

RESEARCH AGREEMENT
(PRODUCTIVITY AND INNOVATION VOUCHER PROGRAM)

This Research Agreement (the "Agreement") is made this **DAY** day of **MONTH YEAR** (the "Effective Date").

BETWEEN:

DALHOUSIE UNIVERSITY, a university with its principal place of business at 6299 South Street, PO Box 15000 Halifax, Nova Scotia, B3H 4R2, Canada ("Dalhousie")

- AND -

COMPANY., a body corporate, incorporated under the laws of **Jurisdiction** with its registered office at **Company Complete Address** (the "Company")

(hereinafter referred to individually as "Party" and collectively as "Parties")

In consideration for Dalhousie completing the work described in Schedule "A", and further refined in Schedule "C" (the "**Work**"), the undersigned (the "**Company**") agrees as follows:

1. In this Agreement,
 - a) "**Background Intellectual Property**" means all Intellectual Property owned by Dalhousie or its faculty members or in the possession of Dalhousie or its faculty members prior to the execution of this Agreement and used by Dalhousie or its faculty members in the performance of the Work;
 - b) "**Deliverables**" means the deliverables described in Schedule "C", and for clarity, excludes Background Intellectual Property;
 - c) "**Foreground Intellectual Property**" means all Intellectual Property that is discovered, created or reduced to practice in the performance of the Work and for clarity, excludes Background Intellectual Property; and
 - d) "**Intellectual Property**" means all intellectual property, including technical information, know-how, models, drawings, specifications, prototypes, inventions and software and all rights therein, including any industrial and/or intellectual property rights and all other such rights as recognized at law, and whether or not statutorily protected or capable of being protected under statute, including without limitation, patents, copyrights, industrial designs, trade-marks, and any registrations or applications for the same and all other rights of intellectual property therein, including any rights in trade secrets or confidential information.

2. The Work will be performed under the technical authority and responsibility of the

researcher as stated in Schedule “C” (the “**Researcher**”).

3. Dalhousie will provide the Deliverables upon completion of the Work.
4. The Productivity and Innovation Voucher Program (“**Voucher**”) will be attached to this Agreement as Schedule “B”.
5. The parties agree that the cost of the Work is as set out in Schedule “C”. If this amount is greater than the amount of the Voucher, the Company agrees to pay Dalhousie the excess amount, if any, between such cost of the Work and the Voucher amount. Such amounts, if any are due immediately upon completion of the Work. Cheques should be made payable to “Dalhousie University”.
6. Either party may terminate this Agreement by giving 5 days written notice to the other. The Company shall pay and/or authorize payment via Voucher to Dalhousie all expenses incurred and fees for services provided up to the termination date, and for commitments made by Dalhousie related to the provision of services for which Dalhousie is financially responsible.
7. The parties agree to the confidentiality terms set out in Schedule “D”. The confidentiality terms set out in Schedule “D” supersede and replace any and all prior written agreements and oral communications regarding confidentiality pertaining to the Work.
8. Notwithstanding anything contained in this Agreement, all Background Intellectual Property shall continue to be the exclusive property of Dalhousie or its faculty members.
9. The Deliverables shall be or become the sole property of the Company. If the Work results in Foreground Intellectual Property, the Company and the Researcher, or the Company and Dalhousie and the Researcher, may agree to execute such further documents agreed to among the parties to assign such Foreground Intellectual Property to the Company.
10. Dalhousie and the Researcher shall retain the right to use the Deliverables and any Foreground Intellectual Property for research and educational purposes, subject to confidentiality requirements set out in Section 7 above.
11. **THE COMPANY UNDERSTANDS AND AGREES THAT THE ANALYTICAL RESULTS CONTAINED IN THE REPORT AND/OR OTHER DELIVERABLES ARE PROVIDED WITHOUT CONDITION, REPRESENTATION, WARRANTY OR AGREEMENT OF ANY KIND, WHETHER DIRECT, INDIRECT, COLLATERAL, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE OWNERSHIP, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
12. **DALHOUSIE, INCLUDING ITS OFFICERS, DIRECTORS, MEMBERS OF BOARD OF GOVERNORS, MEMBERS OF SENATE, EMPLOYEES, STUDENTS AND AGENTS, SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES SUFFERED BY THE COMPANY, OR ANY OTHER DAMAGES SUFFERED BY THE COMPANY, OR ANY OTHERS, FROM THE USE OF THE DATA,**

RESULTS AND/OR OTHER DELIVERABLES OF THE WORK.

13. This agreement shall commence on the date of the last signature below (the “**Effective Date**”), and expire on **March 15, 2022**, unless terminated earlier in accordance with Article 6 above.
14. The parties agree to the follow general terms:
- a) **Governing Law.** This Agreement is governed by and interpreted in accordance with the laws of the Province of Nova Scotia and the federal laws of Canada as applicable herein. For the purposes of all legal proceedings, this Agreement shall be deemed to have been performed in the Province of Nova Scotia and the courts of the Province of Nova Scotia shall have the exclusive jurisdiction to entertain any action arising under this Agreement. Each Party hereto hereby irrevocably attorns to the jurisdiction of the courts of the Province of Nova Scotia.
 - b) **Amendments.** No supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by the parties.
 - c) **Counterparts.** This Agreement may be executed in counterpart by the Parties, either through original copies or by facsimile or electronically each of which will be deemed an original and all of which will constitute the same instrument.
 - d) **Enurement.** This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective heirs, executors, administrators, legal and personal representatives, successors and permitted assigns.
 - e) **Entire Agreement.** This Agreement constitutes the complete and entire agreement of the parties and supersedes all previous communications, oral or written, and all other communications between them relating to the subject matter of this Agreement. The appendices form part of this Agreement and are incorporated by reference herein.
 - f) **Waiver.** No failure or delay by the Disclosing Party in exercising any right hereunder shall operate as a waiver hereof, or shall estop the Disclosing Party from obtaining permanent injunctive relief. The waiver by either party of a breach of any provisions of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by such party.
 - g) **Assignment.** This Agreement may not be assigned by either party hereto to any third party without the prior written consent of the other party hereto.

We agree to abide by the terms of this Agreement.

DALHOUSIE UNIVERSITY**COMPANY**

Per: _____
Stephen Hartlen
Assistant Vice-President, Industry Relations

Per: _____
Name:
Title:

Date: _____

Date: _____

In performing the Work I, the undersigned Researcher, acknowledge that I have read, understood and agree to comply with all requirements and obligations placed on Dalhousie University as set out in this Agreement.

RESEARCHER

Per: _____
Name:
Title:

Date: _____

SCHEDULE "A"
PRODUCTIVITY AND INNOVATION VOUCHER REQUEST

Attached.

SAMPLE

SCHEDULE "B"
PRODUCTIVITY AND INNOVATION VOUCHER

Attached.

SAMPLE

**SCHEDULE "C"
RESEARCHER RESPONSE TO PRODUCTIVITY AND
INNOVATION VOUCHER REQUEST**

Attached.

SAMPLE

SCHEDULE "D" MUTUAL NON-DISCLOSURE AGREEMENT

This Schedule "D" to the Agreement for Innovation and Productivity Voucher Project between Dalhousie and the Company (the "**Agreement**") provides the terms and conditions under which a disclosure or communication of certain confidential or proprietary information is made by one Party, including its employees, students or representatives, (the "**Disclosing Party**") to the other Party, including its employees, students or representatives, (the "**Receiving Party**") in connection with the Work as defined in the Agreement (the "**Authorized Purpose**").

1. Definitions. In this Schedule, the following terms shall have the meanings as set out below:

- a) "**Confidential Information**" means any and all information directly or indirectly related to the performance of the Work, disclosed orally or in writing to the Receiving Party by the Disclosing Party or gathered by the Receiving Party from inspection of any property, activities or facilities of the Disclosing Party, regardless of whether the information is specifically identified or marked as "Confidential", in all forms and however fixed, stored, expressed or embodied, including but not limited to:
- i. discoveries, inventions, intellectual property, technical data, materials, biological materials, equipment, routes of synthesis, compounds, formulations, techniques, methodologies, assay systems, formulae, procedures, tests, products and product information, substances, organisms, technology, research results or plans, processes, scientific knowledge, know-how, reports, descriptions, drawings, specifications, designs, compositions, strategies, trade secrets, pre-clinical and clinical studies, patent positioning, information concerning the existence, scope or activities of any research, development, manufacturing, marketing, market opportunities, or other projects;
 - ii. sources of supply, relationships with consultants and employees, business operations, business plans and business developments and other business and financial information;
 - iii. any other confidential information about suppliers, licensors, licensees, partners, affiliates, customers, potential customers or others; and
 - iv. information, data, records, protocols, specimens, final reports, methodologies, modifications, innovations, improvements, writings, documentation, software, or techniques developed or generated within the framework of this Agreement;

All other capitalized terms not defined above are as defined in the body of this Schedule.

2. Information Not Subject to Confidentiality. The obligations set forth in this Agreement shall not in any way restrict or impair the right of the Receiving Party, to the extent permitted by law (such as privacy laws), to disclose or use in any way information which the Receiving Party can demonstrate:

- i. was in the knowledge, possession or control of the Receiving Party prior to its

disclosure by the Disclosing Party;

- ii. was generally available to the public prior to disclosure by the Disclosing Party, or becomes generally available to the public through no fault of the Receiving Party;
- iii. is developed independently by the Receiving Party as a result of the operations or activities of the Receiving Party, but only to the extent such information does not include or incorporate other Confidential Information; or
- iv. is obtained from a source other than the Disclosing Party without breach of any confidentiality obligation.

3. Legally Required Disclosures. The obligations set forth in this Agreement shall not in any way restrict or impair the right of the Receiving Party to disclose or use in any way information which is disclosed pursuant to law, regulation or lawful order or process (collectively “**Requirements**”). If the Receiving Party becomes compelled to disclose any Confidential Information of the Disclosing Party pursuant to any Requirement, the Receiving Party shall provide the Disclosing Party with prompt notice of any such Requirement and shall reasonably cooperate with the Disclosing Party in seeking to obtain any protective order or other arrangement pursuant to which the confidentiality of the Confidential Information is preserved. If such an order or arrangement is not obtained, the Receiving Party shall disclose only that portion of the Confidential Information as is required pursuant to such Requirements. Any such required disclosure shall not, in and of itself, change the status of the disclosed information as Confidential Information under the terms of this Agreement. The Company hereby acknowledges that Dalhousie is a public university subject to the public’s right to access information under the *Freedom of Information and Protection of Privacy Act (Nova Scotia)*.

4. Designated Representatives. The designated representatives of Dalhousie and the Company (the “**Representatives**”) are the individuals who signed the Agreement. The Representatives are the individuals to whom notices under this Agreement shall be sent. Any notice shall be given in writing by registered mail or delivered personally.

5. Restrictions on Use and Disclosure of Confidential Information. Except as otherwise provided for herein, or as may be authorized from time-to-time in writing by the Disclosing Party prior to such disclosure, the Receiving Party shall not:

- a) use or reproduce Confidential Information for any purpose except as required to accomplish the Authorized Purpose; or
- b) disclose Confidential Information to any person or individual other than to its employees, students or representatives who have a need to know and who are bound by confidentiality obligations substantially similar to those herein,

6. Personal Information.

- a) The Parties agree that no information about an identifiable individual (“**Personal Information**”) shall be disclosed under this Agreement unless it is disclosed in

accordance with all applicable privacy policies, procedures and guidelines of Dalhousie including, without limitation, the Dalhousie's *Policy for the Protection of Personal Information from Access Outside Canada*, and in compliance with all applicable privacy legislation including, without limitation, the *Freedom of Information and Protection of Privacy Act* (Nova Scotia), the *Personal Information International Disclosure Protection Act* (Nova Scotia), the *Personal Health Information Act*, and the *Personal Information Protection and Electronic Documents Act* (Canada) (collectively, the "Privacy Laws").

- b) In the event Personal Information is disclosed pursuant to subsection 6(a), the Receiving Party shall satisfy and comply with all Privacy Laws including, without limitation, protecting the Personal Information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, and prohibiting access and/or storage of Personal Information outside of Canada.
7. **Jointly Created Confidential Information.** Any Confidential Information created jointly by the Parties shall be included in the definition of Confidential Information and shall be jointly owned by the Parties unless otherwise agreed to in writing.
8. **No Warranty.** The Disclosing Party provides information on an "AS IS" basis, without warranty, representation or conditions of any kind as to its accuracy, completeness, operability, fitness for particular purpose, non-infringement of third-party intellectual property rights or any other warranty, express or implied. **THE DISCLOSING PARTY WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGES ARISING OUT OF THE USE OF CONFIDENTIAL INFORMATION.** Disclosure of information containing business plans is for planning purposes only and the Disclosing Party may change or cancel its plans at any time. The use of such information is at the Receiving Party's own risk.
9. **Security.** The Receiving Party shall protect the Confidential Information against unauthorized disclosure, or use for any purpose other than the Authorized Purpose, using the same degree of care, but no less than a reasonable degree of care, as it uses to protect its own Confidential Information.
10. **Restrictions.** The Receiving Party may not reverse engineer, decompile or disassemble any products or technology disclosed to the Receiving Party, except in connection with the Authorized Purpose, if applicable.
11. **Co-Mingling.** The Receiving Party agrees to, where reasonably possible, segregate all Confidential Information from the confidential information of others in order to prevent co-mingling (or in such a way as to allow any co-mingling to be reversed) and in a manner sufficient to ensure that Confidential Information is easily retrievable and identifiable as belonging to the Disclosing Party.
12. **Notice of Unauthorized Disclosure.** The Receiving Party shall notify the Disclosing Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement by the Receiving Party, and will cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use.

- 13. Return of Confidential Information.** Upon receipt of a written request from the Disclosing Party following termination or expiration of this Agreement, the Receiving Party shall return to the Disclosing Party all originals, copies, reproductions and summaries of all tangible Confidential Information in its possession or under its control, and shall destroy all Confidential Information in a non-deliverable form, including without limitation the deletion of all documentation, information or data from its system, files, etc., and provide certificates to the Disclosing Party confirming such destruction. Notwithstanding the foregoing, the Receiving Party may retain one copy of the Confidential Information in a secure location as a record of its obligations under this Agreement, but shall have no further right to use the Confidential Information.
- 14. Injunctive Relief.** The Parties acknowledge that any violation of any of the provisions of this Agreement may result in immediate and irreparable damage for which monetary damages may not be a sufficient remedy and agree that in the event of such violation, the Disclosing Party shall be entitled, without waiving any other rights or remedies, to seek such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction, without the necessity of proving actual damages.
- 15. Ownership.** Except as otherwise stated in the Agreement, the Disclosing Party shall retain ownership of all rights, including all intellectual property rights, in its Confidential Information. Neither the execution of this Agreement, nor the furnishing of any Confidential Information by the Disclosing Party shall be construed as granting to the Receiving Party, either by implication otherwise, any interest, license or right respecting the Confidential Information, including without limitation, any intellectual property right therein, now or hereinafter owned or controlled by the Disclosing Party, other than as expressly provided for in this Agreement.
- 16. Export Controls.** Neither party shall provide any Confidential Information to the other Party which contains any technology, information, product, technical data or software subject to export control laws of any country.
- 17. Term of Confidentiality.** Unless otherwise agreed to in writing, the Receiving Party shall not have any obligations of confidentiality under this Agreement after 1 year from the Effective Date (as defined in the Agreement), provided that the Receiving Party remains in compliance with all laws protecting Personal Information.

By signing the Agreement, the Parties agree to be bound by the terms of this Schedule "D" as of the Effective Date (as defined in the Agreement).