DALHOUSIE UNIVERSITY

RESEARCH AGREEMENT
(PRODUCTIVITY AND INNOVATION VOUCHER PROGRAM)

This Research Agreement (the "**Agreement**") is made this 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 Insert full address of Company (the "**Company**")

(Dalhousie and Company are hereinafter referred to individually as "Party" and jointly as "Parties")

In consideration for Dalhousie undertaking the work described in Schedule "B" (the "**Work**"), the Company agrees as follows:

1. In this Agreement,

   a) "**Background Intellectual Property**" means the Company Background Intellectual Property and/or Dalhousie Background Intellectual Property as appropriate in the context; "**Company Background Intellectual Property**" means all Intellectual Property owned, licensed or in the possession of Company prior to the Effective Date of this Agreement, which Intellectual Property may be provided to Dalhousie for use in the performance of the Work; "**Dalhousie Background Intellectual Property**" means all Intellectual Property owned by Dalhousie, its faculty members or the Researcher or in the possession of Dalhousie, its faculty members or the Researcher prior to the Effective Date 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 "B", and for clarity, excludes Background Intellectual Property;

   c) "**Foreground Intellectual Property**" means all Intellectual Property that is discovered, created, invented, 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

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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 "B" (the "**Researcher**").

3. No material change shall be made to any aspect of the Work or activities to be carried out in furtherance of the Work without the mutual consent of the Parties and prior written approval of Invest Nova Scotia (INS).

4. Dalhousie will provide the Deliverables upon completion of the Work.

5. The Productivity and Innovation Voucher Program ("**Voucher**") is attached to this Agreement as Schedule "A".

6. Parties agree that the cost of the Work is as set out in Schedule "B". If this amount is greater than the amount of the Voucher, the Company agrees to pay Dalhousie the difference of the excess amount between such cost of the Work and the Voucher amount. Such amounts, if any, are due and immediately payable upon completion of the Work. Cheques should be made payable to "Dalhousie University". Cheques should be forwarded to the Research Accounting Unit, Financial Services, Dalhousie University. In the alternative, the Sponsor shall make payments electronically into the designated account stated on the invoice received from Dalhousie and forward evidence of such payment remittance to the Research Accounting Unit, Financial Services at Dalhousie within thirty (30) days of payment.

7. Either Party may terminate this Agreement by giving 5 days prior written notice to the other Party. The Company shall pay and/or authorize payment via Voucher to Dalhousie of all expenses incurred and fees for services provided up until the termination date, and for commitments made by Dalhousie related to the provision of services for which Dalhousie is financially responsible. Subject to Dalhousie and Researcher's reservation of rights to use the Deliverables and any Foreground Intellectual Property as described in Section 12, in the event of termination prior to the completion of the Work, Dalhousie shall provide the partially complete Deliverables to the Company.

8. Company and/or Researcher shall not deviate from agreed budget, costs and scope of the Work without obtaining prior written approval from both Dalhousie and INS. Any changes to the Work must be expressly approved in writing by Dalhousie and consented to by INS. If the Company makes any changes to the Work outside the scope approved by INS in the Voucher attached as Schedule A, without prior written approval from both Dalhousie and INS, and such changes result in a partial or complete variation that prevents Dalhousie from recovering related fees, costs, or expenses from INS, the Company shall be fully responsible for and agrees to reimburse Dalhousie for all such unrecovered amounts.

9. Parties agree to the confidentiality terms set out in Schedule "C". These confidentiality terms supersede and replace any and all prior written agreements and oral

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communications regarding confidentiality pertaining to the Work. In the event of any conflict between the confidentiality terms and any provision of this Agreement, this Agreement shall prevail.

10. Notwithstanding anything contained in this Agreement, and subject only to the express rights granted in this Agreement, all Background Intellectual Property shall continue to be and remain the exclusive property of the Party that owns the Background Intellectual Property. In the case of Company Background Intellectual Property, Dalhousie and the Researcher shall only access and use such Background Intellectual Property on a non-exclusive, royalty-free, non-transferable basis to carry out the Work during the term of this Agreement. If any Dalhousie Background Intellectual Property is incorporated into any Deliverables, Company will receive a royalty-free, perpetual and unlimited license to use such Dalhousie Background Intellectual Property solely in connection with and only to the extent as is reasonably necessary to fully use and enjoy rights in the Deliverables.

11. The Deliverables and any Foreground Intellectual Property created, developed or arising therefrom shall be or become the sole property of the Company and to the extent any rights in the Foreground Intellectual Property or any Deliverables vest in Dalhousie, the Researcher or any other faculty members, on creation through operation of law or otherwise, Dalhousie shall assign such rights, title and interests to such Intellectual Property promptly to Company and agrees to execute all such documents as may be necessary or required by Company to perfect and fully enjoy rights in same.

12. Notwithstanding, the generality of the foregoing, Dalhousie and the Researcher shall retain the right to use the Deliverables and Foreground Intellectual Property for research and educational purposes, subject to confidentiality terms set out in Section 9 above and in Schedule C and the rights of Company to review (i) material from all reports intended to be submitted to or presented, and (ii) all other proposed publications or presentations. In relation to the right of the Company to review, the Company shall be furnished with copies of any proposed publications or presentations relating to this Agreement at least thirty (30) days in advance of publication or presentation. The Company shall have thirty (30) days after receipt of the proposed publication or presentation in which to issue a written request that the publication or the presentation be delayed on the basis that the publication or presentation would result in loss or impairment of rights to apply for patent or contains Company Confidential Information that requires proprietary protection. If the Company makes no such objection within the specified period, Dalhousie shall be free to proceed with the publication or presentation. In the event that a written objection is made, Parties shall negotiate an acceptable version of the proposed publication or presentation, including the release date, within the original thirty (30) day notice period.

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Disclaimer of Warranties

13. **THE COMPANY ACKNOWLEDGES AND AGREES THAT ALL ANALYTICAL RESULTS, REPORTS AND DELIVERABLES ARE PROVIDEDAS IS, WITHOUT ANY WARRANTY, REPRESENTATION, OR CONDITION OF ANY KIND WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. .**

Limitation of Liability

14. **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 AND OR ARISING FROM THE COMPANY'S, OR ANY THIRD PARTY'S USE OF THE DATA, RESULTS, OR DELIVERABLES ARISING FROM THE WORK**

Term and Project Timelines

15. This Agreement shall take effect on the Effective Date above stated and shall remain in force until (*insert expiry date*) ("**Expiry Date**"), unless terminated earlier in accordance with paragraph 7 above.

    15.1 The **Project Start Date** and **Project End Date** set out in Schedule B, respectively mark the commencement of the Work and conclusion of such activities.

    15.2 For greater clarity, notwithstanding the Expiry Date of the Agreement, all project-related expenses and financial documentation must be finalized and submitted by (**INSERT DEADLINE FOR SUBMISSION**) and in any event, no later than **seven (7) days following the Project End Date**. Expenses submitted after this date shall not be eligible for reimbursement.

16. 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

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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.

BY SIGNING BELOW, the Parties agree to abide and be bound by the terms of this Agreement as of the Effective Date.

DALHOUSIE UNIVERSITY	**COMPANY**
Shelley Brown, Ph.D. Managing Director, Research Services	Name: Title:

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

Name:
Title:

Date: _____

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SCHEDULE “A”
PRODUCTIVITY AND INNOVATION VOUCHER

Attached.

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SCHEDULE "B"
PRODUCTIVITY AND INNOVATION VOUCHER SERVICE PROVIDER FORM

Attached.

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SCHEDULE "C"
MUTUAL NON-DISCLOSURE AGREEMENT

This Schedule "C" 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

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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

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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.

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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 “C” as of the Effective Date (as defined in the Agreement).

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