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COLLABORATION AGREEMENT

This Collaboration Agreement (the “**Agreement**”), dated and made effective as of _____, 20____ (the “**Effective Date**”), is by and between the following Parties (each a “**Party**” and collectively, the “**Parties**”):

Lead Recipient,

a corporation organized under the province of Ontario/federal laws of Canada,
with offices located at Full Address (“**Abbreviation of Lead**”)

and

Recipient 1,

a corporation organized under the province of Ontario/federal laws of Canada,
with offices located at Full Address (“**Abbreviation of Recipient 1**”)

and

Recipient 2,

a corporation organized under the province of Ontario/federal laws of Canada,
with offices located at Full Address (“**Abbreviation of Recipient 2**”)

WHEREAS:

- A. **Abbreviation of Lead** is an [insert brief synopsis of company];
- B. **Abbreviation of Recipient 1** is an [insert brief synopsis of company];
- C. **Abbreviation of Recipient 2** is an [insert brief synopsis of company];
- D. The Parties wish to collaborate on a project (the “**Project**”) to [describe collaboration purpose], as outlined in an application for funding to Next Generation Manufacturing Canada (“**NGen**”) dated _____, 20____ (the “**Proposal**”), and assigned NGen Project Reference # _____.
- E. As a condition to receiving such funding, NGen requires that the Parties enter into this Agreement, among other things to govern how the Parties will manage the Project and to establish the ownership and use of, and access to, any related intellectual property. NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS

1.1 For purposes of this Agreement, the following terms have the following meanings:

“Background IPR” (or **“BIPR”**) means the IPRs developed prior to the beginning of the Project, or otherwise developed independently of the Project, and required for the carrying out of the Project or for the exploitation of the FIPR.

“Confidential Information” means any information relating to a Party or its business that is of a confidential or proprietary nature and includes any information that due to the nature of its subject matter or circumstances surrounding its disclosure, would reasonably be understood to be non-public, confidential or proprietary, including: (i) information relating to the assets, business plans, customers, employees, equipment, financial statements and financial performance, intellectual property, inventory, market strategies, operations, pricing, products, suppliers, and trade secrets of the Party; and (ii) all analyses, compilations, records, data, reports, correspondence, memoranda, specifications, materials, applications, technical data, studies, derivative works, reproductions, copies, extracts, summaries or other documents containing or based upon, in whole or in part, any of the foregoing.

“Effective Date” has the meaning set forth on the first page of this Agreement.

“Financial Forecast” means the forecast attached as Schedule “D” to this Agreement.

“Final Report” means the report completed by the Lead Recipient and submitted within 3 months of the Project End Date in accordance with the Master Project Agreement.

“Foreground IPR” (or **“FIPR”**) means all Intellectual Property conceived, produced, developed or reduced to practice in carrying out the Project, by the Parties or any of their respective employees, agents, contractors or assignees, and all rights therein, but does not include BIPR as defined in this Agreement.

“Funding” means any funding from NGen in respect of the Project.

“Intellectual Property” (or **“IP”**) means all inventions, whether or not patented or patentable, all commercial and technical information, whether or not constituting trade secrets, and all copyrightable works, industrial designs, integrated circuit topographies, and distinguishing marks or guises, whether or not registered or registrable.

“Intellectual Property Right” (or **“IPR”**) means any common law principle or statutory provision which may provide a right in Intellectual Property.

“Lead Recipient” means [Abbreviation of Lead].

“Lead Recipient Project Manager” means the person appointed by [Abbreviation of Lead] in Section 3.8 of this Agreement (or their appointed successor) to lead the Project for the consortium, and who shall also serve as the main point of contact with NGen.

“Losses” means all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable legal fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“Master Project Agreement” (or **“MPA”**) means the agreement between NGen and each of the Recipients (or Project consortium members) which governs the Project funding, attached as Schedule “A” to this Agreement.

“NGen” has the meaning set forth in the preamble.

“NGen IP Strategy” has the meaning set forth in Section 10 of the MPA.

“Other Project Managers” means the persons appointed by [Abbreviation of Recipient 1] and [Abbreviation of Recipient 2], respectively, in Sections 3.9 and 3.10 of this Agreement (or their respective appointed successors), to serve as the main point of contact with the Lead Recipient Project Manager.

“Party” and **“Parties”** has the meaning set forth on the first page of this Agreement.

“Person” means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

“Project” has the meaning set forth in the preamble.

“Project Assets” means an asset which, in whole or in part, has been acquired, created, developed, advanced and/or contributed to by the Funding, but does not include FIPR.

“Project Plan” means the Project Plan attached as Schedule “B” to this Agreement, including the Milestone Register, Risk Register, and detailed plan for the Project breaking down the original Proposal for delivery of the Project into individual work packages with assigned estimates of the resources and timescales needed to achieve each of them.

“Project IP Plan” means the strategy attached as Schedule “C” to this Agreement.

“Project Start Date” has the meaning set forth in Section 3.4 of this Agreement.

“Project End Date” has the meaning set forth in Section 3.5 of this Agreement.

“Proposal” has the meaning set forth in the preamble.

“Recipient” means any one or more of the Parties that receives Funding.

“Term” means the period between the Effective Date and the Project End Date.

ARTICLE II PURPOSE

2.1 Purpose of Project. The purpose of the Project is [insert project purpose].

2.2 Reference to MPA.

(a) The Parties will carry out all Project activities in accordance with this Agreement and the Master Project Agreement.

(b) If there is any conflict between the terms of this Agreement and the Master Project Agreement, this Agreement will prevail in relation to the arrangements as between the Parties, but it will not affect the Parties' respective obligations to NGen under the Master Project Agreement.

(c) Words and phrases defined in the Master Project Agreement and not defined in this Agreement have the meaning given to them in the Master Project Agreement when used in this Agreement.

(d) Each of the Parties will:

(i) if it is a party to the Master Project Agreement, comply with its obligations under, and the conditions of, the Master Project Agreement; [SEP]

(ii) carry out the Project in accordance with the Master Project Agreement; and [SEP]

(iii) notify the other Parties immediately if it receives any notice or request from NGen.

ARTICLE III PROJECT PLAN OVERVIEW

3.1 Official Project Title: [insert title]

3.2 NGen Project Reference #: [insert number]

3.3 Project Scope: [insert scope; the boundaries of the project]

3.4 Project Start Date: [insert date]

3.5 Project End Date: [insert date]

3.6 Lead Recipient: [insert lead recipient]

3.7 Other Recipients: [insert other recipients]

3.8 Lead Recipient Project Manager: [insert name]

3.9 Recipient 1 Project Manager: [insert name]

3.10 Recipient 2 Project Manager: [insert name]

3.11 Definition of Project Success: Project success is defined by [insert requirement(s) of project success]

3.12 Project Plan: Each of the Parties will carry out the tasks allotted to it in the Project Plan, and will provide the human and other resources, information, data, techniques, know-how, inventions, software, materials, facilities and equipment which are designated as its responsibility in the Project Plan.

3.13 Use of Project Assets. Any Project Assets provided by one Party for use by another Party hereunder are provided “as is” without any warranties, express or implied. All right, title and interest in and to any Project Assets provided by a Party hereunder shall be, and remain, vested in the providing Party. The Parties shall maintain possession and control of the Project Assets in accordance with the requirements of the Master Project Agreement.

3.14 Direction and Supervision: The Project will be carried out at [insert the location] under the direction and supervision of the appointed Lead Recipient Project Manager. The project managers for each of the companies will report to the lead project manager on a weekly basis and the Lead Project Manger conducting the Project Monitoring requirements with NGen.

3.15 Progress Meetings: The Lead Recipient Project Manager and the Other Project Managers shall meet on a [i.e. weekly] basis during the Term to review the progress of the Project; [insert other meeting times if necessary].

ARTICLE IV CHANGES AND DECISION-MAKING

4.1 Management Committee. The Parties shall establish a management committee for the Project consisting of the Lead Recipient Project Manager and the Other Project Managers (collectively, the “**Management Committee**”).

4.2 Chairperson. The Lead Recipient Project Manager shall serve as the chairperson for the Management Committee and shall be responsible for calling and presiding over each meeting of the Management Committee, preparing and circulating an agenda for each such meeting, and preparing and circulating draft minutes of each such meeting for review and approval.

4.3 Voting. Each member of the Management Committee shall have one (1) vote in any matter requiring the Management Committee’s action or approval. All Management Committee decisions shall be unanimous, and no Management Committee vote may be taken unless all of the Management Committee members are present. The Management Committee shall make all decisions and take other actions in good faith and with due care, after consideration of the information that is reasonably available to it, with the intention that the resulting decision or action shall:

(a) not breach or conflict with any requirements or other provisions of this Agreement or the Master Project Agreement; and

(b) maintain or increase the likelihood that the Parties will achieve the purposes and goals of the Project.

4.4 NGen Notification. In accordance with Sections 4.4 and 6 of the MPA, the Lead Recipient Project Manager shall inform NGen in writing of:

(a) any cessation of work on the Project and of any event or circumstance likely to significantly affect the ability of the Project to deliver the objectives of the Project; and

(b) the occurrence of any of the events referred to in Section 6 of the MPA, including any material change to the Financial Forecast, or Project Plan,

and the Other Project Managers shall notify the Lead Recipient Project Manager in advance of any such changes to the Project to ensure compliance with Sections 4.4 and 6 of the MPA.

ARTICLE V CONFIDENTIALITY

5.1 Non-Disclosure and Non-Use. Without prejudice to any obligations of confidentiality in the Master Project Agreement and any information disclosures required to be made to NGen or the Government of Canada thereunder, and subject to Article VI of this Agreement, none of the Parties will during the Term disclose to any third party nor use for any purpose, except as expressly permitted by this Agreement, any other Party's Confidential Information.

5.2 Standard of Care. Each Party that receives (the "**Receiving Party**") any Confidential Information disclosed from another Party hereunder (the "**Disclosing Party**") shall use reasonable care, at least as protective as the care and efforts it uses for its own confidential information, to safeguard the Disclosing Party's Confidential Information from use or disclosure other than as permitted hereby.

5.3 Exceptions. If the Receiving Party becomes legally compelled to disclose any Confidential Information, the Receiving Party shall:

(a) provide prompt written notice to the Disclosing Party so that the Disclosing Party may seek a protective order or other appropriate remedy or waive its rights under Article VI; and

(b) disclose only the portion of Confidential Information that it is legally required to furnish.,

and if a protective order or other remedy is not obtained, or the Disclosing Party waives compliance under this Article V, the Receiving Party shall, at the Disclosing Party's expense, use reasonable efforts to obtain assurance that confidential treatment will be afforded the Confidential Information.

ARTICLE VI USE AND EXPLOITATION OF IP

[Edit at your discretion]

6.1 Adherence to NGen IP Strategy. The Parties shall adhere to the NGen IP Strategy as well as the Project IP Plan.

6.2 No Implied Ownership or License. Except as otherwise expressly provided in this Agreement, under no circumstances shall a Party, as a result of this Agreement or its collaboration on the Project, obtain any ownership interest or other right, license, title or interest in or to any other Intellectual Property or Confidential Information of any other Party, whether by implication, estoppel or otherwise, including any items controlled or developed by another Party, or delivered by another Party, at any time pursuant to this Agreement.

6.3 Cross-Licenses to Background IPR. Subject to the terms and conditions of this Agreement, each of the Parties hereby grants to the other Parties during the Term a royalty-free, non-exclusive, non-transferable and non-sublicensable license to access and use its Background IPR solely for the purposes of carrying out the Project, including the performance of their respective obligations under the Project Plan.

6.4 Disclosure of Foreground IPR. Each party shall disclose to the other Parties all Foreground IPR, including copies of all invention disclosures and other similar documents that disclose any conception or reduction to practice of any IP constituting Foreground IPR. A Party shall make all such disclosures to the other Parties at least thirty (30) days before any public disclosure of such Foreground IPR or any required submission to government agencies in compliance with the requirements of government supported research.

6.5 Ownership of Foreground IPR.

Choose a clause to determine Ownership of Foreground IPR that is applicable to the project. There are so many ways to do this, some examples are provided below, these options are not exhaustive and each party to the agreement should seek independent legal advice:

Sole Ownership to one party with licensing to other partners

Sole Ownership: Regardless of inventorship, and regardless of its relationship to any of the Parties' Background IPR, as between the Parties, [IP Owner] shall own all right, title, and interest in and to all Foreground IPR (hereafter the "IP Owner"). As the exclusive owner of such Foreground IPR, [IP Owner] shall have sole and unfettered discretion on all matters concerning: (i) the preparation, filing, prosecution and maintenance of all patent applications, amendments and other documents relating to the registration of any Foreground IP; and (ii) the enforcement of any Foreground IPR; and [IP Owner] shall be solely responsible for all costs and expenses relating to the preparation, filing and prosecution of any such patent applications, the maintenance of any resulting patents and the enforcement of any Foreground IPR.

Licensing Option: Upon completion of the Project, the [IP Owner] will maintain full ownership and carry out the commercialization of the [product/system/idea] and Foreground IP. The [Recipient(s)] can continue to use the [product/system/idea] and purchase additional [product/system/idea] for use through a license. Licensing and access to the Foreground IP to the [Recipient(s)] will be based on fair, reasonable and non-discriminatory terms. Any data contributed by the [Recipient(s)] is owned by the [Recipient(s)] and will only be used by the [IP Owner] for the purpose of improving [Recipient(s)] own [products/system/idea].

Option 2 Joint Ownership of all Foreground IP

Joint Ownership: Regardless of inventorship, and regardless of its relationship to any of the Parties' Background IPR, as between the Parties, the [Recipient] and the other [Recipient(s)] jointly own all right, title, and interest in and to all Foreground IPR (hereafter the “**Joint Owners**”). The Joint Owners shall have the collective and unfettered discretion on all matters concerning: (i) the preparation, filing, prosecution and maintenance of all patent applications, amendments and other documents relating to the registration of any Foreground IP; and (ii) the enforcement of any Foreground IPR; and the Joint Owners shall be [equally] responsible for all costs and expenses relating to the preparation, filing and prosecution of any such patent applications, the maintenance of any resulting patents and the enforcement of any Foreground IPR. [Insert cost breakdown for each Recipient if necessary].

Note: If there is a possibility of joint ownership of IP it is recommended to define what joint ownership is intended to mean, and what rights will be provided. Default joint ownership rights for patents vary by country.

Option 3 Joint Ownership with Holding Company

Joint Ownership with IP Holding Company: The [Recipient] and the other [Recipient(s)] jointly own all Foreground IPR created in the context of the project. All patent applications, amendments and other documents relating to the registration of any Foreground IP will be jointly filed. Based on patent business or commercial potential, the [Recipient] and the other [Recipient(s)] agree to assign all patent(s) and patent applications to a new incorporated IP holding company, if relevant justification to do so. All parties shall have a share of ownership in this new company and share of revenue from patent licensing, assignment or royalties, as per the percentages below:

Lead Recipient: **%

Recipient 1: **%

Recipient 2: **%

Option 4 Ownership by Technology/Background IP

[Lead Recipient] Background Intellectual Property. All rights to and interests in [Lead Recipient's] Background Intellectual Property shall remain the exclusive property of [Lead Recipient]. [Lead Recipient] grants [Recipient(s)] a limited, non-exclusive, royalty-free fully paid, non-transferable, sublicensable (to Affiliates only) license under and to use [Lead Recipient's] Background Intellectual Property solely to conduct the Activities and perform its obligations under this Agreement.

[Lead Recipient] Foreground Intellectual Property. [Lead Recipient] shall own [Lead Recipient's] Foreground Intellectual Property (*you should provide a definition of each Lead Recipient's IP - for example as related directly to the recipient background IP, or related to a particular technology, or a technology and market*). Subject to prior third party rights [Lead Recipient] grants [Recipient(s)] a limited, non-exclusive, non-transferable, sublicensable (to Affiliates only) license under [Lead Recipient's] Foreground Intellectual Property solely to conduct the Activities and perform its obligations under this Agreement. Licensing and access to the Foreground IP to the [Recipient(s)] will be based on fair, reasonable and non-discriminatory terms. Except for the license granted herein, [Recipient] hereby assigns to [Lead Recipient] all of their respective rights, title and interest in, to and under the [Lead Recipient's] Foreground Intellectual Property.

[Recipient] Background Intellectual Property. All rights to and interests in [Recipient's] Background Intellectual Property shall remain the exclusive property of [Recipient]. Subject to prior third party rights [Original Recipient] grants [Recipient(s)] a limited, non-exclusive, non-transferable, sublicensable (to Affiliates only) license under and to use [Recipient's] Background Intellectual Property solely to conduct the Activities and perform its obligations under this Agreement.

[Recipient] Foreground Intellectual Property. [Recipient] shall own [Recipient's] Foreground Intellectual Property (*you should provide a definition of each recipients IP- for example as related directly to the recipient background IP, or related to a particular technology or a technology and market*). Subject to prior third party rights [Original Recipient] grants [Recipient(s)] a non-exclusive, royalty free, sublicensable (to Affiliates only) license to such [Recipient's] Foreground Intellectual Property solely to conduct the Activities and perform its obligations under this Agreement. [Recipient(s)] hereby assign to [Original Recipient] all of their respective rights, title and interest in, to and under the [Recipient's] Foreground Intellectual Property.

Standard Operating Procedures. If the Recipient(s) elects to uses the standard operating procedures (“SOP”) of one of the other Recipients in the course of the Project or any Work Package, the Recipient that provided the SOP(s) shall be the sole owner of all modifications and improvements made to such SOP(s).

Overlapping Background Intellectual Property. In the event the Parties identify Foreground Intellectual Property which they believe is based on Overlapping Background Intellectual Property, such that it is uncertain which party should own any Intellectual Property that is based on, developed from or arises from such Overlapping Background Intellectual Property, the parties shall disclose the existence of overlapping technologies, which may include descriptions of the common elements, and determine whether such

overlap exists. In the event that an overlap does exist then those Parties will determine ownership of the Foreground Intellectual Property (which might be joint or sole) with the proviso that, if joint, each such Party will have a right to fully exploit without the need to account to the other subject to the other Party's Intellectual Property.

Any Intellectual Property that is developed in the course of performance of Activities under this Agreement which does not qualify as either [Recipient's] Foreground Intellectual Property, or [Lead Recipient's] Foreground Intellectual Property shall be owned by the party who invented it, in the event only one party invented such Intellectual Property, or jointly-owned by the parties who invented it with no obligations for each owner to account to the other for its exploitation, in the event more than one party invented such Intellectual Property.

Each Recipient shall advise all other Recipients of its intent to prepare and file patent applications concerning Foreground Intellectual Property and shall provide the other Recipients with copies of such draft applications at least [insert time frame] before filing with a national or regional patent office for review and comment. Any Recipient may require that all information that is or relates to its own Confidential Information, or, in the case of [Lead Recipient], be eliminated from such applications. Any disclosure under this subsection shall be treated as highly confidential information. Such information shall be kept confidential in accordance with Section **.

Each owner of Foreground Intellectual Property, in its sole discretion, is responsible for the filing, prosecution, maintenance, abandonment and enforcement of its Foreground Intellectual Property, as applicable. The owners of jointly-owned Foreground Intellectual Property will decide among themselves who is to be responsible for the filing, prosecution, maintenance, abandonment and enforcement of such jointly-owned Foreground Intellectual Property, as applicable.

The [Lead Recipient's] IP Plan is attached hereto as Schedule C. Schedule C expresses the reasonable intentions only of the [Recipient(s)] at the time of execution of this Agreement.

Note: Exploitation of the IP by other consortium members/recipients after the project has ended should be defined. If possible actual licensing terms or a provision promising negotiated access on fair, reasonable and non-discriminatory terms (FRAND) terms should be included, and at the bare minimum licensing/access for internal research purposes. See section 10.4.6.3 of the MPA below:

“10.4.6.3 Licensing and access to the FIPR which recognizes of the right of each Project Recipient to access, on fair, reasonable and non-discriminatory terms and subject to relevant competitive issues, all FIPR, for at least internal research and development purposes.”

First Right of Refusal – some options below

First Right of Refusal Draft 1: In the event that the [IP Owner] is not interested in exploiting the Foreground IP, [Recipient(s)] shall have a first right of refusal with respect to [pursuing the IP as a trade secret or patent filing]...In the event that [Recipient] elects not to exercise its rights under Section (6.5), [Recipient] may [sell to an offering party].

First Right of Refusal Draft 2: [IP Owner] will give the [Recipient(s)] first right of refusal to purchase or procure [Product] produced as a result of the Project before offering to other organizations within Canada or outside Canada.

First Right of Refusal Draft 3: [IP Owner] agrees to the [Recipient(s)] first right of refusal to work on their field of ‘expertise’ with [IP Owner] on all related contracts related to the IP created during this project. This right is exclusive for [insert time frame] after the Project End Date specified in the Master Plan Agreement.

First Right of Refusal Draft 4 Re: IP Holding Company: [IP Owner] agrees to give the [Recipient(s)] first right of refusal to license all or portions of the IP held by the new company for individual use.

Note: It is recommended to incorporate the Right to Use Acquired knowledge in combination with any above-mentioned clauses related to the project’s Background and Foreground IP:

Right to Use Acquired Knowledge: All Parties may use the general skills and learnings acquired during the performance of the Project and retained in the unaided memory of its Personnel for the performance of similar services, provided that each Party remains compliant with the obligations of Confidentiality set out in (*).

6.6 Licenses to Foreground IPR. Subject to the terms and conditions of this Agreement, [IP Owner] hereby grants to the other Parties during the Term a royalty-free, non-exclusive, non-transferable and non-sublicensable license to access and use the Foreground IPR solely for the purposes of carrying out the Project, including the performance of their respective obligations under the Project Plan.

6.7 Subsequent Access and Use of Foreground IPR. In accordance with Section 10 of the MPA, [IP Owner] acknowledges the rights of the other Parties to access all Foreground IPR after the completion of the Term on fair, reasonable and non-discriminatory (FRAND) terms, subject to relevant competitive issues, for at least internal research and development purposes, and [IP Owner] shall negotiate in good faith on such basis actual licensing terms in response to any requests from the other Parties for use and access of any Foreground IPR after the Term.

ARTICLE VII PUBLICATION

7.1 Publication Approval. [Lead Recipient and/or Recipient(s)] shall determine the strategy for, and coordinate, the publication and presentation of any results or other data generated by the Project pursuant to this Agreement. Notwithstanding the foregoing, a Party

shall not publish any information concerning any aspect of the Project without the approval of the other non-publishing Parties.

7.2 Proposed Publication. A publishing Party shall provide to the non-publishing Parties copies of any manuscript intended for publication or any presentation intended for public disclosure (including any oral disclosure made with or without obligation of confidentiality) by or on behalf of the publishing Party that incorporates any Confidential Information generated under this Agreement or that includes the Confidential Information of any non-publishing Party, at least [insert time frame] before the intended submission of any manuscript for publication or the public presentation. The non-publishing Parties shall use their commercially reasonable efforts to promptly return to the publishing Party the manuscript or presentation with any proposed changes aimed at ensuring the information is fairly stated, the confidentiality of any Confidential Information is maintained and the opportunity to obtain patent protection for any Foreground IPR is preserved. The publishing Party shall incorporate the non-publishing Parties' proposed changes to the manuscript or presentation.

7.3 Attribution. The publishing Party shall ensure that any manuscript or presentation incorporating any information concerning any aspect of the Project includes recognition of the contributions of the non-publishing Parties according to standard practice for assigning scientific credit, either through authorship or acknowledgement, as may be appropriate.

ARTICLE VIII MUTUAL REPRESENTATIONS AND WARRANTIES

8.1 Each Party represents and warrants to the other Parties that:

(a) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering;

(b) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder, and the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the party;

(c) when executed and delivered by the party, this Agreement shall constitute the legal, valid and binding obligation of that party, enforceable against that party in accordance with its terms;

(d) it has control (by ownership, license or otherwise) of the entire right, title, and interest in and to its Background IPR;

(e) it has, and throughout the Term, will retain the unconditional and irrevocable right, power and authority to grant the rights hereunder to its Background IPR pursuant to the terms of this Agreement;

(f) it has not granted and will not grant any licenses or other contingent or non-contingent right, title or interest under or relating to the Background IPR, or will not be under any obligation, that does or will conflict with or otherwise affect this Agreement, including any party's representations, warranties or obligations or rights or licenses hereunder; and

(g) it is under no obligation to any third party that would interfere with its representations, warranties or obligations under this Agreement.

ARTICLE IX WARRANTY DISCLAIMER

9.1 EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, EACH PARTY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE X INDEMNIFICATION

10.1 Indemnification Obligations. Each Party shall indemnify, defend and hold harmless each of the other Parties and its officers, directors, employees, agents, successors and assigns against all Losses arising out of or resulting from any third party claim, suit, action or proceeding (each an "**Action**") related to or arising out of or resulting from: (a) such Party's breach of any representation, warranty, covenant or obligation under this Agreement; or (b) use by a Party of its Background IPR in connection with any activities performed pursuant to the Project Plan.

10.2 Indemnification Procedure. The indemnitee shall promptly notify the indemnitor in writing of any Action and cooperate with the indemnitor at the indemnitor's sole cost and expense. Subject to Section 6.5, the indemnitor shall immediately take control of the defense and investigation of the Action and shall employ counsel of its choice to handle and defend the Action, at the indemnitor's sole cost and expense. The indemnitor shall not settle any Action in a manner that adversely affects the indemnitee's rights without the indemnitee's prior written consent, which shall not be unreasonably withheld or delayed. The indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

10.3 Project Costs and Expenses. Except as otherwise expressly provided in the Master Project Agreement or this Agreement, including the Project Plan, each Party is responsible for all of its own costs and expenses in performing its obligations under the Project Plan, and none of the Parties is obligated to reimburse any of other Party for any costs or expenses such other Party incurs in performing its obligations under the Project Plan.

ARTICLE XI INSURANCE

11.1 During the Term, each Party shall, at its sole cost and expense, obtain and maintain commercial general liability insurance in commercially reasonable amounts, that provide all liability coverage, including, but not limited to, personal injury, physical injury or property damage arising out of the Project and contractual liability coverage for its indemnification under this Agreement. On request by any other Party, each Party shall provide such other Party with written evidence of such insurance.

ARTICLE XII EXCLUSION OF CONSEQUENTIAL AND OTHER INDIRECT DAMAGES

12.1 TO THE FULLEST EXTENT PERMITTED BY LAW, NONE OF THE PARTIES SHALL BE LIABLE TO THE OTHER PARTIES OR ANY OTHER PERSON FOR ANY INJURY TO OR LOSS OF GOODWILL, REPUTATION, BUSINESS, PRODUCTION, REVENUES, PROFITS, ANTICIPATED PROFITS, CONTRACTS OR OPPORTUNITIES (REGARDLESS OF HOW THESE ARE CLASSIFIED AS DAMAGES), OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE OR ENHANCED DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE (INCLUDING THE ENTRY INTO, PERFORMANCE OR BREACH OF THIS AGREEMENT), REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR THE PARTY AGAINST WHOM SUCH LIABILITY IS CLAIMED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE; PROVIDED, HOWEVER, THESE LIMITATIONS SHALL NOT APPLY TO EITHER PARTY'S LIABILITY, IF ANY, FOR (a) CONTRIBUTION OR INDEMNITY WITH RESPECT TO LIABILITY TO THIRD PARTIES FOR PERSONAL INJURY, DEATH, OR DAMAGE TO TANGIBLE PROPERTY AS A RESULT OF THE PARTY'S WILLFUL MISCONDUCT OR GROSS NEGLIGENCE, OR (b) BREACH OF ARTICLE V (CONFIDENTIALITY).

ARTICLE XIII TERM AND TERMINATION

13.1 Term. This Agreement shall commence on the Effective Date and, unless terminated earlier in accordance with Section 13.2 or Section 13.3, shall remain in force until the later of: (i) the expiry of the Term; and (ii) the submission of the Final Report.

13.2 Termination for Convenience. Notwithstanding any other provision of this Agreement to the contrary, at any time any Party may terminate this Agreement in its sole discretion, for any or no reason, by providing [insert time frame] prior written notice to the other Parties.

13.3 Termination for Cause.

(a) Any Party may terminate this Agreement if any of the other Parties materially breaches this Agreement and (if such breach is curable) fails to cure such breach within fourteen (14) days of being notified in writing to do so; provided, however, such fourteen (14) day period shall be extended by an additional fourteen (14) days if the breaching Party has begun good faith efforts to remedy such breach within the initial fourteen (14) day period and provides a written explanation to the non-breaching Parties of the reasons for the breach, what it is doing to remedy the breach and why it believes it can remedy the breach within the additional fourteen (14) day period.

(b) Any Party may terminate this Agreement if any of the other Parties: (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within thirty (30) days or is not dismissed or vacated within [insert time frame] after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

13.4 Notice to NGen. Without in any way limiting any obligations the Parties may have under the Master Project Agreement, the Lead Recipient Project Manager shall promptly notify NGen of any termination of this Agreement.

13.5 Effect of Termination.

(a) Expiration or termination of this Agreement shall not relieve the Parties of any obligations accruing prior to the effective date of expiration or termination. Any expiration or termination of this Agreement shall not preclude any Party from pursuing all rights and remedies it may have hereunder at law or in equity with respect to any breach of this Agreement nor prejudice any Party's right to obtain performance of any obligation. On any expiration or termination of this Agreement, each Party shall immediately cease all activities concerning the Project, subject to any on-going obligations it may have under the Master Project Agreement.

(b) On expiration or termination of this Agreement all licenses to Background IPR granted under this Agreement shall automatically terminate as of the effective date of such expiration or termination.

13.6 Survival. Any right, obligation or required performance of the Parties in this Agreement which, by its express terms or nature and context, is intended to survive termination or expiration of this Agreement, shall survive any such termination or expiration.

ARTICLE XIV DISPUTE RESOLUTION

14.1 Good Faith Negotiation. In the event that a dispute arises out of or in connection with this Agreement between any of the Parties, the affected Parties shall first attempt to resolve

the dispute through good faith negotiation, and will, if necessary, resolve the matter through mediation or by arbitration in accordance with this Agreement.

14.2 NGen as Mediator. Should any disputes arise in respect of FIPR or BIPR that cannot be resolved by the affected Parties through good faith negotiation, the affected Parties shall, as a next step, request the involvement of NGen as an informal mediator to resolve such disputes amicably by means of informal mediation. Where such mediation is not successful, the affected shall have recourse to arbitration as set forth below.

14.3 Binding Arbitration. In the event the Parties are unable to resolve any dispute by good faith negotiation or informal mediation, the dispute shall be referred to arbitration under the *Arbitration Act, 1991* (Ontario) by a single arbitrator agreed upon by the affected Parties; and failing agreement on the appointment of a single arbitrator, the arbitrator shall be appointed by ADR Chambers Inc., Toronto. The decision of the arbitrator for the purposes herein shall be final and binding upon the Parties hereto and their respective heirs, executors, administrators, successors and assigns.

14.4 No Court Proceedings. The dispute resolution procedures set out in this Article XIV are intended as the sole remedy, unless otherwise provided elsewhere in this Agreement, for resolving any dispute which arises out of or in connection with this Agreement between any of the Parties. Notwithstanding the foregoing, the Parties may initiate court proceedings in a court of competent jurisdiction: (i) for any disputes concerning the scope, validity, enforceability or infringement of Intellectual Property; (ii) to enforce any arbitration award between the Parties; or (iii) for claims for equitable relief.

ARTICLE XV MISCELLANEOUS

15.1 Force Majeure. None of the Parties shall be liable or responsible to any other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by:

- (a) acts of God;
- (b) flood, fire or explosion;
- (c) war, terrorism, invasion, riot or other civil unrest;
- (d) embargoes or blockades in effect on or after the date of this Agreement;
- (e) national or regional emergency;
- (f) pandemics, epidemics, or national or regional outbreaks of disease, including any resulting quarantines, shelter-in-place orders, government and industrial stoppages, and supply chain shortages;
- (g) strikes, labor stoppages or slowdowns or other industrial disturbances;

(h) any passage of law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition.

(each of the foregoing, a “**Force Majeure**”), in each case, provided that (i) such event is outside the reasonable control of the affected Party; (ii) the affected Party provides prompt notice to the other Parties, stating the period of time the occurrence is expected to continue; and (iii) the affected Party uses diligent efforts to end the failure or delay and minimize the effects of such Force Majeure event.

15.2 Further Assurances. Each Party shall, upon the reasonable request, and at the sole cost and expense, of the other Parties, execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

15.3 Independent Contractors. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and none of the Parties shall have authority to contract for or bind any of the other Parties in any manner whatsoever.

15.4 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given in accordance with this Section:

If to **[Lead Recipient]**: **[Full Company Name]**
 [Address]
 Attention: [name]
 [Email]:
 [Phone]:

If to **[Recipient 1]**: **[Full Company Name]**
 [Address]
 Attention: [name]
 [Email]:
 [Phone]:

If to **[Recipient 2]**: **[Full Company Name]**
 [Address]
 Attention: [name]
 [Email]:
 [Phone]:

Notices sent in accordance with this Section shall be deemed effectively given: (a) when received, if delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail (in each case, with confirmation of transmission), if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours

of the recipient; or (d) on the third (3rd) business day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

15.5 Interpretation.

(a) For purposes of this Agreement, (i) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation”; (ii) the word “or” is not exclusive; and (iii) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole.

(b) Unless the context otherwise requires, references herein to: (i) Sections and Schedules refer to the Sections of, and Schedules attached to, this Agreement; (ii) an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.

(c) This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. Any Schedules referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

15.6 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

15.7 Entire Agreement. With the exception of the Master Project Agreement, this Agreement, together with all Schedules and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

15.8 Assignment. None of the Parties shall assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without: (i) the prior written consent of each of the other Parties, which consent shall not be unreasonably withheld or delayed; and (ii) the prior written consent of NGen. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving a Party (regardless of whether that Party is a surviving or disappearing entity) shall be deemed to be a transfer of rights, obligations or performance under this Agreement for which the other Parties’ and NGen’s prior written consent is required. No delegation or other transfer will relieve any Party of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this Section 15.8 is void. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

15.9 No Third-party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns, and nothing herein, express or

implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

15.10 Amendment; Modification; Waiver. Subject to the prior written approval of NGen in accordance with the MPA, this Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the waiving Party. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15.11 Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

15.12 Governing Law. This Agreement and all related documents, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable in such province.

15.13 Independent Legal Advice. Each of the parties acknowledges having been advised to obtain independent legal advice prior to entering into this Agreement, and by entering into this Agreement each Party represents that it did obtain whatever independent legal advice it considered appropriate and sufficient.

15.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission (to which a PDF copy is attached) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the Effective Date.

[LEAD RECIPIENT]

By: _____
Name:
Title:

I have authority to bind the corporation

[RECIPIENT 1]

By: _____
Name:
Title:

I have authority to bind the corporation

[RECIPIENT 2]

By: _____
Name:
Title:

I have authority to bind the corporation

SCHEDULE A
MASTER PROJECT AGREEMENT (MPA)

SCHEDULE B
PROJECT PLAN

SCHEDULE C
PROJECT IP STRATEGY

SCHEDULE D
FINANCIAL FORECAST