 18.7 LiveCorp must provide the final Performance Review Report to the Commonwealth within 14 days of acceptance by the Board.
- 18.8 LiveCorp must develop a response to the final Performance Review Report and a proposed implementation plan including dates and milestones for the implementation of recommendations within three months of the Board's acceptance of the Performance Review Report; and provide the response to the Commonwealth within 30 days of the Board's acceptance of that response.
- 18.9 The Parties must take the outcomes of the latest Performance Review into account when negotiating renewal of this Agreement.
- 18.10 LiveCorp must:
- (a) publish the Performance Review Report on its public website; and
 - (b) make available copies of the Performance Review Report at its next annual general meeting to Levy Payers and Prescribed Industry Bodies.

19. PERFORMANCE MANAGEMENT

- 19.1 Notwithstanding any other provision in this Agreement, the Commonwealth may review LiveCorp's performance and compliance with this Agreement or the Act, at any time during the term of this Agreement.
- 19.2 In reviewing LiveCorp's performance and compliance with this Agreement or the Act, the Commonwealth may have regard to any information available to it. The Commonwealth may also request additional reports or explanations relating to management and expenditure of the Funds from LiveCorp, including an audit report or opinion to inform its consideration.
- 19.3 LiveCorp must give the Commonwealth any additional reports or explanations that the Commonwealth requests as soon as reasonably practicable.
- 19.4 The Minister may request an audit report or opinion on any matter relevant to LiveCorp's performance or compliance with this Agreement or the Act; LiveCorp must at its own expense:
- (a) promptly obtain the audit report or opinion from LiveCorp's auditor; or

- (b) if, in the opinion of the Commonwealth, the audit report or opinion cannot be properly given by LiveCorp's auditor, promptly engage another auditor to conduct an audit and give the audit report or opinion; and
- (c) give a copy of the audit report or opinion to the Commonwealth within 14 days after LiveCorp receives it.

19.5 The Commonwealth may:

- (a) issue a notice requiring LiveCorp to take actions in relation to the outcomes or recommendations of any review under clause 19 within a reasonable timeframe or within the timeframe (if any) specified in the notice. Before issuing a notice under clause 19.5 the Commonwealth will provide LiveCorp an opportunity to review and comment on performance issues raised in the review; or
- (b) provide a report of a review (or extract of its recommendations) to LiveCorp for its consideration and response. LiveCorp must;
 - (i) within 30 days, provide a notice to the Commonwealth in detail of the actions it intends to undertake to address the recommendations of the report;
 - (ii) within 60 days, negotiate in good faith with the Commonwealth any recommendations of the report or review that LiveCorp has not agreed to implement; and
 - (iii) within 90 days, provide the Commonwealth with a written report detailing progress and substantiating the actions it has taken in implementing the recommendations of the report.

19.6 In each Annual Report LiveCorp must include a written report detailing progress and substantiating the actions it has taken in implementing the recommendations of the report until all the recommendations, that LiveCorp has agreed to implement under clause 19.5(b) or the Commonwealth has directed LiveCorp to implement under clause 19.5(a) are implemented to the satisfaction of the Commonwealth.

20. REDUCTION, SUSPENSION OR TERMINATION OF THE AGREEMENT

20.1 Without limiting any other rights or remedies the Commonwealth may have against LiveCorp arising out of or in connection with this Agreement, the Commonwealth may, by giving notice to LiveCorp, terminate this Agreement effective immediately, if:

- (a) an Insolvency Event occurs; or

- (b) LiveCorp ceases to be the Livestock Export Marketing Body and/or Livestock Export Research Body under the Act; or
- (c) there has been a material breach by LiveCorp or its officers or its Directors of this Agreement, the Act, the Corporations Act or another law; or
- (d) there has been a change to the LiveCorp Constitution which the Commonwealth considers to be in conflict with this Agreement or the Act.

20.2 Without limiting any other rights available to the Commonwealth, if:

- (a) an event has occurred which would entitle the Commonwealth to terminate the Agreement under clause 20.1; or
- (b) there has been a change in Commonwealth policy relating to raising or spending of the Funds;

then subject to clause 20.3, the Commonwealth may, by providing notice to LiveCorp:

- (c) direct LiveCorp to deal with all or any of the Funds in a certain way for the benefit of Australian livestock exporters; and/or
- (d) reduce the amount of payment of the Funds that would otherwise be made; and/or
- (e) suspend payment of any or all of the Funds.

20.3 If an event outlined in clause 20.2(b) occurs, the Commonwealth may terminate this Agreement by undertaking the following steps in order:

- (a) provide an explanation to LiveCorp of its intention to terminate and consult with LiveCorp in relation to that explanation;
- (b) issue a notice to LiveCorp advising LiveCorp it has not less than three months to respond to the explanation provided in clause 20.3(a);
- (c) have regard to any matters raised by LiveCorp in response (including, but not limited to, matters related to any long term commitments of LiveCorp); and
- (d) issue a notice of termination, specifying the date on which such termination shall be effective, provided that such date is not earlier than six months after the issue of the notice.

20.4 Where a termination notice has been issued, LiveCorp must prepare a plan for cessation of operations of LiveCorp as the Livestock Export Marketing Body and/or the Livestock Export Research Body, including arrangements for:

- (a) the repayment or transfer of the Funds to, or as directed by, the Commonwealth; and
- (b) the payment of employee entitlements and other commitments and expenses by the termination date specified in that notice, or within such other period as the parties agree.

21. REPAYMENT OF FUNDS ON TERMINATION

- 21.1 If this Agreement is terminated, the Commonwealth may, by notice to LiveCorp, require LiveCorp to repay to the Commonwealth, by the date specified in the notice, all or any part of the Funds held by LiveCorp, excluding those funds required by LiveCorp to meet liabilities properly incurred in accordance with this Agreement or the Act.
- 21.2 Amounts payable by LiveCorp in accordance with clause 21.1 are a debt due to the Commonwealth.

22. AGREEMENT-RELATED ASSETS AND LIABILITIES

- 22.1 Notwithstanding any other clause in this Agreement and subject to any other applicable Australian law, in the event that LiveCorp is no longer the declared the Livestock Export Marketing Body and/or the Livestock Export Research Body or this Agreement is terminated, the Commonwealth may, by notice to LiveCorp, direct LiveCorp to deal with its Agreement-Related Assets and Liabilities in a manner determined by the Commonwealth for the benefit of Australian livestock exporters.
- 22.2 LiveCorp must ensure that it has appropriate contractual or other rights enabling it to deal with its Agreement-Related Assets and Liabilities in the manner determined by the Commonwealth in accordance with clause 22.1.
- 22.3 For the purposes of clause 22.1, the Commonwealth may request a list of all Agreement-Related Assets and Liabilities from LiveCorp. The list must be provided to the Commonwealth within 10 Business Days of receiving the request.
- 22.4 Where this Agreement is terminated clause 22 survives termination of this Agreement.

23. CONSULTATIONS WITH THE COMMONWEALTH

- 23.1 The Chair of the Board, or in the absence of the Chair, a non-executive Director nominated by the Chair of the Board must meet with the Commonwealth at least once in every six-monthly period from the Effective Date or at any other time requested by

the Commonwealth on reasonable notice, to brief the Commonwealth on LiveCorp's performance of its functions including:

- (a) progress on implementing LiveCorp's Annual Operational Plan and Strategic Plan and the other plans referred to in clause 25.4;
- (b) progress on the implementation of the relevant sectoral and cross-sectoral strategies under the RD&E Framework;
- (c) consultation with Levy Payers and their Prescribed Industry Bodies and other RDCs, Industry, and stakeholders;
- (d) measures taken to enhance corporate governance in accordance with clause 14;
- (e) progress in developing and implementing the Evaluation Framework;
- (f) progress on implementing the recommendations from the most recent Performance Review; and
- (g) the development and implementation of additional systems, processes and controls necessary to meet the requirements of this Agreement.

23.2 Notwithstanding clause 23.1, LiveCorp may, at any time, seek consultations with the Commonwealth in relation to any matter connected with this Agreement.

Changes to the Guidelines

23.3 The Commonwealth may vary the Guidelines provided that the Commonwealth:

- (a) consults with LiveCorp prior to the variation; and
- (b) gives LiveCorp a reasonable period to implement the variation.

23.4 Where the Board considers that the proposed variation to the Guidelines may, if issued:

- (a) require the Directors to act, or omit to act, in a manner that may breach any duty owed by the Directors to any person;
- (b) cause the contravention of any Australian law;
- (c) be likely to prejudice commercial activities carried on by or on behalf of LiveCorp; and
- (d) be contrary to the public interest;

then the Directors must notify the Commonwealth as soon as practicable.

PART THREE – ACTIVITIES AND FUNDING

24. PAYMENT OF FUNDS

- 24.1 The Commonwealth must pay to LiveCorp an amount equal to the amounts of Levy the Commonwealth receives, in accordance with section 64A and 64B of the Act:
- (a) by a method agreed by both parties; and
 - (b) as soon as reasonably practicable after the Commonwealth receives the Levy amounts referred to in sections 64A and 64B of the Act in cleared funds.
- 24.2 The Commonwealth must give LiveCorp a non-binding estimate of the amount of costs incurred by the Commonwealth in relation to the collection, recovery and administration of the Levy referred to in section 67 (3A) and 67 (3B) of the Act.
- 24.3 LiveCorp must provide a non-binding estimate of the amount of the Levy payable to LiveCorp for the current and forward financial years upon request by the Commonwealth.

25. MANAGEMENT OF THE FUNDS

- 25.1 LiveCorp must establish and maintain systems, procedures and controls to ensure:
- (a) Funds are spent only in accordance with this Agreement and the Act;
 - (b) all dealings with the Funds are properly authorised, conducted and accounted for; and
 - (c) an auditor is able to readily verify that the Funds have been used only in accordance with this Agreement and the Act.
- 25.2 LiveCorp must notify the Commonwealth of the details of the systems, procedures and controls established in accordance with clause 25.1 on request.
- 25.3 LiveCorp must not delegate or outsource the responsibility for the management, allocation, or investment of Funds to third parties, including to Industry Representative Bodies.
- 25.4 LiveCorp must maintain, implement and regularly review LiveCorp's Risk Management Plan, Fraud Control Plan and Intellectual Property Management Plan and ensure they effectively meet LiveCorp's requirements.
- 25.5 LiveCorp must provide any material variations or updates to the Risk Management Plan, Fraud Control Plan and Intellectual Property Management Plan, to the

Commonwealth within 30 days of the variations or updates being adopted by the Board.

25.6 The accounting systems, processes and controls to manage the funds with clause 25.1 must take into account LiveCorp's current Risk Management Plan, Fraud Control Plan and Cost Allocation Policy.

25.7 LiveCorp must:

- (a) keep complete and detailed accounts and records of receipt, use and expenditure of the Funds in accordance with good accounting practice including all applicable Australian accounting standards;
- (b) keep the accounts and records referred to in clause 25.7(a) separately in relation to the Marketing Funds, Research and Development Funds, Commonwealth payments and Voluntary Contributions; and
- (c) keep accounts and records referred to in clause 25.7(a) to enable disclosure of the full costs of the Research and Development and Marketing Programs.

26. APPLICATION OF THE FUNDS

26.1 LiveCorp must only spend the Funds:

- (a) in accordance with sections 67 and 68 of the Act and this Agreement; and
- (b) in a manner that is consistent with:
 - (i) its current Strategic Plan and Annual Operational Plan; and
 - (ii) the Guidelines to the extent they are applicable to this Agreement, noting that Commonwealth Matching Payments are made to MLA under the Donor Arrangement.

26.2 The Funds may only be applied by LiveCorp as follows:

- (a) in the case of Marketing Funds, to Marketing Activities related to the Industry, for the benefit of the Industry;
- (b) in the case of Research and Development Funds, to Research and Development Activities related to the Industry, for the benefit of the Industry; and
- (c) to make payments to the Commonwealth under section 67(3A) and 67(3B) of the Act.

26.3 LiveCorp must not spend the Funds on making payments to Industry Representative Bodies. This does not preclude:

- (a) payments by way of membership fees where that membership contributes to LiveCorp pursuing the objects of the Act;
- (b) payments to procure goods or services in accordance with LiveCorp's procurement policy, and when all of the following conditions are met:
 - (i) the procurement process is open, transparent and, competitive;
 - (ii) the conditions of the transaction between LiveCorp and the relevant body are the same as they would be for an arm's length transaction with any third party providing those goods or services; and
 - (iii) the arrangement for goods and services incorporates appropriate measures to demonstrate the performance of the relevant body undertaking the task. This assessment must be provided to the Commonwealth on request.

26.4 LiveCorp must not apply any of the Funds to making grants, or otherwise providing financial assistance, to the livestock exporter Industry Representative Body. Nothing in this clause will prevent LiveCorp from acquiring property, goods or services on arm's length, transparent and competitive terms from a body that represents livestock exporters, including an Industry Representative Body.

26.5 If LiveCorp spends the Funds other than in accordance with this Agreement or the Act, the Commonwealth may, by written notice to LiveCorp, require LiveCorp to repay all or a part of those Funds to the Commonwealth within the timeframe specified in the notice.

26.6 LiveCorp must publish a copy of any written notice under Clause 26.5 in its next Annual Report.

27. ACKNOWLEDGEMENT OF FUNDING

27.1 Unless otherwise agreed with the Commonwealth, LiveCorp must ensure that all significant publications and publicity by LiveCorp in relation to Research and Development Activities funded via the Donor Arrangement, on which Commonwealth payments are expended, acknowledge the provision of the Commonwealth payments by the Commonwealth.

28. CONSULTATIONS WITH INDUSTRY

28.1 LiveCorp must, communicate directly with Levy Payers and members to:

- (a) review priorities for Research and Development Activities and Marketing Activities; and
- (b) report on LiveCorp's performance against the Strategic Plan and the Annual Operational Plan.

28.2 LiveCorp must meet with Prescribed Industry Bodies at least six-monthly to:

- (a) review Industry priorities for Research and Development and Marketing investments; and
- (b) report on LiveCorp's performance against the Strategic Plan and the Annual Operational Plan.

29. INFORMATION ON ACTIVITIES

29.1 LiveCorp must ensure the following is available on its public website:

- (a) this Agreement;
- (b) LiveCorp's governance policy developed in accordance with clause 14.2;
- (c) LiveCorp's Strategic Plan, including the consultation plan developed in accordance with clause 30.3 and other information relating to its development and any changes;
- (d) the priorities used by LiveCorp to determine which projects it will fund;
- (e) an overview of planned outcomes and Programs to achieve those outcomes;
- (f) key Research and Development Activities (including Extension) and Marketing Activities which LiveCorp is funding;
- (g) LiveCorp's Evaluation Framework and the outcomes of evaluations;
- (h) LiveCorp's Annual Operational Plan;
- (i) LiveCorp's Annual Report;
- (j) the Performance Review Report and LiveCorp's response to the Performance Review Report recommendations; and
- (k) public submissions received on the development of its Strategic Plan under Clause 30.4.

29.2 The information to be published under the preceding subclause shall not include information of the following kinds:

- (a) personal information as defined in the *Privacy Act 1988 (Cth)*, unless permitted by the Privacy Act;

- (b) information about the business, commercial, financial or professional affairs of any person if it would be unreasonable to publish that information, such as Confidential Information; and
- (c) information which would, or could reasonably be expected to damage:
 - (i) LiveCorp;
 - (ii) the Industry; or
 - (iii) the national interest.

29.3 Where LiveCorp invests Funds towards projects initiated under an open call or tender process, LiveCorp must provide feedback on the outcomes of funding applications to all applicants.

30. STRATEGIC PLAN

30.1 LiveCorp must maintain a Strategic Plan covering a three to five year period and must:

- (a) review and, if necessary, update the Strategic Plan at least once every year;
- (b) obtain the Commonwealth's endorsement of any proposed new or amended draft Strategic Plan before the Strategic Plan comes into effect;
- (c) provide the Commonwealth with a copy of any new or amended Strategic Plan within 30 days of approval by the Board;
- (d) publish the Strategic Plan on its public website within 30 days of approval; and
- (e) consult with the Commonwealth during the term of this Agreement to ensure its Strategic Plan has regard to the Guidelines.

30.2 The Strategic Plan and spending priorities identified in the Strategic Plan must aim to foster the development of best practice animal health and welfare outcomes in the livestock export industry and aim to result in continuous improvement in animal health and welfare outcomes.

30.3 The Strategic Plan must include:

- (a) LiveCorp's roles and responsibilities as the declared Livestock Export Research Body under the Act including LiveCorp's:
 - (i) mutual obligations as a partner with the Commonwealth in delivering services to members and Levy Payers; and
 - (ii) responsibilities for proper use and management of the Funds;
- (b) clear linkages with the Meat Industry Strategic Plan 2020 (MISP 2020) including:

- (i) an overview of any priorities and outcomes identified by Levy Payers and the Prescribed Industry Bodies and other stakeholders during consultations that differ from or are additional to those reflected in the MISP 2020; and
 - (ii) include an explanation on the extent to which these additional priorities are reflected in LiveCorp's Strategic Plan;
- (c) key investment priorities and planned outcomes for the period of the Strategic Plan;
- (d) details of the Programs that LiveCorp intends to deliver Research and Development Activities and Marketing Activities to achieve the planned outcomes, including details of key activities under those Programs;
- (e) key deliverables and performance indicators that clearly set out how planned outcomes will be achieved;
- (f) details of planned evaluation activities to demonstrate the extent to which planned outcomes have been delivered;
- (g) details on how the Programs link, and give effect, to the Guidelines
- (h) planned collaboration with other RDCs on priority Research and Development issues;
- (i) planned contributions to the implementation of relevant industry sector and cross-sectoral strategies under the National Primary Industries RD&E Framework;
- (j) details on how Extension, technology transfer, and commercialisation of R&D will be addressed and demonstrating that Extension and adoption are incorporated into the planning and approval processes;
- (k) estimates of income and expenditure for the life of the plan including broad estimates of expenditure separately for the Research and Development and Marketing Programs; and
- (l) an overview of LiveCorp's approach to ensuring a Balanced Portfolio of investment appropriate to the Industry.

30.4 In developing or varying the Strategic Plan, LiveCorp must develop a consultation plan including, details of proposed consultations with:

- (a) Levy Payers;
- (b) the Commonwealth;

- (c) Prescribed Industry Bodies; and
- (d) other RDCs as appropriate.

30.5 The consultation plan must include provision for online and electronic submissions to be made.

30.6 The consultation plan must be agreed with the Commonwealth prior to commencing any development or variation of the Strategic Plan.

30.7 For minor variations to an existing Strategic Plan, LiveCorp may request approval from the Commonwealth not to develop a consultation plan.

31. EVALUATION FRAMEWORK

31.1 LiveCorp must develop an Evaluation Framework within six months of the Effective Date. The Evaluation Framework must:

- (a) be consistent with LiveCorp's Strategic Plan;
- (b) ensure that key performance related information is routinely collected and monitored;
- (c) include a structured plan for the systematic evaluation of the efficiency, effectiveness and impact of LiveCorp's key investments; and
- (d) include a means of publishing and disseminating relevant Research and Development outcomes and the outcomes of evaluations.

31.2 LiveCorp must:

- (a) consult with the Commonwealth in preparing the Evaluation Framework;
- (b) participate in any Commonwealth or collective RDC evaluation project relevant to LiveCorp's operations which is established for all RDCs; and
- (c) conduct regular and appropriate evaluation of its Activities and Programs and report on evaluation outcomes.

31.3 The Evaluation Framework must be published on LiveCorp's public website within 30 days of being adopted by the Board.

32. ANNUAL OPERATIONAL PLAN

32.1 Before 1 July each year, LiveCorp must provide to the Commonwealth an Annual Operational Plan to implement its Strategic Plan during the next Financial Year.

32.2 The Annual Operational Plan must set out:

- (a) all Activities to be funded by LiveCorp during the next Financial Year, identifying Marketing, Research, Development and Extension Programs—including activities to implement best practice animal health and welfare outcomes in the Industry;
- (b) performance indicators, key deliverables, timeframes and milestones for LiveCorp's proposed activities and expenditure which demonstrate progress being made towards planned outcomes;
- (c) estimates of all sources of income separately identified and expenditure for each planned Program of work separate from operational expenses for the Financial Year; and
- (d) detailed information on how LiveCorp intends to implement and operationalise a Balanced Portfolio for the next Financial Year.

32.3 LiveCorp must provide any material variations or updates to the Annual Operational Plan, to the Commonwealth within 30 days of the variations or updates being adopted by the Board.

33. ANNUAL REPORT

33.1 LiveCorp must prepare its Annual Report in accordance with the requirements of Chapter 2M of the Corporations Act, Part 3 Division 4 of the *Australian Meat and Live-stock Industry Act 1997* and this Agreement.

33.2 LiveCorp's Annual Reports are required by the Act to be tabled by the Minister in both Houses of Parliament. The Minister is also required to report, based on the information provided by LiveCorp, on satisfaction that LiveCorp has complied with this Agreement.

33.3 LiveCorp must provide:

- (a) the Minister with a sufficient number of Annual Reports for tabling in both Houses of Parliament prepared in accordance with government guidelines for the presentation of documents to the Parliament at the same time as the Corporations Act requires an annual report to be given to members;
- (b) four copies of its Annual Report to the Commonwealth at the same time as section 316A(3) of the Corporations Act requires an annual report to be given to members; and
- (c) copies for distribution once the Annual Report has been tabled.

33.4 The Annual Report prepared in accordance with clause 33.1 should include comprehensive coverage of:

- (a) sources of all income separately identified;
- (b) the full cost of the Marketing and Research and Development Programs, with costs being allocated in accordance with the Cost Allocation Policy;
- (c) progress against key performance indicators specified in the Strategic Plan and Annual Operational Plan;
- (d) deliverables and associated outcomes achieved against key Marketing Programs and Research and Development Programs;
- (e) Intellectual Property creation and protection, including management of intellectual property arising from Research and Development Activities or acquired with the Funds;
- (f) subsidiaries and joint ventures formed;
- (g) material changes to LiveCorp's membership;
- (h) collaboration with Industry and other research providers;
- (i) directions given by the Minister;
- (j) consultation undertaken with stakeholders referred to in clause 30.4 on LiveCorp's Strategic Plan, Annual Operational Plan, Programs and Activities;
- (k) details of senior executive and Board remuneration;
- (l) corporate governance practices in place during the Financial Year;
- (m) the rationale for the mix of projects included in the Balanced Portfolio; and
- (n) any other relevant matters notified to LiveCorp by the Commonwealth.

33.5 Additional comprehensive information beyond the requirements of the Corporations Act can be provided separately to the Minister at the same time as providing LiveCorp's Annual Report.

34. COMPLIANCE AUDIT REPORT

34.1 LiveCorp must, within five months after the end of its Financial Year, give the Commonwealth a report (**Compliance Audit Report**) providing an audit opinion on whether LiveCorp has complied with its obligations under clauses 25 and 26 during the Financial Year. The Compliance Audit Report must:

- (a) be prepared in accordance with relevant Australian Auditing and Assurance Standards;

- (b) include a review of the efficacy of the accounting systems processes and controls required under clause 25.1;
- (c) include any qualifications to the Compliance Audit Report and any material incidences of non-compliance; and
- (d) contain a detailed explanation of any incidence of material non-compliance.

34.2 The Compliance Audit Report must include a statement that it has been prepared for the Commonwealth for the purposes of this Agreement and an acknowledgment that the Compliance Audit Report will be relied upon by the Commonwealth.

35. CERTIFICATION REPORT

35.1 LiveCorp must, within five months after the end of the Financial Year, give the Minister a report (**Certification Report**) from LiveCorp's Board signed by the Chair of the Board and the Chief Executive Officer of LiveCorp:

- (a) certifying whether LiveCorp has complied with its obligations under the Act and this Agreement during the Financial Year;
- (b) confirming that the Audit Committee and any other Board committees have carried out all of their functions/responsibilities in accordance with their respective charters;
- (c) detailing any material non-compliance and providing an explanation of the non-compliance; and
- (d) containing an acknowledgement that the Certification Report will be relied upon by the Commonwealth.

SIGNING PAGE


EXECUTED as an agreement

SIGNED for and on behalf of the
COMMONWEALTH OF AUSTRALIA

by

the Hon. Barnaby Joyce MP

Minister for Agriculture and Water
Resources


Signature

in the presence of

28/03/2017
Date


Signature of witness

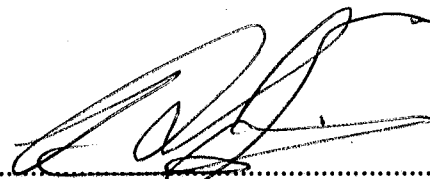
Juliana Marconi
Name of witness

SIGNED for and on behalf of
**Australian Livestock Export Corporation
Limited**

by

DAVID GALVIN
Name of signatory

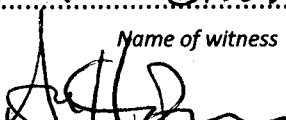
CHAIRMAN
Position of signatory


Signature

6/4/17
Date

in the presence of

Samuel Brown
Name of witness


Signature of witness