



From Third Challenge Programme Agreement (Schedule 4) between Callaghan Innovation and the Ministry, variation signed [date of signing]

### INTELLECTUAL PROPERTY MANAGEMENT PLAN

1. This Intellectual Property (IP) Management Plan sets out expectations of the Parties around ownership, management and commercialisation of Project IP, Mātauranga Māori and Taonga Species, and the licensing of Background IP.
2. Each Party will observe the IP Policies and Principles set out on the SftI website <https://www.sftichallenge.govt.nz/for-researchers/commercialisation/> when making decisions about, or entering into any agreements relating to the development or management of any Project IP, including Mātauranga Māori Project IP, and/or the involvement of Mātauranga Māori and/or Taonga Species in the Project, on a continuous basis throughout the life of the Project.
3. Each Party agrees, if requested in writing by the other party, to promptly do all things, including executing any document, necessary to give effect to this IP Management Plan.
4. Where this IP Management Plan confers a right on a third party it is intended that such third party be entitled to enforce it.
5. Unless the Parties agree otherwise in writing, Project IP will be owned on creation exclusively by the Party (or Parties, as the case may be) that create it.
6. The Parties will record and report all Project IP (and its ownership), including Mātauranga Māori and Taonga Species used in the Project and Mātauranga Māori Project IP, annually to the Director, who will keep a register of reported Project IP, including Mātauranga Māori Project IP, and Mātauranga Māori and Taonga Species used in the Project.
7. Unless otherwise agreed in writing by the Director:
  - (i) Where Project IP is owned by one Party, that Party will be the Managing Party for that Project IP.
  - (ii) Where Project IP is owned by more than one Party:
    - a. Those Parties will agree which of them will be the Managing Party. If they cannot agree, they will work with the Director to come to agreement. If agreement has not been reached within 10 business days, Parties will refer the matter to mediation or some other form of dispute resolution at the Parties' cost.
    - b. Benefits from the commercialisation of Project IP will be shared between the Parties in shares reflecting the relative input to the Project IP. Factors relevant to determining each Party's relative input include: Background IP and know-how provided; inventorship and costs of commercialisation; and recognising the relative risks of the different Parties

---

including any additional financial risks of the Managing Party. The Parties are encouraged to form a joint management committee of all Parties involved in any commercial project involving Project IP to enable ongoing consultation regarding its protection and commercialisation.

- (iii) For the purposes of this IP Management Plan, all Mātauranga Māori Project IP will be considered to be owned by the Identifiable Kaitiaki of the Mātauranga Māori, and that Identifiable Kaitiaki will be the Managing Party of the Mātauranga Māori Project IP. If there is more than one Identifiable Kaitiaki of the Mātauranga Māori, those Identifiable Kaitiaki will be considered to jointly own the Mātauranga Māori Project IP, and jointly appoint a Managing Party of the Mātauranga Māori Project IP. If the Identifiable Kaitiaki cannot agree on who should be the Managing party, the matter shall be referred to mediation, each party to bear its own costs. If there is no Identifiable Kaitiaki, then the SfTI Kāhui Māori will appoint the Managing Party.
  - (iv) Subject to paragraph 7(iii), where Project IP is developed in collaboration with one or more Industry Partners, the Parties and the Industry Partners will agree who will own the Project IP and which of them will be the Managing Party. If they cannot agree, they will work with the Director to come to agreement. If agreement has not been reached within 10 business days, Parties will refer the matter to mediation or some other form of dispute resolution at the Parties' cost. It is expected that the Parties and the Industry Partners will enter into one or more appropriate agreements to:
    - (a) ensure Project IP is developed in a manner that will advance the purposes of the Challenge; and
    - (b) agree commercialisation and revenue sharing arrangements.
  - (v) Where Project IP is developed under (i), (ii), (iii) or (iv) above, but the Parties agree that the best value to New Zealand may be through the dissemination of research results to a third party who was not involved in the development of the Project IP or to the public, Project IP may be:
    - (a) made available to a third party on a first look basis and be available for license on normal commercial terms;
    - (b) made available to selected third parties on a first right of use within a defined parameters basis; or
    - (c) publicly disseminated,and where the Project IP is made available to third parties as in (a) and (b) those third parties will be asked to observe the SfTI IP Policies and Principles in the management of that Project IP.
8. The Managing Party (or Parties, where there is Mātauranga Māori Project IP) will be in charge of protection, management and commercialisation of the Project IP, will act as the representative of all other owners of the Project IP, and will make final decisions relating to the Project IP, subject to any other agreement between the owners of the Project IP.
9. Subject to any applicable confidentiality provisions and any other agreement between the Parties, including with any Industry Partner(s), Project IP will be licensed non-exclusively and royalty-free to all Parties for the purposes of research and educational activities, provided that this does not apply to any Mātauranga Māori Project IP unless expressly agreed in writing with the Identifiable Kaitiaki of the relevant Mātauranga Māori or Taonga Species.

- 
10. Nothing in this IP Management Plan will change the ownership of any Background IP. The Parties hereby grant each other a non-exclusive, royalty-free, non-transferable licence of Background IP contributed to the Project, unless there are reasonable grounds not to grant such a licence and the Parties agree otherwise in writing. Such licence will be solely for the purposes of the Research and/or Related Activities and not for any commercial use. Any enhancement to Background IP, whether arising in the course of the Project or otherwise, will be owned on creation exclusively by the party who owns the relevant Background IP.
  11. Background IP made available by Industry Partners, and any enhancements to that Background IP made during the Project, will be owned by the third party that provides the relevant Background IP. The owner of any Background IP can continue to use that Background IP for any purpose. Any such third parties will be asked to grant a licence of relevant Background IP to relevant Parties to the extent that they are able and that access to the Background IP is needed to carry out their Project, and any such licence will be agreed with the third party in writing, provided that this will not apply to any Mātauranga Māori or Taonga Species unless expressly agreed in writing with the Identifiable Kaitiaki of the Mātauranga Māori or Taonga Species.
  12. Before commercialisation of any Project IP commences, except in respect of Project IP managed by third parties as set out in clause 7(v), the Managing Party must inform the Director in writing and provide a copy of a Commercialisation Plan. Any Commercialisation Plan must align with the purpose of the Challenge. Any Mātauranga Māori, Taonga Species and Mātauranga Māori Project IP must be recognised explicitly in any such Commercialisation Plan. In addition, the Director will ensure that any Commercialisation Plan involving Mātauranga Māori, Taonga Species or Mātauranga Māori Project IP is reviewed by the SftI Kāhui Māori prior to the commencement of commercialisation. If there are any concerns that the Commercialisation Plan is not consistent with the purpose of the Challenge, including this IP Management Plan and the IP Policies and Principles, then the Director may seek changes to the Commercialisation Plan.
  13. Progress on each Commercialisation Plan will be reported by the Managing Party annually to the Director who will further report to the Challenge Board and Challenge Contractor. Such reporting will be subject to ensuring protection of commercially sensitive or confidential information.
  14. The Managing Party of Project IP (or Parties, where there is Mātauranga Māori Project IP) will maintain, and provide to the Director on reasonable notice, sufficient information and reports to allow the Director to assist the Challenge Contractor to report to the Ministry for a period of at least 7 years after the end of the Challenge. Such reporting will be subject to ensuring protection of commercially sensitive or confidential information.
  15. **Definitions:** In this IP Management Plan, the following terms have the following meanings:
    - Background IP** means Intellectual Property that is acquired or developed by a party independently of that party's participation in the Challenge and is used in the Research and/or Related Activities, and includes Mātauranga Māori and Taonga Species, which is the Background IP of the Identifiable Kaitiaki of the Mātauranga Māori or Taonga Species.
    - Board** means the board of the Science for Technological Innovation National Science Challenge.
    - Challenge** means the Science for Technological Innovation National Science Challenge.
    - Commercialisation Plan** means the plan for commercialisation of Project IP including Mātauranga Māori Project IP prepared by the relevant Managing Party or Parties.
    - Director** means the director of the Challenge appointed under the Collaboration Agreement between the Challenge Members signed on or about 30 April 2015 or as subsequently varied between the Parties.

---

**Identifiable Kaitiaki** means the kaitiaki (guardian, custodian) who has an obligation of kaitiakitanga over the Mātauranga Māori and/or Taonga Species.

**Industry Partner** means any third party contributing to a Project including (without limitation) co-funders, industry partners, and businesses.

**Intellectual Property** means industry and intellectual property of any kind, whether or not in material form, including but not limited to:

- (i) copyrights (excluding those in academic articles), trademark rights, design rights, all rights relating to confidential information, and patents or equivalent in any jurisdiction, any right to apply for registration of any such intellectual property rights anywhere in the world, any right to claim priority under international convention for any such applications and all rights conferred by such industrial or intellectual property when registered or granted; and
- (ii) all rights to and in any processes, formulae, designs, reports, drawings, circuit layouts, specifications, software, blue-prints, know-how, experiences, characteristics, inventions, discoveries and research data.

**Managing Party** means, in relation to Project IP and Mātauranga Māori Project IP, the party responsible for decisions concerning protection, management and commercialisation of the Project IP and Mātauranga Māori Project IP.

**Mātauranga Māori** means Māori knowledge and includes, without limitation:

- (i) te reo (language)
- (ii) whakapapa (genealogy)
- (iii) kawa and tikanga, including systems of law and social control and systems of property and value exchange
- (iv) rongoā (traditional Māori medicine and traditional healing practices, including traditional methods of treatment)
- (v) traditional technology related to food cultivation, storage, hunting, and gathering
- (vi) knowledge of the various uses of plants and wildlife for food, medicine, ritual, fibre, and building
- (vii) knowledge of the characteristics and properties of plants, such as habitats, growth cycles, and sensitivity to environmental changes
- (viii) arts, such as carving, weaving, tā moko (facial and body tattooing), the performing arts such as haka (ceremonial dance), waiata (songs), whaikōrero (formal speech-making), and karanga (ceremonial calling or chanting)
- (ix) rituals and ceremonies such as tangihanga, tohi (baptism), and pure (rites of cleansing).

**Mātauranga Māori Project IP** means Project IP that is derived from Mātauranga Māori or Taonga Species.

**Ministry** means the Ministry of Business, Innovation and Employment.

**Party or Parties** means one or more organisations that are parties to a contract for research services for a Project.

**Project** means the Challenge project identified in the relevant research plan.

---

**Project IP** means all Intellectual Property and proprietary information pertaining to material brought into existence or required to be brought into existence as part or for the purposes of any Project with explicit consideration given to Mātauranga Māori and Taonga Species, but does not include any Background IP.

**Research and/or Related Activities** means the activities that Parties have agreed to undertake to deliver the Project and/or those aspects that a Party has agreed to undertake, including under the terms of a subcontract.

**SfTI Kāhui Māori** means the advisory group as established by the SfTI board for the purpose of giving it advice on all matters relating to Māori.

**Taonga Species** means native species of flora and fauna, including native birds, plants and animals of special cultural significance and importance to Māori.