



**Australian Government**  
**Department of Agriculture,  
Water and the Environment**

## **STATUTORY FUNDING AGREEMENT 2020–2030**

Parties

**The Minister for Agriculture, Drought and Emergency Management on  
behalf of the Commonwealth of Australia represented by the  
Department of Agriculture, Water and the Environment  
(ABN 34 190 894 983)**

and

**Wine Australia  
(ABN 89 636 749 924)**

Date: May 2020

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**AGREEMENT DATE:**

**BETWEEN** The **MINISTER FOR AGRICULTURE, DROUGHT AND EMERGENCY MANAGEMENT, ON BEHALF OF THE COMMONWEALTH OF AUSTRALIA**, represented by the **DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT** ABN 34 190 894 983, 18 Marcus Clarke Street, Canberra, ACT 2601 (winepolicy@agriculture.gov.au) (**Commonwealth**).

**AND** **WINE AUSTRALIA** ABN 89 636 749 924, having its registered office at Industry House, Cnr Botanic and Hackney Roads, Adelaide SA 5000 (australia@wineaustralia.com)

(collectively, 'the parties')

**RECITALS**

- A. The statutory Rural Research and Development Corporation model applicable at the date of this Agreement is created by the *Primary Industries Research and Development Act 1989* (Cth) and the *Wine Australia Act 2013* (Cth).
- B. Section 6 of the *Wine Australia Act 2013* (Cth) (**the Act**) confirms the continued existence of Wine Australia, which was established under section 6 of the *Australian Grape and Wine Authority Act 2013* (Cth), as a body corporate. The *Australian Grape and Wine Authority Act 2013* (Cth) has been superseded by the Act.
- C. Section 35(1C) of the Act allows the Minister to enter into a funding agreement with Wine Australia.
- D. The Commonwealth has developed Performance Principles to guide RDC performance under funding agreements.
- E. In that context, the Commonwealth and Wine Australia have agreed to enter into a funding agreement on the terms and conditions set out in this Agreement, including applying the Performance Principles set out in this Agreement.

## PART 1—GENERAL REQUIREMENTS

### 1. DEFINITIONS

Words not defined below will have the same meaning as given by the Act and the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)*.

In this Agreement, unless the contrary intention appears:

**'Act'** means the Act identified in Recital B and includes the Regulations.

**'Agreement'** means this funding agreement, as varied from time to time, including any schedules and annexures to it.

**'Agreement Date'** means:

- (a) the date written on the first page of the Agreement; or
- (b) if no date is written on the first page of the Agreement, the date on which the later of both parties have signed this Agreement.

**'Agri-Political Activity'** means activities that involve engaging in, or financing with Levy Funds or Matching Payments, any form of external or internal political influencing. Agri-Political Activity includes:

- (a) encouraging or supporting a campaign for the election of a candidate, person or party for public office or for the adoption of particular policies of political parties;
- (b) promoting a particular political party's policy over another political party's policy;
- (c) representing the views of Industry as being those of Wine Australia or the Australian Government;
- (d) advocating that the Commonwealth or a State or Territory Government adopt a particular policy; or
- (e) advocating directly, or through third parties, with a foreign government for changes to particular policies, standards or legislation, unless with agreement of the Department.

The following activities do not, on their own, constitute Agri-Political Activity:

- (a) Wine Australia undertaking strategic policy development, funding or commissioning research, or publishing a report relating to research in the Industry;
- (b) Wine Australia making public statements or providing information to the Industry on matters related to Wine Australia's objects in the proper performance of Wine Australia's functions; and
- (c) another person, engaged in agri-political activity or advocacy, using a report or other publication prepared or financed by Wine Australia in accordance with this Agreement.

**'Annual Performance Meeting'** means the meeting referred to in clause 10.1.

**'Balanced Portfolio'** means an RD&E investment portfolio incorporating an appropriate blend of issues of national importance based on government and Levy Payer priorities that

seeks to balance short, medium and long term, high and low-risk, and strategic and adaptive research needs including consideration of regional variations and needs.

**'Business Day'** means, in relation to the doing of any action in a place, any day other than a Saturday, Sunday or a public holiday in that place.

**'Chair'** means the Chair or the Chairperson of Wine Australia.

**'Confidential Information'** means all information that the parties:

- (a) agree to treat as confidential by notice to each other after the Agreement Date; or
- (b) otherwise know, or reasonably ought to know, is confidential.

**'Director'** has the meaning set out in the Act.

**'Eligible R&D Expenditure'** means expenditure on Activities that qualify as R&D Activities, and that were included in the Annual Operational Plan for Wine Australia at the time the expenditure was incurred. The Commonwealth does not consider marketing to be an Eligible R&D Expenditure.

**'Extension'** means facilitating the adoption of the outputs from R&D Activities by persons or organisations engaged in or with the Industry and other stakeholders by way of activities that educate and inform them about opportunities for change or that develop their capacity to adopt changes.

**'Financial Year'** means a period of 12 months commencing at the start of 1 July in one year and ending at the end of 30 June in the following year.

**'Funds'** means each of the following:

- (a) Levy Funds;
- (b) Matching Payments;
- (c) Income earned or derived by Wine Australia from the use of the Funds referred to in paragraphs (a) and (b); and
- (d) the proceeds of the sale or other disposition of assets acquired with the Funds referred to in paragraphs (a) to (c).

**'Guidelines'** means each of the following:

- (a) the Australian Government's Science and Research Priorities;
- (b) the Australian Government's Rural Research, Development and Extension Priorities;
- (c) the National Primary Industries Research Development and Extension Framework;
- (d) the Levy Principles and Guidelines, being the guideline relating to the introduction of new levies or changes to existing levies;
- (e) the non-binding companion document to this Agreement; and
- (f) other guidelines or priorities of which the Commonwealth notifies Wine Australia in writing from time to time.

**'Industry'** means the 'grape industry' and 'wine industry' as defined under Section 4 of the Act.

**'Industry Representative Organisation'** means an Industry peak body or a body established for the purpose of, or substantially engaged in, Agri-Political Activity, including representative organisations as defined in Section 5BA of the Act.

**'Levy'** means a levy or charge required to be paid under the Act or relevant levies legislation.

**'Levy Funds'** means the amounts payable under the Act by the Commonwealth to Wine Australia that are not Matching Payments.

**'Levy Payer'** means any person who is required to pay a Levy that is attached to Wine Australia.

**'Marketing Activities'** means marketing, advertising or promotion of the industry and its products, but does not include R&D Activities.

**'Matching Payments'** means the amount paid to Wine Australia for Eligible R&D Expenditure in accordance with section 32(a) 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 under the Act.

**'Performance Principles'** means the principles set out in clause 9.2.

**'PGPA Act'** means the *Public Governance, Performance and Accountability Act 2013 (Cth)*.

**'Privacy Act'** means the *Privacy Act 1988 (Cth)*.

**'R&D Activities'** has the meaning given to 'grape or wine research and development activity' in the Act.

**'RD&E'** means R&D Activities and Extension.

**'RDC'** means a rural research and development corporation existing pursuant to the *Primary Industries Research and Development Act 1989 (Cth)* or the *Wine Australia Act 2013 (Cth)* or established as an industry owned corporation and governed by specific legislation.

**'Regulations'** means the *Wine Australia Regulations 2018*.

**'Rural Research and Development Priorities'** means the priorities communicated to Wine Australia from time to time by the Minister.

**'Voluntary Contributions'** means payments contributed to Wine Australia for the purpose of funding RD&E and Marketing Activities.

**'Wind-Up Plan'** has the meaning given in clause 4.4.

## **2. AGREEMENT AND TERM**

2.1 This Agreement takes effect on the Agreement Date and, subject to clause 2.2, expires 10 years after the Agreement Date.

- 2.2 The parties must, not less than six months before the expiry of the Agreement, commence negotiations in good faith with a view to negotiating a new agreement either on the same terms and conditions as this Agreement or on different terms and conditions that are agreed by the parties.
- 2.3 If the parties are unable to agree the terms of a new agreement to replace this Agreement within that six month period, then the parties may extend the Agreement for a period of at least six months. The parties may agree to extend the Agreement any number of times.
- 2.4 This Agreement:
- (a) constitutes the entire agreement between the parties as to its subject matter; and
  - (b) In relation to that 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.
- 2.5 Any former funding agreement between the parties terminates upon the commencement of this Agreement, without prejudice to any rights or obligations of either party that have accrued prior to the date of termination.
- 2.6 The parties acknowledge and agree that:
- (a) Wine Australia must, at all times, perform its obligations under this Agreement in accordance with its statutory functions, powers and obligations under all relevant legislation in force from time to time, including the Act, the PGPA Act and the Privacy Act; and
  - (b) this Agreement does not set out all of the statutory obligations that apply to Wine Australia and does not in any way vary or reduce Wine Australia's statutory functions, powers or obligations.

### **3. GOVERNING LAW AND JURISDICTION**

- 3.1 This Agreement is governed by the laws applicable in the Australian Capital Territory.
- 3.2 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.

### **4. TERMINATION**

- 4.1 Without limiting any other rights or remedies available to the Commonwealth under this Agreement, the Commonwealth may terminate this Agreement in whole or in part, effective immediately, by giving notice to Wine Australia, if:
- (a) the Act establishing or confirming the existence of Wine Australia or the Regulations establishing Wine Australia is repealed, is no longer in force or is

substantially or materially amended in a manner inconsistent with the continued operation of this Agreement in its current form; or

- (b) there has been a material breach of this Agreement, the Act or another law, by Wine Australia; or
- (c) there has been a change in Commonwealth policy relating to the funding of RDCs.

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

- (a) Wine Australia breaches this Agreement and fails to rectify a breach within 10 Business Days of receiving a notice from the Commonwealth requiring it to do so, or within such other period as is reasonably specified by the Commonwealth in that notice, having regard to the nature of the breach; or
- (b) an event has occurred which would entitle the Commonwealth to terminate the Agreement under clause 4.1,

the Commonwealth may, to the extent it is not inconsistent with the Act, by giving notice to Wine Australia, direct Wine Australia to do any one or more of the following:

- (c) In respect of a breach, rectify any breach and to provide to the Commonwealth an explanation of the circumstances giving rise to the breach;
- (d) deal with all or any of the Funds in a certain way;
- (e) provide a Wind-Up Plan to the Commonwealth in accordance with clause 4.4;
- (f) comply with additional reporting requirements; and/or
- (g) take any other action, as specified in this Agreement.

4.3 Any notice the Commonwealth gives to Wine Australia in accordance with clause 4.2 will specify:

- (a) the circumstances that gave rise to the notice;
- (b) the consequences of non-compliance with the notice; and
- (c) a reasonable time by which Wine Australia must take the actions specified in the notice.

**Wind-Up Plan**

4.4 When issuing a notice to terminate this Agreement or in the circumstances referred to in clause 4.2(e), the Commonwealth may request Wine Australia to develop and submit to the Commonwealth for approval a Wind-Up Plan, within 60 Business Days of the Commonwealth's request.

4.5 A request for a Wind-Up Plan will specify what details Wine Australia must include in the Wind-Up Plan.



- 4.6 The Commonwealth may:
- (a) approve the submitted Wind-Up Plan; or
  - (b) request that reasonable changes be made to the Wind-Up Plan, prior to giving its approval, in which case Wine Australia must comply with any changes requested by the Commonwealth.
- 4.7 Prior to repealing or amending the Act or Regulations such that Wine Australia will no longer exist or will no longer have any Levy attached, the Commonwealth will endeavour to give sufficient notice to Wine Australia to allow Wine Australia to implement the approved Wind-Up Plan, as directed by the Commonwealth.
- 4.8 If preparing or implementing the Wind-Up Plan will require expenditure of Funds by Wine Australia beyond the date on which the Agreement would otherwise terminate, the Commonwealth may, in its absolute discretion, notify Wine Australia of a revised termination date only for the purpose of:
- (a) preparing and implementing the Wind-Up Plan; and
  - (b) complying with any other conditions notified to the Wine Australia by the Commonwealth in respect of this extended period.

## **5. RESOLUTION OF DISPUTES**

- 5.1 Except when a party seeks urgent interlocutory relief, the parties must deal with a dispute arising under or in respect of this Agreement in accordance with the procedures set out in this clause 5 before they commence any legal proceedings.
- 5.2 A party claiming that there is a dispute must send the other party a written notice setting out the nature of the dispute.
- 5.3 During the 20 Business Days after a notice is given under clause 5.2 (or such longer period as may be agreed to in writing by the parties), each party must use reasonable efforts to resolve the dispute through a meeting of senior representatives of each party which are authorised to bind the party to an agreed resolution.
- 5.4 If the parties do not resolve the dispute at the meeting referred to in clause 5.3, the parties must refer the dispute to mediation, which must be conducted in Canberra (or elsewhere if agreed in writing between the parties), in accordance with the Resolution Institute's Rules for Mediation, as in operation at the relevant time.
- 5.5 Unless otherwise agreed by the parties, the mediation will be deemed to commence on the appointment of the mediator.
- 5.6 Despite the existence of a dispute, each party must, unless requested in writing by the other party not to do so, continue to perform its obligations under this Agreement.
- 5.7 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.

## **6. COMMUNICATION, ACCESS AND INFORMATION**

### ***Access by the Commonwealth***

6.1 Subject to clauses 6.2 and 6.3, the Commonwealth or its nominated representative may, for the purpose of monitoring performance by Wine Australia under the Act, the Agreement and the Guidelines:

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

6.2 The Commonwealth will:

- (a) provide reasonable notice to Wine Australia in respect of a request to access or inspect under clause 6.1; and
- (b) comply with Wine Australia's reasonable safety and security requirements in undertaking that access.

6.3 For the purposes of clause 6.1, Wine Australia must:

- (a) cooperate with the Commonwealth;
- (b) provide any necessary access or information; and
- (c) provide all information in a data format and storage medium that is able to be accessed and used by the Commonwealth.

### ***Confidential Information***

6.4 Each party must, in respect of Confidential Information given to it by the other party:

- (a) use that Confidential Information only for the purposes of administering or enforcing the Act or this Agreement or for other purposes for which it is provided; 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 or other purposes for which it is provided) without the prior approval in writing from the other party and subject to complying with any reasonable conditions or restrictions imposed by the other party in giving approval.

6.5 A party will not be in breach of clause 6.4 if it discloses Confidential Information to the extent that the disclosure is:

- (a) required by law or by a lawful requirement of any government body; or
- (b) made to a Commonwealth Minister or in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia, provided that the party notifies the recipient that the information is confidential.

***Intellectual Property***

6.6 Wine Australia grants the Commonwealth a permanent, irrevocable, royalty-free worldwide non-exclusive licence to use, reproduce, modify, adapt, distribute, sublicense, communicate and publish all or part of those reports, plans or other materials reported directly to the Commonwealth under the Act or this Agreement, with the exception of:

- (a) any Confidential Information; and
- (b) any material, including any image or text, that is identified by Wine Australia as being material in which a third party owns all or part of the Intellectual Property Rights, and in respect of which Wine Australia does not have the right to grant such a licence to the Commonwealth.

## **PART 2—MANAGEMENT AND GOVERNANCE OF WINE AUSTRALIA**

### **7. CORPORATE GOVERNANCE**

- 7.1 Wine Australia must maintain, implement and regularly review a framework of good corporate governance to ensure proper use and management of the Funds and the Voluntary Contributions. In maintaining the governance framework, Wine Australia should draw on best practice guidance as appropriate.

### **8. ROLE OF WINE AUSTRALIA**

- 8.1 The parties acknowledge that Wine Australia should not engage in Agri-Political Activities.
- 8.2 Wine Australia must not, at any time, act as an Industry Representative Organisation or reference or provide information which implies to stakeholders or trading partners that Wine Australia is an Industry Representative Organisation.
- 8.3 Wine Australia must, at all times, act in an apolitical and unbiased manner. Wine Australia must not engage in Agri-Political Activity.
- 8.4 Wine Australia may seek advice from the Commonwealth on whether or not a particular activity would constitute an Agri-Political Activity.
- 8.5 The Commonwealth may issue a notice requiring Wine Australia to take action to address Agri-Political Activities of Wine Australia.

### **9. PERFORMANCE**

#### ***Performance Principles***

- 9.1 Subject to clause 2.6, Wine Australia must at all times act in accordance with and uphold this Agreement, including the Guidelines and the Performance Principles under clause 9.2.
- 9.2 The Performance Principles are:
- (a) to engage stakeholders to identify RD&E priorities and activities that provide benefits to the Industry;
  - (b) to ensure RD&E (and marketing) priorities and activities are strategic, collaborative and targeted to improve profitability, productivity, competitiveness and preparedness for future opportunities and challenges through a Balanced Portfolio;
  - (c) to undertake strategic and sustained cross-industry and cross sectoral collaboration that addresses shared challenges and draws on experience from other sectors;
  - (d) for governance arrangements and practices to fulfil legislative requirements and align with contemporary Australian best practice for open, transparent and proper use and management of Funds; and

- (e) to demonstrate positive outcomes and delivery of RD&E (and marketing) benefits to Levy Payers and the Australian community in general, and show continuous improvement in governance and administrative efficiency.
- 9.3 If, at any time, Wine Australia identifies an inconsistency or discrepancy between the Performance Principles and its obligations under any law, regulation or government policy, it must:
- (a) notify the Commonwealth of the nature of the inconsistency or discrepancy, as soon as reasonably practicable;
  - (b) continue at all times to act in accordance with the Performance Principles (to the extent this is consistent with applicable law, regulation or government policy); and
  - (c) if requested by the Commonwealth, discuss possible resolutions to deal with the identified discrepancy and implement any such resolutions as may be agreed.

***Review of Performance***

- 9.4 Wine Australia must implement appropriate processes, on an ongoing basis during each Financial Year, to:
- (a) monitor and evaluate its performance against the Performance Principles; and
  - (b) demonstrate its performance against the Performance Principles to Levy Payers and other stakeholders (demonstrations could include updates by newsletter, meetings, website, email or annual report).
- 9.5 The Commonwealth may review Wine Australia's performance and compliance with the Act, this Agreement, and the Guidelines at any time during the term of this Agreement.
- 9.6 The Commonwealth may request Wine Australia from time to time (but no more often than once every three years) to obtain, at Wine Australia's expense, an independent review of Wine Australia's performance against the Performance Principles. In that case, the following process will apply:
- (a) The Commonwealth and Wine Australia will agree on an independent external consultant to review Wine Australia's progress and achievements against the Performance Principles and prepare an independent review.
  - (b) Wine Australia must engage, and meet the cost of, the independent external consultant who is engaged to provide an independent review.
  - (c) The independent external consultant will be required to provide the independent review simultaneously to both Wine Australia and the Commonwealth within 20 Business Days of concluding the draft independent review.
  - (d) The Commonwealth and Wine Australia will meet and discuss any areas of underperformance identified in the independent review and agree on an approach for Wine Australia to address any such areas of underperformance.

- (e) Wine Australia must implement any agreed actions and comply with any reasonable directions issued by the Commonwealth in relation to addressing areas of underperformance.
- 9.7 The Commonwealth may Issue a notice requiring Wine Australia to take actions to address issues identified:
- (a) In the independent review; or
  - (b) In relation to Wine Australia's performance against the Performance Principles, within the timeframe specified in the notice or as otherwise agreed by the parties.
- 9.8 Wine Australia must make available to its stakeholders any information relating to performance and/or the independent review (other than Confidential Information) as soon as reasonably practicable.

## **10. CONSULTATION AND GUIDELINES**

- 10.1 The Chair, or in the Chair's absence a Director nominated by the Chair, must arrange a meeting between the parties at least once per Financial Year (**Annual Performance Meeting**) to:
- (a) demonstrate to the Commonwealth Wine Australia's performance and achievement of the Performance Principles;
  - (b) discuss and demonstrate implementation of measures taken to address any underperformance identified in the independent review, Annual Performance Meetings, and/or other fora;
  - (c) discuss issues relating to Wine Australia's compliance with the Act, this Agreement and the Guidelines; and
  - (d) discuss other matters relevant to Wine Australia or its Industry.
- 10.2 The Annual Performance Meeting may be undertaken in any format that is agreed in writing between the parties. (That may be, for example, a structured meeting, a discussion, a presentation of reports and documents, a presentation of an additional independent review or report, a demonstration of outcomes, an interactive site visit or another format proposed by Wine Australia). For clarity, Wine Australia must ensure that the Commonwealth has adequate time to ensure appropriate Commonwealth representation and to arrange any necessary travel, in advance of the Annual Performance Meeting.
- 10.3 Either party may, at any time, request additional meeting(s) with the other party to discuss matters arising under the Act, this Agreement, or the Guidelines, or otherwise related to Wine Australia or the Industry.

### ***Changes to the Guidelines***

- 10.4 The Commonwealth may vary the Guidelines, provided that the Commonwealth gives Wine Australia a reasonable period to implement the effects of the variation.

## **PART 3—ACTIVITIES AND FUNDING**

### **11. PAYMENT OF LEVY FUNDS**

- 11.1 The Commonwealth will pay Levy Funds and Matching Payments (on a GST exclusive basis) to Wine Australia in accordance with the Act.
- 11.2 The Commonwealth will pay Levy Funds as soon as reasonably practicable after the levy funds have been received.
- 11.3 The Commonwealth is entitled to reduce the value of any payments it is required to make to Wine Australia by the value of any amount it is entitled to recover from Wine Australia under the Act.
- 11.4 Upon request by the Commonwealth, Wine Australia must provide to the Commonwealth:
- (a) an indicative estimate of the amount of the Levy Funds and Matching Payments it expects the Commonwealth to pay to it under the Act, for the current and future Financial Years as required by the Finance Minister; and
  - (b) a monthly breakdown of the estimated amount of Levy Funds and Matching Payments that it expects the Commonwealth to pay to it under the Act in the current Financial Year and the next Financial Year.

#### ***Timing and manner of making Matching Payments***

- 11.5 The Commonwealth will pay Matching Payments in accordance with the Act.
- 11.6 The Commonwealth will pay the Matching Payments to Wine Australia as soon as reasonably practicable after receiving from Wine Australia:
- (a) a correctly rendered claim for payment or tax invoice; and
  - (b) satisfactory substantiation that Wine Australia has met all the requirements set out in the Act to trigger its right to receive the Matching Payments.
- 11.7 For the purposes of clause 11.5(b), a certificate stating compliance with the relevant requirements of the Act, signed by the Executive Director or the Chief Financial Officer (or equivalent) of Wine Australia, is satisfactory substantiation, in the absence of any evidence to the contrary.
- 11.8 Wine Australia's final claim for Matching Payments in respect of Eligible R&D Expenditure made in a Financial Year must be supported by an independent audit report of Wine Australia's financial statements, providing an audit opinion that complies with relevant Australian Auditing and Assurance Standards (Note: this work can be completed with reference to ASAE 3100).
- 11.9 Upon request, Wine Australia must provide a reconciliation between the total amount of Eligible R&D Expenditure on which its claim for Matching Payments for the Financial Year is based and the amounts shown in the audited financial statements.

- 11.10 The Commonwealth will, by 30 September in each Financial Year, advise Wine Australia of the final costs incurred by the Commonwealth in relation to the collection, recovery and administration of the Levy for the previous Financial Year.
- 11.11 The Commonwealth may, if requested, give Wine Australia an estimate of the amount of costs incurred by the Commonwealth in relation to the collection, recovery and administration of the Levy for the Financial Year.
- 11.12 The Commonwealth may, in respect of the costs referred to in clause 11.10:
- (a) offset them against payments the Commonwealth is otherwise required to make to Wine Australia in which case such an offset is taken to be agreed by the parties; or
  - (b) render an invoice to Wine Australia, in which case Wine Australia must, within 30 Business Days after receipt of an invoice from the Commonwealth, pay the costs referred to in clause 11.10 to the Commonwealth by direct deposit or cheque or other method agreed between the parties.
- 11.13 Payment must be by direct deposit or other method agreed between the parties.

## **12. MANAGEMENT OF THE FUNDS**

- 12.1 Wine Australia must establish all necessary accounting systems and financial procedures and controls, as required by the Act, the PGPA Act and this Agreement.
- 12.2 Wine Australia must notify the Commonwealth of the details of the systems, procedures and controls established in accordance with clause 12.1 on request.
- 12.3 Wine Australia may delegate or outsource its powers or responsibilities, provided that it must not delegate or outsource:
- (a) in a manner that is inconsistent with the Guidelines;
  - (b) in a manner that it is not permitted by the Act or the PGPA Act;
  - (c) the responsibility for the management, allocation, or investment of Funds or Voluntary Contributions to an Industry Representative Organisation; or
  - (d) responsibility for the management, allocation, or investment of Funds if they could be used in a manner which may be viewed as engaging in Agri-Political Activity.

## **13. APPLICATION OF THE FUNDS**

- 13.1 Wine Australia may only spend the Funds and Voluntary Contributions:
- (a) in accordance with the Act, the PGPA Act and this Agreement; and
  - (b) in a manner that is consistent with the:
    - (i) R&D Plan;
    - (ii) Performance Principles; and
    - (iii) Guidelines.



- 13.2 Wine Australia may only spend Funds and Voluntary Contributions on RD&E activities and Marketing Activities that:
- (a) relate to the Industry and are for the benefit of the Industry; or
  - (b) are for the benefit of the Industry and for the Australian community generally.

***Other restrictions on spending the Funds***

- 13.3 Wine Australia must not spend the Funds on payments to Industry Representative Organisations, other than for:
- (a) payments of membership fees, if that membership contributes to Wine Australia pursuing its objects; or
  - (b) payments to acquire goods or services from those organisations or to otherwise fund RD&E or Marketing Activities.
- 13.4 Wine Australia must develop, implement and maintain an appropriate Balanced Portfolio.
- 13.5 If Wine Australia spends the Funds other than in accordance with this Agreement or the Act, the Commonwealth may, by written notice to Wine Australia, require Wine Australia to repay all or a part of those misspent Funds to the Commonwealth within the timeframe specified in the notice.
- 13.6 Wine Australia must contribute to the implementation of relevant Industry sector and cross-sectoral strategies under the National Primary Industries Research, Development and Extension Framework, as appropriate to its national leadership role in relevant Industry strategies and its support role in other relevant strategies and otherwise in a manner consistent with Wine Australia's R&D Plan.

**14. ACKNOWLEDGEMENT OF FUNDING**

- 14.1 Unless otherwise agreed with the Commonwealth, Wine Australia must ensure that all significant publications and publicity by Wine Australia acknowledge the provision of funding by Levy Payers and the Commonwealth, as applicable.

**15. INFORMATION ON ACTIVITIES**

- 15.1 Wine Australia must ensure that it documents and communicates on its public website (other than any Confidential Information, unless otherwise permitted by clause 6.5):
- (a) any documentation required to be made public under the Act or the PGPA Act;
  - (b) its plans, reports and priorities;
  - (c) key information about its RD&E and Marketing Activities; and
  - (d) outcomes of public submissions.

## SIGNING PAGE

EXECUTED as an agreement

SIGNED for and on behalf of the  
**COMMONWEALTH OF AUSTRALIA**  
by the Hon. David Littleproud MP  
Minister for Agriculture, Drought and  
Emergency Management:



Signature of the Minister

14.5.20

Date

in the presence of:



Signature of the witness

Joanne Hutchinson

Name of witness

SIGNED for and on behalf of  
**WINE AUSTRALIA**  
by its duly authorised officer:



Signature of officer

Catherine Oates

Name of officer

Acting Chair

Position of officer

in the presence of:



Signature of witness

STUART OATES

Name of witness

12 May 2020

Date