



## Sustainable Canadian Agricultural Partnership


### EFFICIENT GRAIN HANDLING PROGRAM

#### Approval Letter Grant Terms

## 1. INTERPRETATION

### 1.1 Definitions – In these Approval Letter Grant Terms:


- (a) “**Agreement**” means the Approval Letter and these Approval Letter Grant Terms;
- (b) “**Application**” means the application submitted by the Eligible Applicant for funding under the Program;
- (c) “**EFP Approval**” means an Environmental Farm Plan certificate or letter of completion issued by Agricultural Research & Extension Council of Alberta (ARECA) under the Alberta Environmental Farm Plan (AEFP) program.
- (d) “**Eligible Activity**” means the part or parts of the Project that have been approved under the Program, as set out in the Project Work Table;
- (e) “**Eligible Expenses**” means the expenses that are eligible for payment under the Agreement;
- (f) “**Event of Default**” has the meaning given in section 8.1;
- (g) “**Federal Minister**” means the Minister of Agriculture and Agri-Food Canada;
- (h) “**Final Report**” means a report described in section 6.1;
- (i) “**Grant**” means the grant described in section 2.1;
- (j) “**Ineligible Expenses**” means expenses that are not eligible for payment under the Agreement, as listed in section 4.2;
- (k) “**Program**” means the Efficient Grain Handling (EGH) Program, a program under Sustainable CAP;
- (l) “**Program Terms and Conditions**” means the EGH Terms and Conditions in effect as of the date that the Application was received by the Minister;
- (m) “**Project**” means the proposed activities under the Program, as described in the Application;
- (n) “**Project Work Table**” means the table of this name in the Approval Letter;
- (o) “**Project Term**” means the period from April 1, 2023 to the end date stated in the Approval Letter;
- (p) “**Provincial Crown**” means His Majesty in Right of Alberta;

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- (q) “**Regulation**” means the *Ministerial Grants Regulation* (AR 215/2022);
  - (r) “**Reimbursement Claim Form**” means the form to be submitted by the Eligible Applicant, together with all documentation required to be submitted pursuant to that form, to request payment for Eligible Expenses; and
  - (s) “**Sustainable Canadian Agricultural Partnership**” (or “Sustainable CAP”) means the Federal-Provincial-Territorial agricultural program referenced in paragraph “A” of the Background.

- 1.2 Headings and Sections** – The headings in these Approval Letter Grant Terms are for convenience only and do not define, limit, or enlarge the scope or meaning of these Approval Letter Grant Terms. References in these Approval Letter Grant Terms to sections correspond to the numbered provisions of these Approval Letter Grant Terms.
- 1.3 References to Agreements and Enactments** – A reference to another agreement, instrument, or enactment includes reference to such agreement, instrument or enactment as may be amended, restated, or replaced. A reference to an enactment includes reference to such enactment as may be amended or superseded.
- 1.4 Program Terms and Conditions** – The Program Terms and Conditions form part of the Agreement.
- 1.5 Entire Agreement** – The Agreement is the entire agreement between the Minister and the Eligible Applicant regarding support by the Minister for the Eligible Activity, and supersedes all previous agreements, correspondence, negotiations and understandings. There are no agreements, representations, warranties, terms, conditions or commitments except as expressed in the Agreement. In the event of a conflict between the Agreement and the Program Terms and Conditions, the Agreement shall prevail.
- 1.6 Regulation** – Nothing in the Agreement relieves the Eligible Applicant from strict compliance with the Regulation or otherwise affects the interpretation or application of the Regulation.


## 2. THE GRANT

- 2.1 Payment of Grant** – Subject to the terms and conditions of the Agreement, the Minister will contribute by way of a grant (the “**Grant**”) the amount stated in the Approval Letter to the Eligible Applicant for the purposes of the Eligible Activity.
- 2.2 Amount of Grant** – This is a cost-shared Program. Notwithstanding the approved grant amount stated in the Project Work Table, the total amount of the Grant payable to the Eligible Applicant shall be adjusted to equal fifty percent (50%) of the total amount of Eligible Expenses approved by the Minister under section 4.4, but in no event shall the amount of the Grant exceed the amount stated in section 2.1.

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- 2.3 Other Sustainable CAP Funding** – Funding received through any other Sustainable CAP programs may not be used toward the cost-share requirements of this Program.
- 2.4 Other Funding** – Funding received through other federal, provincial and municipal governments cannot exceed 100% of the Eligible Expenses paid under the Program. The amount of the Grant shall be adjusted so that the total government funding for Eligible Expenses does not exceed 100% of these expenses.
- 2.5 Timing of Grant** – The Minister shall pay the Grant to the Eligible Applicant in accordance with the Project Work Table, subject to receipt of a satisfactory claim for reimbursement (as set out at section 5.2) and Final Report for each component of the Eligible Activity.
- 2.6 Farm Support Payments** – Payments of the Grant may be considered farm support payments, and AGR-1 tax slips will be issued in the name of the Eligible Applicant, if applicable.
- 2.7 No Other Financial Assistance** – The Eligible Applicant acknowledges that the Grant may not be sufficient to cover the entire cost of the Eligible Activity and that the Eligible Applicant shall be solely responsible for raising funds from other sources to complete the Eligible Activity. The Eligible Applicant acknowledges that the Grant is the only financial assistance the Minister will provide to the Eligible Applicant for the Eligible Activity.
- 2.8 Subject to Appropriation** – In the event that federal or provincial funding levels are changed to the extent that the money available to the Minister to make the Grant is reduced or eliminated, the Minister may, in his sole discretion, cancel or reduce the amount of the Grant.

### 3. ELIGIBLE ACTIVITY

- 3.1 Conduct of the Eligible Activity** - Except for items permanently affixed to land sold by the Eligible Applicant, equipment for which the Eligible Applicant received payment under the Program must:
- during the Project Term and for at least three (3) years afterwards, remain owned by the Eligible Applicant;
  - be in the Applicant's possession (or, if it is a fixture, be installed at the Applicant's operation that is the subject of the Application) and operational no later than six (6) months after the Project Term; and
  - be used by the Applicant in the production of a primary commodity no later than six (6) months after the Project Term.
- 3.2 Environmental Farm Plan** – If the Application did not include a valid and current EFP Approval, the Eligible Applicant must obtain it before the end of




the Project Term and must include a copy in the Final Report.

- 3.2 Completion of Eligible Activity** – The Eligible Applicant agrees to undertake all reasonable efforts to proceed diligently and in a timely manner with the Eligible Activity, and agrees to complete the Eligible Activity during the Project Term.
- 3.3 Alteration of the Eligible Activity** – The Eligible Applicant shall not alter the Eligible Activity in any respect material to this Agreement, except with the prior written consent of the Minister. Alteration of the Eligible Activity may result in a reduction of the Grant, in the sole discretion of the Minister.
- 3.4 Compliance with Laws** – In completing the Eligible Activity, the Eligible Applicant shall:
- (a) comply with all applicable laws; and
  - (b) obtain all required governmental approvals prior to commencing the Eligible Activity, including those related to public health and safety, labour codes and standards, care and use of animals in research, wildlife habitat, and environmental protection.

#### 4. ELIGIBLE EXPENSES

- 4.1 Eligible Expenses** – Unless otherwise permitted by the Minister, to be approved as an Eligible Expense, an expense must:
- (a) be of a type listed in the Project Work Table and, if applicable, be at the funding level specified in the Project Work Table;
  - (b) have been incurred by, invoiced to, and paid by, the Eligible Applicant between April 1, 2023 and the end of the Project Term, directly for the Eligible Activity.
  - (c) be of fair market value and have been incurred following a competitive process that is transparent, fair, and promotes the best value for the money expended; and
  - (d) not be an expense that is deemed ineligible under section 4.2.
- 4.2 Ineligible Expenses** – The following may not be an Eligible Expense:
- (a) expenses identified as ineligible in the Program Terms and Conditions;
  - (b) expenses funded 100% through any other federal, provincial, or municipal government grants, programs or projects; and
  - (c) any other expense deemed by the Minister not to be an Eligible Expense.
- 4.3 Calculation of Eligible Expense** - Eligible Expenses shall be calculated based on the actual out-of-pocket cost to the Eligible Applicant (i.e. cost of the Eligible Expense less any rebates, discounts, incentives and/or credits, whether provided at the time of purchase or at a later date).
- 4.4 Determination and Approval of Eligible Expenses** – The Minister has the sole discretion to determine whether a claimed expense is an Eligible Expense, and may determine the amount of an Eligible Expense where:

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- (a) the Minister considers the amount of any Eligible Expense claimed by the Eligible Applicant to be unreasonable or not reflective of actual out-of-pocket cost; or
  - (b) the Eligible Applicant fails to establish the amount of an Eligible Expense to the satisfaction of the Minister.

**4.5 No Duplicate Payment** - The activities within an Eligible Activity and Eligible Expenses qualify only once for payment under the Program and under Sustainable CAP.

## 5. PAYMENTS

**5.1 Reimbursement** - Grant payments will be made on a reimbursement basis based on the Eligible Expenses incurred and claimed by the Applicant and approved by the Minister during the Project Term.

**5.2 Submission of Claims** - The Eligible Applicant must submit its claims for reimbursement, by the dates indicated in Project Work Table, with its Final Report, by submitting:

- (a) a completed Reimbursement Claim Form with copies of all documentation (eg. invoices, receipts, proof of payments, or other supporting documentation) necessary to establish, to the satisfaction of the Minister, that the Eligible Applicant was invoiced and paid all Eligible Expenses claimed; and
- (b) any supplementary documentation requested by the Minister.

Claims in respect of cash payments will not be accepted unless accompanied by an official company voucher and proof of payment.


**5.3 Supporting Documents** - Examples of acceptable documentation include invoices in the Eligible Applicant's name, and proof of payment. The Eligible Applicant must provide any other documentation that the Minister requires to be satisfied that the claimed expenses are Eligible Expenses. All items on an invoice submitted by the Eligible Applicant must be listed separately, and the cost for each Eligible Expense must be clearly identified.

**5.4 No Assignment or Deferral** - Eligible Applicants cannot assign or defer any payment under the Agreement.

## 6. REPORTING, INSPECTION, AND AUDITS

**6.1 Final Report** – The Eligible Applicant shall submit a Final Report for each activity listed in the Project Work Table, to the Minister's satisfaction, by the date stated in Approval Letter or within 30 days after the termination of this Agreement. The Final Report must include:

- (a) the claims documentation described at section 5.2;
- (b) a completed final report form;
- (c) any other information requested by the Minister.

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- (d) if it is the last Final Report due under the Agreement, a copy of the Eligible Applicant's valid and current EFP Approval, if the Eligible Applicant did not submit it with their Application.

**6.2 Reviews and Additional Information** – The Minister may request, and the Eligible Applicant shall provide in a timely manner:


- (a) reviews, assessments or further reports prepared by the Eligible Applicant's auditors regarding Status Reports or the Final Report; and
- (b) additional information about any matter in a Final Report.

**6.3 Disclosure of Information** - The Eligible Applicant consents to the Minister releasing any information contained in the Application, Reimbursement Claim Form, or Final Report, or related to it, to any other government department, agency or other body for the purposes of verifying the Eligible Applicant's eligibility for this Program or its eligibility for payment under this Agreement. The Eligible Applicant expressly authorizes the Minister to obtain information from any government department, agency or other body to verify their eligibility for this Program or their eligibility for payment under this Agreement.

**6.4 Financial Records** – From the Effective Date until six (6) years after the Project Term, the Eligible Applicant shall keep proper books, accounts, and records for the Eligible Activity, in accordance with generally accepted accounting principles.

**6.5 Audit and Evaluation** – From the Effective Date until six (6) years after the Project Term, the Eligible Applicant shall allow the Minister or the Auditor General of Alberta to audit and evaluate the Eligible Activity or the Eligible Applicant's compliance with this Agreement. The Eligible Applicant shall allow such personnel to examine its business operations and to review all records, books of account, income tax returns, databases, invoices, audit and evaluation reports and other information in relation to the Eligible Activity as necessary for this purpose. If the Eligible Applicant fails to provide such access or any required information within a reasonable time on reasonable notice, as determined by the Minister, the Eligible Applicant may be required to refund some or all of the Grant, as well as forfeit any future payments of the Grant.

**6.6 Inspection** - From the Effective Date until six (6) years after the Project Term, the Minister or the Auditor General Alberta may, at reasonable times and upon reasonable notice, attend the business operation of the Eligible Applicant for the purpose of examining any records or other items pertinent to the Eligible Activity in order to assess whether the Eligible Applicant is in compliance with this Agreement. If the Eligible Applicant fails to provide such access or any required information within a reasonable time on reasonable notice, as determined by the Minister, the Eligible Applicant may be required to refund some or all of the Grant, as well as forfeit any future payments of the Grant.

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- 6.7 Eligible Applicant Cooperation** - The Eligible Applicant shall cooperate with the Minister in the completion of any verification, audit, evaluation or inspection of the Eligible Activity or of the Grant.
- 6.8 Repayment** – The Eligible Applicant must repay, by the date specified by the Minister, all amounts of the Grant that the Minister determines (whether through an inspection, audit, evaluation or other process) to have been paid in respect of an expense that is not an Eligible Expense.

## 7. REPRESENTATIONS AND WARRANTIES

- 7.1 Representations and Warranties** - The Eligible Applicant represents and warrants:
- (a) no application has been made for the same Eligible Activity by any other person, including without limitation, a person who is not arms-length or a related person as defined by the Income Tax Act (Canada) or by a shareholder, member or partner who is actively carrying on farming or business on behalf of a corporation;
  - (b) the Eligible Applicant has the necessary financial resources to complete the Eligible Activity;
  - (c) the Eligible Applicant has made full, true and plain disclosure to the Minister of all facts relating to the Eligible Activity that are material to this Agreement, including without limitation all sources of funding from federal, provincial and municipal governments;
  - (d) no member of the House of Commons or the Senate shall derive any financial advantage from the Grant that would not be permitted under the *Parliament of Canada Act*;
  - (e) no current or former federal public office holder or federal public servant to whom the *Conflict of Interest Act* (Canada), the Conflict of Interest Code for Members of the House of Commons, or the Values and Ethics Code for the Public Sector and the Policy on Conflict of Interest and Post-Employment applies shall derive any advantage or benefit from the Grant unless the provision or receipt of such advantage or benefit is in compliance with such legislation, codes and policies;
  - (f) any person lobbying, as that term is defined in the Lobbyists Registration Act (Canada), on the Eligible Applicant's behalf is registered pursuant to that Act;
  - (g) the Eligible Applicant is not aware of any discussions to effect a sale, transfer, assignment or pledge of interest which would result in a change of the control of the Eligible Applicant or of the disposition of all or substantially all the assets of the Eligible Applicant;
  - (h) the Agreement will constitute a binding legal obligation of the Eligible Applicant;
  - (i) the Eligible Applicant has the power and authority and all necessary licenses and permits to own and operate their properties and carry on its operations, and to conduct its Eligible Activity, to enter into this Agreement, and to perform its obligations under this Agreement;
  - (j) there is presently no action, suit, or proceeding being brought or pending or

threatened against or affecting the Eligible Applicant which could affect their ability to complete the Eligible Activity;

- (k) the Eligible Applicant is in compliance with all laws, orders, and authorizations which relate to or affect it and is not subject to any order of any court or other tribunal affecting their ability to conduct their Eligible Activity;
- (l) the Eligible Applicant is bound by the Agreement, and in the case of a partnership, binds the partners to the Agreement on the basis of joint and several liability.

**7.2 Change in Control** - From the Effective Date until three (3) years after the end of the Project Term, the Eligible Applicant shall not, without the prior written consent of the Minister, cause or suffer to exist any sale, transfer, assignment or pledge of interest which would result in a change of control of the Eligible Applicant, or of the disposition of all or substantially all of the assets of the Eligible Applicant.


## 8. DEFAULT, TERMINATION, AND REPAYMENTS

**8.1 Event of Default** – The occurrence of any one or more of the following, as determined in the Minister’s discretion, shall constitute an event of default (“**Event of Default**”):

- (a) The Eligible Applicant or the Eligible Activity do not meet the eligibility criteria in the Program Terms and Conditions;
- (b) The Eligible Applicant fails to provide a copy of the valid and current EFP Approval with its Final Report, where required under section 3.2;
- (c) the Eligible Applicant fails to repay an amount due under section 2.2 or 6.8 by the date specified by the Minister;
- (d) the Eligible Applicant fails to make satisfactory progress on the Eligible Activity over a consecutive two month period during the Project Term;
- (e) the Eligible Applicant ceases to carry out the Eligible Activity during the Project Term;
- (f) the Eligible Applicant fails to comply with any of their obligations under this Agreement;
- (g) the Eligible Applicant provides false or misleading information to the Minister;
- (h) during the Project Term, the Eligible Applicant becomes insolvent or ceases to carry on their operations, or a resolution is passed or an application is made for winding up, dissolution, liquidation or amalgamation of the Eligible Applicant.

**8.2 Consequences of Default** – In an Event of Default, the Minister shall give written notice to the Eligible Applicant, specifying the period of time within which the Eligible Applicant must cure the Event of Default. The Eligible Applicant shall diligently work to remedy the default after receiving the notice. If the Eligible Applicant does not cure the Event of Default to the Minister’s satisfaction, the Minister may do one or more of the following, without prejudice to the Minister’s right to seek other remedies at law or equity:



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- (a) require that the Eligible Applicant immediately repay to the Minister all or part of the Grant; or
  - (b) terminate this Agreement.

**8.3 Termination** – In addition to termination under section 8.2(b), this Agreement may be terminated:

- (a) by the Minister, without cause, by giving fourteen (14) days written notice to the Recipient;
- (b) by the mutual written consent of the parties.

**8.4 Action on Termination** – On termination of this Agreement pursuant to section 8.2 or 8.3, the Minister may, in the Minister's sole discretion, require the Eligible Applicant to provide an accounting of the Grant, with or without an audit report.

**8.5 Repayments** - The Eligible Applicant shall pay, by the date specified by the Minister, the amounts due under this Agreement to the Finance Minister, by the dates set by the Minister. An amount repayable by the Eligible Applicant under this Agreement is a debt due to and recoverable by the Provincial Crown.

**8.6 Right of Set-Off** – The Minister may set-off against any other grant or amount payable to the Eligible Applicant under any programs administered within Alberta Agriculture and Irrigation any amounts that become repayable by the Eligible Applicant under this Agreement.

**8.7 Right to Deduct** – The Minister may deduct from the Grant any amount owed to the Provincial Crown or Federal Minister.

## 9. COMMUNICATIONS AND DISCLOSURE OF INFORMATION


**9.1 Announcements** – The Eligible Applicant shall not make any public announcement regarding the entering into of this Agreement except in consultation with the Minister, and with the approval of the Minister as to the content of the announcement.

**9.2 Approval of Communication** – Communications and communication materials related to the Agreement must be approved by the Minister.

**9.3 Communication Materials** – The Eligible Applicant shall adhere to the Sustainable CAP communication standards as amended for all communications related activities related to the Eligible Activity, by ensuring

- (a) The Sustainable CAP graphic standard, the official mark “Alberta”, and the official mark “Canada” are applied and represented in this order; and
- (b) The official mark Canada and official mark Alberta are identified equally.

Electronic copies of the Sustainable CAP graphic standard, the official mark “Alberta” and the official mark “Canada” may be obtained from the Minister



upon request.

- 9.4 Disclosure of Agreement** – The Eligible Applicant acknowledges and agrees that Minister may disclose this Agreement and its contents by any means chosen by the Minister, including by tabling it before the Legislature. The Eligible Applicant further acknowledges and agrees that the Minister will publicly disclose the following information relating to the Agreement in accordance with the *Fiscal Planning and Transparency Act*: grant recipient name, amount of the grant, the program under which the grant is paid, and the payment date. The Eligible Applicant also acknowledges and agrees that the Federal Minister is authorized to publicly release the grant recipient's name, the amount of the grant, and the program the grant is paid under.
- 9.5 Freedom of Information and Protection of Privacy Act** - Information and records maintained by the Minister relating to the Agreement are subject to the *Freedom of Information and Protection of Privacy Act (Alberta)*. This Act allows any person a right of access to records in the custody or under the control of a public body, subject to limited and specific exceptions.

## 10. INTELLECTUAL PROPERTY

- 10.1 Non-Commercial Use by Minister** – Although the Minister is not intended to have ownership of copyright or any other intellectual property generated by the Eligible Applicant in the course of carrying out the Eligible Activity, the Minister shall be entitled to make such non-commercial use of any intellectual property delivered in the Eligible Applicant's reporting as it sees fit (including excerpts therefrom), and the Eligible Applicant shall, upon request, provide to the Minister any specific licenses or authorizations as may be required, including if necessary, the supply of waivers of moral rights as may be required for the use of excerpts from the intellectual property.

## 11. NOTICES

- 11.1 Notices** – All notices or documents required or permitted to be given or submitted by one party to the other under the Agreement shall be deemed given or submitted to the other party if in writing and either personally delivered, sent by registered mail or sent by e-mail to the party at the addresses stated in the Approval Letter. A party may change its contact information by giving notice to the other in the above manner. Notices are effective as follows:
- (a) If sent by personal delivery, with proof of delivery;
  - (b) If sent by registered mail, with proof of receipt;
  - (c) If sent by ordinary mail, seven (7) calendar days after the date on which the notice was mailed; or
  - (d) If sent by e-mail, effective on receipt by the recipient.

Notices or documents may be delivered by e-mail if the notice or document is sent to the designate specified at the specified address, and the electronic agent receiving the document or notice at that address receives the notice or document in a form that is usable for subsequent reference, and the sending

electronic agent obtains or receives a confirmation that the transmission to the address of the person to be served was successfully completed.

## 12. GENERAL

**12.1 Amendment** – During the Project Term, the Eligible Applicant may request that:

- (a) activities described in the Project Work Table be removed;
- (b) Eligible Expenses listed in the Project Work Table be removed; or
- (c) the Project Term be changed

by submitting a written request to the Minister outlining and justifying the proposed amendments. If the Minister approves a proposed amendment, the Minister will enter into an amending agreement with the Eligible Applicant. The Minister is not required to approve any proposed amendment.

**12.2 Waiver** – The Agreement may be amended in writing signed by duly authorized representatives of each party. Any waiver by any party of the performance by another of an obligation under the Agreement must be in writing, and such waiver does not constitute a continuing waiver of the performance of that obligation unless a contrary intention is expressed otherwise.

**12.3 Assignment** - The Eligible Applicant may not assign the Agreement or any right or benefit under it.

**12.4 Survival** - Despite any other provision of the Agreement, those sections which by their nature continue after the termination of the Agreement shall continue after such termination.