

30<sup>th</sup> September 2019

**Invitation to submit a tender request re Feedlot Career Development and Training Project**

Dear Sir or Madam,

Meat & Livestock Australia (MLA) in conjunction with the Australian Lot Feeders' Association (ALFA), is working toward providing a clear career development pathway to current and prospective businesses and employees in the Australian feedlot sector. This pathway will include all associated training, professional development and network support to attract, retain and grow the capacity of the feedlot workforce.

MLA project B.FLT.8003 *Feedlot Industry Training and Leadership Development Strategy (2016)* has identified an opportunity to develop a clear career pathway for the attainment of skills for feedlot employees. This will include educational, training, professional development resources and opportunities.

As a result, ALFA developed the *Feedlot Career Development and Training (FCDT) Pathway*, which formed the basis of the *FCDT Strategy* and provides input to the current project.

The *FCDT Project* will be delivered via the completion of several sub-projects over a four-year period:

- Sub-Project 1 – Development of Feedlot Industry Training Portal
- Sub-Project 2 – Feedlot Industry Training Review
- Sub-Project 3 – Development of Core Feedlot Training Materials
- Sub-Project 4 – Development of Peer Executive Leadership Program
- Sub-Project 5 – Development of Feedlot Industry Mentor Program
- Sub-Project 6 – Development of Feedlot Industry Tours
- Sub-Project 7 – Development of Feedlot Industry Alumni Engagement Activities
- Sub-Project 8 – Increased Investment in Feedlot Industry Leadership Scholarships

Each of these Sub-Projects will be advertised as individual tenders with separate terms of reference. It is recognised that there are synergies between Sub-Projects, so applicants are invited to review all of the currently advertised tender requests for Sub-Projects 1, 2 and 4 and assess their ability to tender for multiple projects.

Yours sincerely,

Des Rinehart  
Program Manager – GrainFed, Live Export and Goat



**All correspondence to:**  
Meat & Livestock Australia Limited  
ABN 39 081 678 364  
PO Box 1961  
North Sydney NSW 2059

# Request for tender

*Strictly confidential*

Tenderer:

Date completed:

The contents of this request for tender and all other information and materials provided by or on behalf of Meat & Livestock Australia Limited (**MLA**), are the property of MLA and are confidential to MLA. All materials provided by or on behalf of a tenderer to MLA will become the property of MLA. There is no payment for tender applications.

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## SECTION 1

### 1. INTRODUCTION AND INSTRUCTIONS

#### 1.1 Meat & Livestock Australia Limited (MLA)

MLA undertakes a range of research and development and marketing programs designed to benefit beef, sheepmeat and goatmeat industry participants, from livestock producers to retail service providers. It also provides a number of research and development and marketing services to related industry sectors including meat processors and live animal exporters.

#### 1.2 Invitation

MLA invites interested parties to submit tenders by 5pm on 31<sup>st</sup> October 2019 (Closing Date), for *Feedlot Industry Training Review (Sub-Project 2)*.

#### 1.3 Tenders

Tenders must comply with all requirements specified in this request for tender.

Please submit an electronic/soft copy of the tender to the email address provided below.

All questions in Section 2 must be completed.

Section 3 describes MLA's requirements for *Feedlot Industry Training Review (Sub-Project 2)*. Each tenderer must provide a statement detailing how it would meet MLA's requirements in Section 3.

Section 4 contains the terms of the agreement, which MLA wishes to enter into with the successful tenderer. While the final agreement may also take into account negotiations between MLA and the successful tenderer, MLA has certain minimum legal requirements that must be satisfied before it is prepared to enter into an agreement with a supplier.

Where the successful tenderer has in place a negotiated standard agreement with MLA the terms of that agreement will apply. Where no previously negotiated agreement is in place, unless clearly stated to the contrary in the tender, all terms of the agreement in Section 4 will be deemed to be accepted by the tenderer. If the tenderer is proposing any variations to those terms, the tenderer must identify the precise clause, detail the reasons for non-acceptance and, if appropriate, provide the tenderer's proposed alternative wording to the clause.

Section 5 contains a declaration to be completed by the tenderer.

All tenders should be sent to:

[applications@mla.com.au](mailto:applications@mla.com.au)

Attention: Emily Litzow

and should contain:

- (a) the answers to the questions and information required in **Section 2**;
- (b) any additional information, reports or documents required in relation to the Specification in **Section 3**;
- (c) a statement detailing how the tenderer will meet MLA's requirements in **Section 3**;
- (d) any comments on or proposed amendments to the terms set out in **Section 4**; and
- (e) the completed declaration in the form set out in **Section 5**.

MLA will treat all tenders in confidence.

#### 1.4 **Ownership of tenders**

All material submitted in response to this request for tender will become the property of MLA.

Any intellectual property rights that exist in a tender will remain the property of the tenderer.

The tenderer licenses MLA, its employees, agents, contractors and advisers to copy, adapt, modify or do anything else to, all material submitted in response to this request for tender, including material in which the tenderer's or any other person's intellectual property rights subsist, for the purposes of evaluating the tender.

#### 1.5 **Disclosure**

In providing a tender the tenderer agrees to the disclosure of information in the tender to MLA's employees, agents, contractors and advisers, for the purposes of this tender process and any legal or MLA policy requirement.

Tenderers must identify any information that they consider should be protected as confidential information and provide reasons for this.

#### 1.6 **Questions**

Any questions must be submitted in writing and marked to the attention of Emily Litzow ([elitzow@mla.com.au](mailto:elitzow@mla.com.au)). MLA may provide the answers to such questions to all tenderers.

#### 1.7 **Extension of Closing Date**

In extenuating circumstances, MLA may, at its discretion extend the Closing Date. Any extension of time will be posted on MLA's website. MLA will not grant any individual requests for extension of time.

#### 1.8 **Discussion and public statements**

Unless expressly provided in this request for tender, tenderers and their employees, agents, contractors and advisers must not at any time during the tender process approach or discuss with any MLA employees, agents, contractors or advisers (except the MLA Contact) any matter relating to the request for tender or the tender.

Tenderers must not make any public statement about this request for tender without the prior written consent of MLA.

## 1.9 **Conflict of interest**

Where tenderers identify that a conflict of interest might arise in the provision of goods or services contemplated by this request for tender, tenderers are to identify that potential conflict of interest in their tender. If an actual or potential conflict of interest arises, the tenderer must immediately notify MLA in writing. If any conflict of interest might arise for a tenderer before entering into an agreement for the provision of goods or services contemplated by this request for tender, MLA may:

- (a) enter into discussions to seek to resolve such conflict of interest;
- (b) disregard the tender provided by such a tenderer; or
- (c) take any other action it considers appropriate.

## 1.10 **Budget information**

Budget information specified in tenders must:

- (a) be expressed in Australian dollars;
- (b) be inclusive of all charges, and expenses;
- (c) identify separately the duties and taxes, including goods and services tax (**GST**) component of the price; and
- (d) apply for the duration of the provision of the goods and services contemplated by this request for tender.

## 1.11 **Tender validity period**

Each tender must remain open for acceptance by MLA for a period of at least six months from the Closing Date. The tenderer should specify any longer periods for which the offer remains valid.

## 1.12 **Applicable law**

The laws of New South Wales apply to this request for tender.

## 1.13 **Privacy**

Tenderers must ensure that it complies with the *Privacy Act 1998* in submitting its tender and, if successful, in entering into an agreement for the provision of goods and services contemplated by this request for tender.

## 1.14 **MLA's rights**

MLA reserves the right to:

- (a) reject any tender;
- (b) close the right to submit tenders at any time before the Closing Date, without giving any reason or communicating such closure to any person;
- (c) accept any tenders which do not otherwise comply with the terms of this request for tender;

- (d) accept part tenders;
- (e) withdraw this request for tender or issue a new request for tender;
- (f) vary the terms of this request for tender;
- (g) negotiate directly with any person before or after the Closing Date;
- (h) discuss with each tenderer details of its tender; and
- (i) vary the tender selection process set out in this request for tender.

In addition to its rights under paragraph 1.14, MLA may decline to consider or accept any tender from a tenderer who does not satisfy MLA of the tenderer's ability to complete the tender in accordance with its terms.

MLA is not bound to accept the lowest or any tender.

MLA may waive compliance with any of the terms of this request for tender and consider and accept any tender which does not conform with these terms.

MLA may require a tenderer to provide such further information as MLA requires in order to consider the tenderer's tender and, if so required, the tenderer must promptly provide such information.

#### 1.15 **Costs**

MLA will not be responsible for any costs or expenses incurred by the tenderer arising in any way from the preparation of tenders.

1.16 **Binding agreement**

A tender will not be deemed to have been accepted, nor any agreement arise between a tenderer and MLA, until the successful tenderer and MLA enter into a formal agreement for the provision of the goods and services contemplated by this request for tender.

1.17 **Selection process**

MLA will review each tender and may select a short list of tenderers. Any such short listed tenderers may be required to present to MLA and a successful tenderer may be selected from such a list.



## SECTION 2

### 2. TENDERER INFORMATION

#### 2.1 Details of tenderer

Name and address of the company or individual providing the tender;

Name of the person who may be contacted for further information;

Telephone number;

Email address; and

Australian Business Number (ABN).

#### 2.2 Pricing

Tenderers are to provide quotes for all fees, charges and expenses. Prices are to include all work related to the provision of goods and services contemplated by this request for tender and are to be inclusive of GST and other applicable duties and taxes.

#### 2.3 Proposed subcontractors and suppliers

The tenderer must list all proposed subcontractors and suppliers that the tenderer intends to engage in providing goods or services to MLA:

Description of goods or services	Subcontractor or supplier

#### 2.4 Insurance

The tenderer must provide details of current insurance policies held by it and each proposed subcontractor and supplier:

Insurance type	Policy number	Extent of cover: per incident	Extent of cover: in aggregate	Expiry date
Professional indemnity				
Public liability				
Workers' compensation				

#### 2.5 References

The tenderer must provide details of the last 3 agreements entered into for the provision of goods or services comparable to those set out in this Request for Tender:

a) Name:

Telephone number:

Contact:

Goods or services provided:

Completion date of agreement:

b) Name:

Telephone number:

Contact:

Goods or services provided:

Completion date of agreement:

c) Name:

Telephone number:

Contact:

Goods or services provided:

Completion date of agreement:

## SECTION 3

### 3. SPECIFICATION

#### 3.1 Project Title

Feedlot Industry Training Review (Sub-Project 2)

#### 3.2 Summary

Meat and Livestock Australia (MLA), in consultation with the Australian Lot Feeders' Association (ALFA) invites interested parties, from individuals, organisations or project teams with the capability to perform a governance review and external provider audit on training to be listed and/or endorsed within the Feedlot Industry Training Portal.

#### 3.3 Background

A key priority of MLA and ALFA is to provide the Australian cattle feedlot sector, its businesses and current and prospective employees with a clear career development pathway; and to provide the associated training, professional development and support networks to attract, retain and grow the capacity of the feedlot work force.

MLA project B.FLT.8003 *Feedlot Industry Training and Leadership Development Strategy (2016)* has identified an opportunity to develop a clear career pathway for the attainment of skills for feedlot employees. This will include educational, training, professional development resources and opportunities.

The findings determined that feedlots were seeking training resources that could be:

- delivered on site
- accessible at the user's discretion
- flexible in their delivery
- incorporated into a mentoring system
- incorporated a robust assessment process, and
- stored training records.

As a result of the findings, ALFA developed the *Feedlot Career Development and Training (FCDT) Pathway*, which forms the basis for the *FCDT Strategy*, and provides input to the current project.

The *FCDT Project* will be delivered via eight (8) specific sub-projects over a four-year period:

- Sub-Project 1 – Development of Feedlot Industry Training Portal
- Sub-Project 2 – Feedlot Industry Training Review
- Sub-Project 3 – Development of Core Feedlot Training Materials
- Sub-Project 4 – Development of Peer Executive Leadership Program
- Sub-Project 5 – Development of Feedlot Industry Mentor Program
- Sub-Project 6 – Development of Feedlot Industry Tours
- Sub-Project 7 – Development of Feedlot Industry Alumni Engagement Activities
- Sub-Project 8 – Increased Investment in Feedlot Industry Leadership Scholarships

This Project, (Sub-Project 2) will perform an audit of all available education and training materials, training providers and courses available, relevant to the Australian feedlot industry. It will also, develop criteria, and a process to assess external providers of training courses, to

determine their suitability for endorsement and listing on the Feedlot Industry Training Portal. Following this, relevant training courses for the feedlot sector will be assessed, and recommendations provided to MLA/ALFA on which training courses are eligible for endorsement on the Feedlot Industry Training Portal.

The outcomes of this project will inform Sub-Projects 1 and 3 specifically.

### 3.4 **Project Objectives**

The objective of the overall project is to deliver a Feedlot Industry Training Portal that enables the Australian feedlot industry to attract, retain and grow a professional and skilled workforce by providing access to information that reflects a clear career development pathway and delivers associated training, professional development and support networks, as outlined in the FCDT Pathway.

This Sub-Project will contribute to this overall objective through:

1. Performing an audit of all available education and training materials, training providers and courses available, relevant to the Australian feedlot industry.
2. Develop criteria and a process to assess external providers of training courses to determine their suitability for endorsement and listing on the Feedlot Industry Training Portal, including associated:
  - Tender/ application process
  - Cost structure
  - Governance procedures

Assess training courses using the developed criteria and process and provide recommendations of which training courses are eligible for endorsement on the Feedlot Industry Training Portal, and where they fit within the FCDT Pathway.

### 3.5 **Target Audience**

There are up to 400 accredited feedlots in Australia, which directly employ approximately 2,000 staff. The majority (60%) of feedlots are located in Queensland, with a further 30% in New South Wales, and are generally in regional or remote areas. The remaining feedlots are located in South Australia, Victoria, Western Australia and Tasmania.

The MLA funded project B.FLT.8009 '*Getting Connected: Pathways for Improving Connectivity for our Feedlot Industry*', identified that a substantial proportion of Australian feedlots are located away from regional centres, which means external connectivity options must be considered. The results recommended that technology developers avoid the use of centralised/cloud based servers that rely upon 'hot' external connectivity.

Feedlots may have limited internet access, as the majority of these businesses use connections through ADSL, satellite or dial up. Therefore, high resolution files and videos may be difficult to download in some remote areas.

### 3.6 **Task and Methodology**

The successful applicant will be guided by a Project Team consisting of the FCDT Project Officers from ALFA and MLA as well as an overarching Working Group that includes the MLA Program Manager and designated ALFA representatives.

It is expected that delivery of the Feedlot Industry Training Review will encompass the following stages:

1. An inception meeting with ALFA/MLA Project Team
2. Development of a clearly defined framework for a full industry audit of all education and training materials, training providers and courses available that are relevant to the feedlot industry
3. The full industry training and provider audit is carried out and a database of all education and training materials, training providers and courses available, is created. This will include all relevant information required for population into the training portal.
4. Develop criteria and a process to assess external providers of training courses to determine their suitability for endorsement and listing on the Feedlot Industry Training Portal, including associated:
  - a. **Tender/application process** for external course providers to enable review of suitability for endorsement on the Training Portal, including a process for on-going management and review on a yearly basis
  - b. **Cost structure** to guide listing of third-party courses endorsed on the portal
  - c. **Governance procedures** for endorsing third party training courses including but not limited to:
    - Privacy/disclaimer clauses
    - Data security/privacy of the Passport System
    - Insurance help by the third party
    - Legal liability of MLA/ALFA of endorsing third party training courses
5. Assess external training courses using the developed criteria and process and provide recommendations of which training courses are eligible for endorsement on the Feedlot Industry Training Portal, and where they fit within the FCDT Pathway.

### 3.7 **Budget**

There is no estimated budget for the project, however, applicants should deliver a reasonable fully justified budget to achieve project objectives. Value for money is a selection criterion for application assessment.

### 3.8 **Project Management**

The project will be managed by MLA. The successful applicant will be guided by a Project Team consisting of the FCDT Project Officers from MLA and ALFA as well as an overarching Working Group that includes the MLA Program Manager and designated ALFA representatives.

An inception meeting at the start of the project and a handover meeting at the conclusion of the project will be required at a minimum. These meetings will be held in Sydney, and any associated costs should be included in the budget.

The successful applicant will provide milestone reports and a final report giving full details of the progress of the work. Milestone and final reports will be prepared in line with MLA reporting guidelines and must be delivered in Microsoft Word format.

### 3.9 **Timelines**

There is no set timeframe for delivery of this project however, delivery timeline is a selection criterion for application assessment and speed to delivery of outcomes will be viewed positively.

### 3.10 Project Proposal Submissions

To access the **MLA Full Application templates** (Grain-Fed, Live Export & Goats), go to [www.mla.com.au](http://www.mla.com.au) and follow the links to Research and Development, then Funding opportunities and Industry and Researchers funding to download the applications.

In particular, the proposal should:

1. Detail the approach that will be adopted to address the project objectives.
2. Detail the specific work activities proposed and timelines for their achievement.
3. Include a detailed and fully costed budget that covers all the resources required to undertake the work, including details of basis for charging (daily fees, number of days, expenses, etc.).
4. Propose a payment schedule, taking account of the following:
  - a. Progress payments may be negotiated against project milestones if the size and timescale of the project warrant this. The proposal should propose milestones and payments if required.
  - b. A minimum of 20% of the project budget must be retained for payment against the final milestone.
  - c. Payment of fees will be upon MLA acceptance of the attainment of the project milestones.

**MLA applications must be lodged electronically as a word document to:**  
[applications@mla.com.au](mailto:applications@mla.com.au)

**MLA Full Applications must be received by 5.00pm (QLD Time) on 31st October 2019.**

**Strict adherence to the time deadline for applications will occur. Applications received past the deadline will not be assessed. Applications not received in the standard MLA application template will not be assessed.**

### 3.11 Selection Criteria

Applications will be reviewed by Meat & Livestock Australia, the Australian Lot Feeders' Association and the Feedlot Career Development and Training Working Group.

Proposals will be scored against the selection criteria set out in the Terms of Reference. Final project approval will be subject to contractual agreement between the applicant/s and MLA.

Selection Criteria:

1. Applications fulfilment of the methodology and terms of reference requirements of the project
2. Quality of the methodology to achieve project objectives
3. Quality of budget justification
4. Delivery timeline
5. Understanding of audience and limitations of the technology in rural areas

**SECTION 4**

**4. MLA's CONSULTANCY TERMS**

Please see following MLA's consultancy agreement

AGREEMENT

BETWEEN

**MEAT & LIVESTOCK AUSTRALIA LIMITED**

ABN 39 081 678 364

AND

**LEGAL ENTITY NAME**

ABN <insert ABN>

*PROJECT NO. X.XXX.XXXX*

ProjectTitle



# CONSULTANCY AGREEMENT

THIS AGREEMENT IS MADE ON

2019

## PARTIES

**MEAT & LIVESTOCK AUSTRALIA LIMITED** ABN 39 081 678 364 of Level 1, 40 Mount Street, North Sydney, New South Wales (**MLA**)

**LEGAL ENTITY NAME** ABN <insert ABN> of <insert street address, suburb and state> (**Consultant**)

## BACKGROUND

- A. MLA and Australian Lot Feeders' Association (**ALFA**) have entered into a collaboration agreement for the purposes of implementing the Australian Feedlot Sector Career Development and Training Strategy (**Collaboration Agreement**).
- B. Under the Collaboration Agreement, the parties have agreed to the creation of a platform which will be accessible free of charge by MLA members, ALFA members and others (**Platform**), and which will contain training modules and materials which may include:
- (a) films/videos with interviews, commentary or demonstrations on best practice for roles and tasks;
  - (b) reading/reference material;
  - (c) trainer notes and guides;
  - (d) trainee notes and workbooks; and
  - (e) assessment tools and questions.
- C. MLA has agreed to engage the Consultant to create and provide the Deliverables which will be training modules and materials for the Platform, and the Consultant has agreed to accept the engagement, on the terms set out in this agreement.

## AGREEMENTS

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1. Definitions

- 1.1.1. Where commencing with a capital letter:

**Confidential Information** means all trade secrets and know-how, financial information and other commercially valuable information of whatever description and in whatever form and, in the case of MLA, includes the MLA Material;

**Consultant Background IP** means Intellectual Property owned by the Consultant and incorporated into the Deliverables, including but not limited to the Intellectual Property specified in the schedule;

**Deliverables** means an item specified in the schedule to be delivered to MLA;

**Intellectual Property** means all patents, patent applications, trade marks, service marks, designs, plant breeder's rights, copyright, know-how, trade secrets, eligible layout rights, domain names, internet addresses, rights in confidential information and all and any other intellectual property rights whether registered or unregistered and rights to apply for any of the same, and includes the Confidential Information;

**Logos** mean the logos identified in the Schedule;

**MLA Material** means all material and Intellectual Property provided by MLA to the Consultant for the purpose of this agreement;

**Nominated Persons** means the persons named in the schedule and such other persons approved in writing by MLA to perform the work in respect of the Deliverables on behalf of the Consultant;

**Moral Rights** has the same meaning as in the *Copyright Act 1968* (Cth) and includes any similar rights which are conferred by statute, and which exist or come to exist, anywhere in the world;

**Project IP** means all Intellectual Property in the Deliverables; and

**Third Party Background IP** means Intellectual Property owned, licensed or held by a third party and made available by the Consultant under this agreement in accordance with clause 5.3, including but not limited to the Intellectual Property specified in the schedule.

1.1.2. Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

## 1.2. Presumptions of interpretation

Unless the context otherwise requires a word which denotes:

- (a) the singular denotes the plural and vice versa; and
- (b) a person includes an individual, a body corporate and a government.

## 1.3. Successors and assigns

A person includes the trustee, executor, administrator, successor in title and assign of that person. This clause must not be construed as permitting a party to assign any right under this agreement.

## 2. APPOINTMENT OF THE CONSULTANT

### 2.1. Appointment

MLA appoints the Consultant to create and provide the Deliverables, and the Consultant must create and provide the Deliverables, in accordance with the timetable set out in the schedule on the terms set out in this agreement.

### 2.2. Nominated Persons

The Consultant:

- (a) must, subject to the terms of this agreement, cause only the Nominated Persons to perform the work in respect of the Deliverables on behalf of the Consultant;
- (b) undertakes that the Nominated Persons will perform this work to the best of their skill and ability; and
- (c) must provide each Nominated Person with a copy of this agreement and take all reasonable steps to explain it to them.

### **3. OBLIGATIONS OF THE CONSULTANT**

#### **3.1. Liaison**

The Consultant must:

- (a) liaise with MLA in creating and providing the Deliverables; and
- (b) if requested by MLA, provide reasonable details of the Consultant's proposed course of action and strategies,

for the purpose of enabling MLA to review the performance of the Consultant's obligations under this agreement.

#### **3.2. Directions**

The Consultant must:

- (a) comply with all reasonable and lawful directions of MLA from time to time concerning the Deliverables; and
- (b) at all times, act in the best interests of MLA. If at any time MLA reasonably considers that the Consultant has not acted in the best interest of MLA, MLA may immediately terminate this agreement in accordance with 12.2(c).

#### **3.3. Comply with all laws**

The Consultant must comply with all relevant laws and regulations when performing the Consultant's obligations under this agreement.

#### **3.4. Insurance**

3.4.1. The Consultant must at all times maintain:

- (a) adequate workers' compensation insurance as required by law for its employees;
- (b) professional indemnity insurance for an amount of at least \$2 million; and
- (c) public and product liability insurance for an amount of at least \$5 million.

3.4.2. The Consultant must, on request by MLA, produce evidence of the currency of the insurance policies referred to in clause 3.4.1.

### **3.5. Privacy**

3.5.1. The Consultant must:

- (a) comply with the Privacy Act 1988, including its Australian Privacy Principles;
- (b) not disclose any personal information under or in connection with this agreement to any entities located outside of Australia without MLA's prior written consent; and
- (c) ensure that all of its subcontractors comply with this clause 3.5.

3.5.2. Without limiting clause 3.5.1:

- (a) in relation to any personal information that the Consultant provides to MLA under this agreement, the Consultant warrants that it has:
  - (i) before providing the personal information to MLA, notified all individuals to whom the personal information relates that it will be disclosing their personal information to MLA for the purposes of this agreement and obtained any required consent to such disclosure; and
  - (ii) provided the individuals with the location of where MLA's privacy policy can be found;
- (b) in relation to any personal information provided to the Consultant by MLA under this agreement, the Consultant must:
  - (i) only store, use, disclose or otherwise handle the information for the specific purposes for which it was provided to the Consultant under this agreement; and
  - (ii) co-operate with any reasonable request or direction of MLA which relates to the protection of the information; and
- (c) the Consultant must promptly notify MLA of any complaint that it receives concerning the personal information under this agreement and comply with any reasonable directions of MLA in relation to such complaint.

## **FEES AND EXPENSES**

### **3.6. Fees**

MLA must pay the Consultant for creating and providing the Deliverables the fee specified in the schedule, provided that the Deliverables to which each payment relates are completed to the reasonable satisfaction of MLA.

### **3.7. Expenses**

3.7.1. MLA must reimburse the Consultant for expenses incurred by the Consultant in creating and providing the Deliverables specified in the schedule, provided that the Consultant gives MLA evidence acceptable to MLA on reasonable grounds of the incurring of those expenses, including receipts.

- 3.7.2. In relation to any expenses which are not specified in the schedule, MLA will reimburse the Consultant for those expenses incurred by the Consultant in creating and providing the Deliverables provided that the Consultant:
- (a) obtains MLA's prior written consent before incurring those expenses not specified in the schedule; and
  - (b) gives MLA:
    - (i) details of the expenses incurred, together with evidence acceptable to MLA on reasonable grounds of the incurring of those expenses, including receipts; and
    - (ii) all assistance reasonably required by MLA to verify the expenses incurred.

### **3.8. Payment**

MLA must, subject to this clause 0, pay the fees and expenses referred to in clauses 3.6 and 3.7 in the following manner:

- (a) the Consultant must after each milestone specified in the schedule provide to MLA an invoice setting out details of:
  - (i) the Deliverables provided; and
  - (ii) expenses incurred,in that period; and
- (b) MLA must pay the invoice within 1 month after receipt of it.

## **4. CONFIDENTIALITY**

### **4.1. Consultant to maintain**

The Consultant must not during or after the term of this agreement:

- (a) except in the proper course of performance of this agreement, disclose to any person without the previous consent in writing of MLA:
  - (i) the terms of this agreement;
  - (ii) any Confidential Information of MLA; or
  - (iii) any other know how or trade secrets arising out of the provision of the Deliverables; or
- (b) use or attempt to use any of the items listed in clause 4.1(a) in any manner which may cause injury or loss to MLA or in any manner other than that contemplated by this agreement.

## **4.2. Third party disclosure**

The Consultant must take all such reasonable precautions as are necessary to maintain the confidentiality of the Confidential Information and must:

- (a) prevent its disclosure directly or indirectly to any person other than in accordance with this agreement; and
- (b) prior to disclosure to any person of any Confidential Information in accordance with this agreement, obtain a written undertaking of confidentiality from that person in the same terms as this clause 4.

## **5. INTELLECTUAL PROPERTY**

### **5.1. Assignment**

- 5.1.1. The Consultant assigns all Project IP to MLA as and when it is created, whether developed prior to the date of this agreement, existing as at the date of this agreement or created afterwards.
- 5.1.2. Where the Consultant engages an agent or contractor to provide any of the Services, the Consultant must ensure that the agent or contractor assigns to MLA all Project IP as and when it is created, whether developed prior to the date of this agreement, existing as at the date of this agreement or created afterwards.

### **5.2. Consultant Background IP**

- 5.2.1. When the Consultant incorporates Consultant Background IP in the Deliverables (other than that specified in the schedule), it must give a notice to MLA identifying the Consultant Background IP, and details of any encumbrances or restrictions on its use.
- 5.2.2. The Consultant warrants that it is the owner of the Consultant Background IP which it incorporates in the Deliverables under this agreement.
- 5.2.3. The Consultant grants MLA a non-exclusive, perpetual, irrevocable, royalty free licence (including the right to sub-license any third party) to use the Consultant Background IP incorporated in the Deliverables to the extent required to enable MLA to use the Deliverables.

### **5.3. Third Party Background IP**

- 5.3.1. If the Consultant proposes to incorporate Third Party Background IP in the Deliverables (other than that specified in the schedule), it must, before incorporating that Third Party Background IP in the Deliverables, give a notice to MLA identifying:
  - (a) the Third Party Background IP;
  - (b) the purpose for which the Third Party Background IP is to be used;
  - (c) the ownership of the Third Party Background IP;
  - (d) details of any restrictions that would be imposed on MLA's rights to use the Third Party Background IP; and

(e) the costs to MLA of obtaining a licence to use the Third Party Background IP,

**(Proposed Third Party Background IP).**

- 5.3.2. MLA may reject any Proposed Third Party Background IP. If MLA rejects any Proposed Third Party Background IP, the Consultant must not incorporate that Proposed Third Party Background IP in the Deliverables.
- 5.3.3. If MLA approves the incorporation of any Proposed Third Party Background IP in the relevant Deliverable, the Consultant must assist MLA in obtaining the necessary rights to incorporate that Proposed Third Party Background IP in the Deliverables and to use the Deliverables on the Platform as contemplated by MLA.
- 5.3.4. The Consultant acknowledges that if it does not advise MLA that it is making available or utilising any Third Party Background IP for the Deliverables in addition to the Third Party Background IP specified in the Schedule, MLA will proceed on the assumption that the Consultant will not utilise any additional Third Party Background IP.
- 5.3.5. The Consultant warrants that MLA will be entitled to use, as contemplated by MLA, any Third Party Background IP which the Consultant incorporates in the Deliverables under this agreement, without breaching the Intellectual Property or other rights of any person.

## **5.4. Licence to the Consultant**

- 5.4.1. MLA grants the Consultant a non-exclusive, royalty free licence (excluding the right to sub-licence) to use the Project IP and the Intellectual Property rights in the MLA Material solely for the purpose of enabling the Consultant to create and provide the Deliverables during the term of this agreement.

## **5.5. Use of Logos**

- 5.5.1. The Consultant must incorporate the Logos into the Deliverables in accordance with MLA's directions and in accordance with any guidelines or instructions provided by MLA from time to time.
- 5.5.2. The Consultant must not use (including in the Consultant's publications or materials) any of MLA's logos, trade marks or trade names without MLA's prior written consent.

## **6. WARRANTIES**

The Consultant warrants that:

- (a) the Deliverables will be fit for their purpose and comply with any specifications provided by MLA;
- (b) subject to clause 5.3, the Deliverables will be able to be used and exploited as contemplated in this agreement without any restriction or encumbrance and without the payment of any additional amount to any crew, talent or other personnel associated with the production of the Deliverables;
- (c) subject to clause 5.3, use of the Deliverables by MLA and its licensees will not infringe any other person's Intellectual Property or other rights and that MLA will be entitled to use the Project IP, the Consultant Background IP and any Third Party Background IP

without the consent of any other person and without infringing any other person's Intellectual Property or other rights;

- (d) the content of the Deliverables will comply with all relevant laws, regulations and codes;
- (e) MLA will be able to assign and grant the rights assigned and granted by the Consultant under this agreement;
- (f) it, its officers and employees, the Nominated Persons and all agents and contractors have the necessary experience, skill and ability to properly provide the Services on the terms set out in this agreement; and
- (g) it is compliant with all workers' compensation insurance requirements, superannuation contributions and tax payments for and on behalf of its workers.

## **7. MATERIAL AND DELIVERABLES**

### **7.1. MLA Material**

The MLA Material remains the property of MLA and, on termination of this agreement, the Consultant must immediately return the MLA Material and all copies of it to MLA and permanently delete from all computer systems under the control of the Consultant all MLA Material which is in electronic form.

### **7.2. Project IP and Deliverables**

7.2.1. The Consultant must provide the Deliverables to MLA in accordance with the Schedule.

7.2.2. On termination of this agreement, the Consultant must immediately deliver the Project IP, the Deliverables (or work-in-progress) and all copies of them to MLA and permanently delete from all computer systems under the control of the Consultant all Project IP and Deliverables, which are in electronic form.

### **7.3. Safekeeping**

The Consultant is responsible for the safekeeping and maintenance of the MLA Material, the Project IP and the Deliverables and must ensure that the MLA Material, the Project IP and the Material are used, copied, supplied or reproduced only for the purposes of this agreement.

### **7.4. Other clearances, consents and approvals**

7.4.1. Except for the communication rights in the musical works and sound recordings embodied in the Deliverables which are controlled by the Australian Performing Right Association Limited and the Phonographic Performance Company of Australia Ltd, the Consultant warrants that all musical works and sound recordings embodied in the Deliverables are in the public domain, owned or controlled by the Consultant, or reproduced under valid and current licence so that MLA and its licensees and its successors in title may exploit the Deliverables without further payment in respect of those musical works and sound recordings.

7.4.2. Subject to clause 5.3 and except in respect of musical works and sound recordings referred to in clause 7.4.1, the Consultant warrants that it has procured all necessary releases, clearances or licences and paid all necessary release, clearance, licence, residuals, re-use, re-run fees and



royalties to third parties to enable MLA and its licensees and its successors in title to exploit the Deliverables (including, but not limited to, in respect of the Project IP) without further payment, without the consent of any other person and without infringing any other person's Intellectual Property or other rights.

7.4.3. Without limiting its obligations under clauses 7.4.1 and 7.4.2, the Consultant must procure:

- (a) that its personnel, subcontractors and any other person who has contributed to the creation of the Deliverables, grant to MLA unconditional and irrevocable consents to any act or omission that would otherwise infringe their Moral Rights in any Project IP or Deliverables; and
- (b) all necessary releases and consents from any talent associated with the Deliverables.

7.4.4. Where the Deliverables comprise or incorporate a video component, the Consultant must:

- (a) provide the proposed script to MLA for approval; and
- (b) seek approval from MLA in relation to the locations for filming, and the presenters to be engaged.

## **7.5. Record keeping**

The Consultant must retain all licences, clearances, permissions and waivers it obtains in relation to the Deliverables and must provide copies of these to MLA on request.

## **8. RELATIONSHIP OF THE PARTIES**

### **8.1. No partnership**

Nothing in this agreement creates an agency, partnership, joint venture or employment relationship between MLA and the Consultant or any of their respective employees, agents or contractors.

### **8.2. No holding out**

Neither the Consultant nor any person acting on behalf of the Consultant may hold itself out as being entitled to contract or accept payment in the name of or on account of MLA.

### **8.3. Exclusion**

MLA's only liability is as expressly stated in this agreement. To the extent permitted by law, all other liability is excluded.

## **9. SUBCONTRACTORS**

### **9.1. Consent**

The Consultant must not without the prior written consent of MLA engage agents or contractors to assist the Consultant in providing the Services.

## **9.2. Terms**

If the Consultant engages an agent or a contractor to assist the Consultant in providing the Services, the terms of engagement contain terms requiring the agent or contractor to:

- (a) undertake obligations of confidentiality in substantially the same terms as clause 4;
- (b) assign to MLA the Project Intellectual Property; and
- (c) maintain such insurance in such amounts as MLA may specify.

## **10. CONFLICT OF INTEREST**

The Consultant must not during the term of this agreement carry on or be involved in an activity or business which would adversely impact on:

- (a) the Consultant's ability to comply with its obligations under this agreement fairly and independently in accordance with the terms of this agreement; or
- (b) MLA's ability to use or exploit the Project IP and the Deliverables.

## **11. INDEMNITY**

The Consultant indemnifies MLA against all damages, losses, costs and expenses incurred by MLA arising out of:

- (a) any breach by the Consultant of this agreement; or
- (b) any negligent or unlawful act or omission of the Consultant, its employees, the Nominated Persons and all agents and contractors in connection with this agreement.

## **12. TERMINATION**

### **12.1. Notice**

MLA may, on 1 months' notice to the Consultant, terminate this agreement.

### **12.2. Default**

If the Consultant:

- (a) goes into liquidation, has a receiver or receiver and manager appointed to it or any part of its assets, enters into a scheme of arrangement with creditors or suffers any other form of external administration;
- (b) fails, within 7 days after receipt of notice, to remedy any breach of its obligations under this agreement which is capable of remedy;
- (c) breaches any provision of this agreement which is not capable of remedy; or
- (d) persistently breaches its obligations under this agreement,

MLA may, by notice to the Consultant, terminate this agreement and recover from the Consultant all damages, losses, costs and expenses suffered by MLA.

## **13. DISPUTE RESOLUTION**

### **13.1. Dealing with disputes**

- 13.1.1. The parties must, without delay and in good faith, attempt to resolve any dispute which arises out of or in connection with this agreement prior to commencing any proceedings.
- 13.1.2. If a party requires resolution of a dispute it must do so in accordance with the provisions of this clause 13 and the parties acknowledge that compliance with these provisions is a condition precedent to any entitlement to claim relief or remedy, whether by way of proceedings in a court of law or otherwise in respect of such disputes, except in the case of applications for urgent interlocutory relief or a breach by the other party of this clause 13.

### **13.2. Resolution by management**

- 13.2.1. If a party requires resolution of a dispute it must immediately submit full details of the dispute to the chief executive officer of the other party.
- 13.2.2. If the dispute is not resolved within 1 month of submission of the dispute to them, or such other time as they agree, the provisions of clause 13.3 will apply.

### **13.3. Conciliation**

- 13.3.1. Disputes must be submitted to conciliation in accordance with and subject to the Institute of Arbitrators Australia Rules for the Conduct of Commercial Conciliations.
- 13.3.2. A party may not commence proceedings in respect of the dispute unless the dispute is not settled by conciliation within 1 month of submission to conciliation, or such other time as the parties agree.

## **14. GST**

In relation to any goods and services tax (GST) payable for a taxable supply (as defined under GST law) by a party under this agreement, the recipient of the supply must pay the GST subject to the supplier providing a tax invoice (as defined under GST law).

## **15. MISCELLANEOUS**

### **15.1. Notices**

- 15.1.1. A notice under this agreement must be in writing and may be given to the addressee by:
  - (a) delivering it to the address of the addressee;
  - (b) sending it by pre-paid registered post to the address of the addressee; or
  - (c) sending it by electronic mail to the last notified email address of the addressee,

specified in the schedule as amended by notice from a party.

- 15.1.2. Notices will be deemed to have been received by the addressee on receipt (other than notices sent by email). An email is deemed to have been received on the date shown by a printed "read receipt" generated by the sender's computer.

## **15.2. Amendment**

This agreement may only be varied by the written agreement of the parties.

## **15.3. Assignment**

- 15.3.1. The Consultant may only assign a right under this agreement with the prior written consent of MLA.
- 15.3.2. For the purposes of clause 15.3.1, the Consultant is deemed to have assigned its rights under this agreement if the management or control of the Consultant is transferred to any person other than those persons who manage or control the Consultant as at the date of this agreement.

## **15.4. Entire agreement**

- 15.4.1. This agreement embodies the entire understanding and agreement between the parties as to its subject matter.
- 15.4.2. All previous negotiations, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of this agreement are merged in and superseded by this agreement.

## **15.5. Further assurance**

Each party must promptly execute all documents and do all things that the other party from time to time reasonably requests to effect, perfect or complete this agreement and all transactions incidental to it.

## **15.6. Governing law and jurisdiction**

- 15.6.1. This agreement is governed by and must be construed in accordance with the laws of New South Wales.
- 15.6.2. Each party:
- (a) irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and all courts which have jurisdiction to hear appeals from those courts; and
  - (b) waives any right to object to proceedings being brought in those courts for any reason.

## **15.7. 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.



**Engagement**

<b>Project No.</b>	
<b>Project Title</b>	
<b>Start date</b>	<b>Completion date</b>

**Purpose and description**

**Objectives**

*The Consultant will achieve the following objective(s) to MLA's reasonable satisfaction:*

**Additional details**

**Agents or subcontractors**

*Subject to the obligations relating to agents and subcontractors, MLA consents to the engagement of the following agents or subcontractors:*

**Logos**

[insert relevant MLA and ALFA logos]

**Communications**

*Subject to the confidentiality obligations, the Services will be communicated by the Consultant:*

<b>Activity</b>	<b>Key Message</b>
Milestone report	Comprehensive report on achievement of each milestone. Milestone report guidelines are available on the MLA website <a href="http://www.mla.com.au/Research-and-development/Project-reporting-templates">http://www.mla.com.au/Research-and-development/Project-reporting-templates</a>

Activity	Key Message
Final Report	<p>The Final report must:</p> <ul style="list-style-type: none"> <li>• be submitted in accordance with MLA's style guide and report guidelines (available at <a href="http://www.mla.com.au/Research-and-development/Project-reporting-templates">http://www.mla.com.au/Research-and-development/Project-reporting-templates</a>).</li> <li>• include sections that address all the items in the Objectives.</li> <li>• be supplied in electronic Microsoft Word format.</li> <li>• include any associated material such as spreadsheets, decisions support tools, multimedia either within the report or as separate electronic files</li> <li>• duly acknowledge participating producer groups, Consultant(s) and Funding Contributors (including the Commonwealth Government).</li> </ul> <p>MLA is committed to demonstrating transparency and communication of our R&amp;D activities to stakeholders. Separate confidential and non-confidential versions of the Final report may be provided if a single report cannot be published on MLA's website.</p>

**Consultant  
Background IP**

Background IP

**Third Party  
Background IP**

Third Party Background IP

**Deliverables**

Description	Due Date

*NB: also specify the format in which the Deliverables should be when delivered*



**Milestones**

<b>Achievement Criteria</b>		<b>Due Date</b>
1		
2		
3		
4		
5		
6		
7		
8		

*A milestone is not achieved unless it is completed to MLA's reasonable satisfaction*

**Fees and payment  
(exclusive of GST)**

<b>Total Budget</b>	Professional fees	0.00
	Operating expenses	0.00
	Capital	0.00

<b>Total Funds</b>	<b>AUD \$0.00 (GST exclusive)</b>
--------------------	-----------------------------------

**Cash flow**

Payment Date	Milestone	Fees	Expenses	Capital	Total
	1 *	0.00	0.00	0.00	0.00
	2 **	0.00	0.00	0.00	0.00
	3 **	0.00	0.00	0.00	0.00
	4 **	0.00	0.00	0.00	0.00
	5 **	0.00	0.00	0.00	0.00
	6 **	0.00	0.00	0.00	0.00
	7 **	0.00	0.00	0.00	0.00
	8 ***	0.00	0.00	0.00	0.00

**TOTAL** **AUD \$0.00**

\*or on signing of this agreement

\*\*on acceptance and approval of corresponding milestone report, with tax invoice and copy of receipts attached

\*\*\*on receipt and acceptance of final report by MLA, with tax invoice for payment attached

*NB: any money uncommitted at the end of the Project must be returned to MLA*

# SIGNED AS AN AGREEMENT

Signed for and on behalf of  
**Meat & Livestock Australia Limited**  
in the presence of:

.....  
Signature of witness

.....  
**Insert Name**  
**General Manager**  
**Insert Department**

.....  
Name of witness (print)

Signed for and on behalf of  
**[insert]**  
in the presence of:

.....  
Signature of witness

.....  
Signature of Authorised Person

.....  
Name of witness (print)

.....  
Name of Authorised Person

.....  
Office Held

SECTION 5

**5. DECLARATION**

**4.1 For corporate tenderers**

I, .....  
of .....  
do solemnly and sincerely declare that:

I hold the position of ..... and am duly authorised by  
..... (**Tenderer**) to make this declaration on its behalf.

I make this declaration to the best of my knowledge, information and belief as to the accuracy of  
the material contained in it and after due inquiry in relation to such material.

This tender comprises:

.....  
.....  
.....  
.....

Neither the Tenderer nor any of its employees or agents had any knowledge of the price  
submitted by any other tenderer prior to providing its tender, nor did the Tenderer disclose to  
any other tenderer the Tenderer's tendered price prior to closing of tenders.

Neither the Tenderer nor any of its employees or agents has entered into an agreement,  
arrangement or understanding which would have the result that, on being the successful  
tenderer, it would pay to any unsuccessful tenderer any moneys in respect of or in relation to the  
tender or any agreement resulting from it.

The Tenderer is not aware of any fact, matter or thing which would materially affect the decision  
of MLA in accepting the tender, except as disclosed in the tender.

The contents of the tender are true and correct.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of  
the provisions of the *Oaths Act 1900*.

DECLARED at  
This                      day of                      2019                      .....

Before me,

.....  
Justice of the Peace/Solicitor

**4.2 For individual tenderers**

I, .....  
of .....  
do solemnly and sincerely declare that:

I make this declaration to the best of my knowledge, information and belief as to the accuracy of the material contained in it and after due inquiry in relation to such material.

This tender comprises:

.....  
.....  
.....  
.....

Neither me nor any of my employees or agents had any knowledge of the price submitted by any other tenderer prior to providing its tender, nor did I disclose to any other tenderer my tendered price prior to closing of tenders.

Neither me nor any of my employees or agents has entered into an agreement, arrangement or understanding which would have the result that, on being the successful tenderer, I would pay to any unsuccessful tenderer any moneys in respect of or in relation to the tender or any agreement resulting from it.

I am not aware of any fact, matter or thing which would materially affect the decision of MLA in accepting the tender, except as disclosed in the tender.

The contents of the tender are true and correct.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1900*.

DECLARED at  
This                      day of                      2019                      .....

Before me,

.....  
Justice of the Peace/Solicitor

**SECTION 6**

**6. ANNEXURE**