

**TECHNOLOGY PARTNERSHIPS CANADA**

**PROJECT TITLE**

**This Agreement** made

**Between:** **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**  
as represented by the Minister of Industry  
(hereinafter referred to as “the **Minister**”)

**And:** *[insert complete legal name of proponent]*, a corporation duly incorporated under the laws of *[insert “Canada” or province of incorporation]*, having its head office located at *[insert complete address]*  
(hereinafter referred to as “the **Proponent**”)

**WHEREAS** in a context in which innovation is essential in an increasingly knowledge-based economy, the Minister is charged with the achievement of Canada’s objectives of increasing economic growth, creating jobs and wealth, and supporting sustainable development; and

**WHEREAS** the Technology Partnerships Canada (“TPC”) Program is specifically designed to promote the above objectives by means of strategically investing in research, development and innovation in order to encourage private sector investment, and so maintain and grow the technology base and technological capabilities of Canadian industry throughout the country; and

**WHEREAS** the Minister agrees to make a TPC investment in the Proponent’s project described in this Agreement, considering that:

- a) the project will enhance Canadian technological capability in .....
- b) the new technologies and resulting products are expected to offer significant performance advantages over existing ..... technologies;
- c) the resulting products are expected to contribute to meeting a growing demand for high performance ..... products; and
- d) the project is expected to generate significant jobs and leverage additional R&D activity in Canada;

**AND WHEREAS** the entering into this Agreement is not contingent upon any export performance on the part of the Proponent.

**NOW, THEREFORE**, in consideration of their respective obligations set out below, the parties hereto agree as follows.

**Article 1 - Deadline for receipt of signed agreement**

- 1.1 This Agreement must be signed by the Proponent and received by the Minister within thirty (30) days of its signature on behalf of the Minister, failing which it will be null and void. **OR** ...on or before March 31, 200xxxx, failing which it will be null and void.

**Article 2 - Documents forming part of this Agreement**

- 2.1 The following documents form an integral part of this Agreement:

These Articles of Agreement  
Schedule 1 - TPC General Conditions  
Schedule 2 - The Project  
Schedule 3 - Claims and TPC Project Cost Principles  
Schedule 4 - Benefits  
Schedule 5 - Reporting Requirements  
Schedule 6 - Project Fact Sheet for News release

***[Insert other Schedules as required]***

Schedule X - Special Purpose Equipment  
Schedule X - Environmental Mitigation Measures

- 2.2 In the event of conflict or inconsistency, the order of precedence amongst the documents forming part of this Agreement shall be:

These Articles of Agreement,  
Schedule 1 - General Conditions  
Schedule 2 - The Project  
Other Schedules

**Article 3 - The Proponent's Obligations**

- 3.1 The Proponent shall perform in Canada, all portions of the Project until the final Royalty Payment is made to the Minister. The Proponent will carry out the [*enter name of Project*] Project ("the **Project**") as described in Schedule 2, will make claims in accordance with Schedule 3, will provide the Benefits mentioned in Schedule 4, will issue the reports required under Schedule 5 and will fulfil all of its other obligations

hereunder, in a diligent and professional manner using qualified personnel.

- 3.2** The Proponent shall ensure that the Project is completed on or before *[insert date]* (“**Project Completion Date**”), unless otherwise agreed to in writing by the Minister.

**Article 4 - The Contribution**

- 4.1** Subject to all the other provisions of this Agreement, the Minister will make a Contribution to the Proponent in respect of the Project, of the lesser of:
- (a) *[insert sharing ratio]* % of the Eligible Costs; and
  - (b) \$*[insert maximum amount of Contribution]*.
- 4.2** The Minister will not contribute to any Eligible Costs incurred by the Proponent prior to *[insert date]* nor after the Project Completion Date, unless otherwise agreed to in writing by the Minister.
- 4.3** It is understood that Eligible Costs may be incurred by the Proponent between (insert date) and (insert date), provided however that those costs do not exceed xx% of the maximum contribution.

*[insert following Article for Agreements with a Contribution equal to or greater than \$10M]:*

- 4.4** Unless the Parties agree otherwise in writing, the amount of the Contribution will not exceed the following amounts in the relevant Fiscal Years of the Project as follows:

2004/05: \$ xxxxxx  
2005/06: \$ xxxxxx  
Etc.

The Minister will have no obligation to pay any greater amount in any of the said Fiscal Years except to the extent that such reprofiling will have been expressly agreed to by the Parties as stated above.

**Article 5 - Environmental Assessment**

*[select applicable option which shall be consistent with IDD]*

Option 1

*If the Project is not considered to be a “project” or is excluded from mandatory assessment under the Canadian Environmental Assessment Act, the following shall be inserted:*

- 5.1 The Minister has determined that no assessment of the Project is required under the Canadian Environmental Assessment Act.

Option 2

*If an assessment under the Canadian Environmental Assessment Act is required and the Minister is satisfied that any potentially adverse environmental effects that may be caused by the Project are insignificant, the following shall be inserted:*

- 5.1 The Minister has assessed the Project under *Canadian Environmental Assessment Act* and is satisfied that any potentially adverse environmental effects that may be caused by the Project are insignificant.

Option 3

*If an assessment under the Canadian Environmental Assessment Act is required and the Minister is satisfied that any potentially adverse environmental effects that may be caused by the Project can be mitigated with appropriate measures, the following shall be inserted. Please check with Legal as wording may need to be adapted.*

- 5.1 The Minister has assessed the Project under *Canadian Environmental Assessment Act* and is satisfied that any potentially adverse environmental effects that may be caused by the Project are mitigable with known technology. The Minister will have no obligation to make all or part of the Contribution unless the Proponent:
- (a) satisfies the Minister that it has implemented or will implement, measures to mitigate such potentially adverse environmental effects in accordance with Schedule X (Environmental Mitigation Measures), within the time frames specified therein; and
  - (b) has incorporated and utilized and maintains environmental protection measures in relation to the Project that satisfy the requirements of all regulatory bodies having jurisdiction over the Proponent or the Project, or both, and certifies to the Minister that it has done so.

The said certification must be provided together with the each claim for payment of the Contribution, and annually thereafter.

**Article 6 - Other Government Assistance**

- 6.1 The Proponent hereby acknowledges that, except for scientific research and experimental development tax credits, deductions or allowances, no other federal, provincial or municipal government financial assistance other than that described below has been requested or received by the Proponent for the Eligible Costs of the Project.

|            |   |
|------------|---|
| Federal    | \$ <i>[insert amount if any]</i>        |
| Provincial | \$ <i>[insert amount if any]</i>        |
| Municipal  | \$ <u><i>[insert amount if any]</i></u> |
| Total      | \$ <i>[insert amount if any]</i>        |

- 6.2** The Proponent will inform the Minister promptly in writing of any other federal, provincial or municipal government assistance (except for scientific research and experimental development tax credits, deductions or allowances) to be received for the Eligible Costs of the Project and the Minister will have the right to reduce the Contribution under this Agreement to the extent of any such assistance.

### **Article 7 – Addresses & Notices**

- 7.1** Any notice to the Minister and documents provided for under this Agreement will be addressed to:

Director, *[insert applicable TPC Sector]*  
Technology Partnerships Canada  
10th Floor  
300 Slater Street  
Ottawa, Ontario K1A 0C8

Fax No: (613) 954-9117

- 7.2** Any notice to the Proponent will be addressed to:

Fax No:

### **Article 8 - Special Conditions**

#### **8.1 Alternate Dispute Resolution**

If a dispute arises concerning the application or interpretation of this Agreement, the parties will attempt to resolve the matter through good faith negotiation, and may, if necessary and the parties consent in writing, resolve the matter through mediation by a mutually acceptable mediator or arbitration in accordance with the *Commercial Arbitration Code* set out in the schedule to the *Commercial Arbitration Act (Canada)*, and all regulations made pursuant to that Act.

## 8.2 Visibility Protocol

(a) The following sub-articles concerning public announcements by the Proponent as well as the obligations set-out in Section 10 of the General Conditions are Material Undertakings under this Agreement:

(i) The Proponent shall obtain the prior consent of the Minister prior to mentioning TPC in any of its public statements. The Proponent shall mention TPC (name and logo) in its promotional activities, in its publicities and in its public relations when it mentions the Project. A qualifying statement shall be added to underscore the importance of the TPC contribution.

(ii) The Proponent should invite representatives of TPC to be present at public activities involving the Project and shall inform the public of TPC's collaboration in the Project.

(b) For information purposes, the following Government of Canada URL provides protocol guidelines for use when planning public ceremonies related to the Project:

[http://www.pch.gc.ca/progs/cpsc-ccsp/pe/index\\_e.cfm](http://www.pch.gc.ca/progs/cpsc-ccsp/pe/index_e.cfm)

insert following clause if Project Phase goes beyond 31 December 2006):

## 8.3 Required Government Approvals

All payments to be made by the Minister to the Proponent, pursuant to this Agreement, on or after December 31, 2006 are subject to the required Governmental approvals, including Treasury Board. In the event that the Minister is prevented from disbursing the full amount of the Contribution, the Parties agree to review the effects of such a shortfall in the Contribution on the implementation of the Agreement and to adjust, as appropriate, the mutual obligations specified therein.

8.4 *[insert other special articles to override provisions in Schedule 1 (General Conditions) or to deal with a subject matter that does not fall within the scope of any of the other Schedules]*

*[insert article below for Quebec companies only]:*

**Article 9 - Language of Agreement**

Les parties aux présentes confirment que c'est leur volonté que cette convention de même que tous les documents, y compris les avis s'y rattachant, soient rédigés en anglais seulement. The parties hereto confirm that it is their wish that this Agreement as well as all other documents relating thereto, including notices, have been and will be drawn up in English only.

**Article 9 or 10? - Entire Agreement**

This Agreement constitutes the entire agreement between the parties and supersedes all previous documents, negotiations, arrangements, undertakings and understandings related to its subject matter. No amendment of the Agreement shall have any force or effect unless reduced in writing and signed by the parties hereto.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement through duly authorized representatives.

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA ,**  
as represented by the Minister of Industry

Per: \_\_\_\_\_  
Technology Partnerships Canada  
  
\_\_\_\_\_ Date  
  
Tom Wright - Executive Director

*[insert complete legal name of Proponent]*

Per: \_\_\_\_\_  
Name & Title  
\_\_\_\_\_ Date

Per: \_\_\_\_\_  
Name & Title  
\_\_\_\_\_ Date

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## TPC GENERAL CONDITIONS

### 1. Definitions

For the purposes of this Agreement,

**"Agreement"** means the agreement to which these General Conditions relate, consisting of Articles of agreement and the Schedules referred to in these Articles.

**"Background Intellectual Property"** means the intellectual property rights in the technology developed prior to the beginning of the Project and required for the carrying out of the Project or the exploitation of the Intellectual Property.

**"Contribution"** means the funding, in Canadian dollars, payable by the Minister under the Agreement.

**"Eligible Costs"** means the Project cost elements specified in the Statement of Work in Schedule 2 and incurred by the Proponent in accordance with the TPC Project Cost Principles, excluding those Project cost elements that may be specifically mentioned in the Statement of Work as not being supported by the Minister.

**"Fiscal Year"** means the federal government fiscal year beginning on April 1 and ending on the following March 31.

**"Intellectual Property"** means all technical data, including, without limitation, all designs, specifications, software, data, drawings, plans, reports, patterns, models, prototypes, demonstration units, practices, inventions, methods, applicable special purpose equipment and related technology, processes or other information conceived, produced, developed or reduced to practice in carrying out the Project, and all rights therein including, without limitation, patents, copyrights, industrial designs, trademarks, and any registrations or applications for the same and all other rights of intellectual property therein, including any rights which arise from the above items being treated by the Proponent as trade secrets or confidential information.

**"Interest Rate"** means the Bank Rate, as defined in the *Interest And Administrative Charges Regulations*, in effect on the due date, plus 300 basis points, compounded monthly. The Interest Rate for a given month can be found at: <http://www.pwpsc.gc.ca/recgen/text/podd-e.html>

**"Project"** means the project described in Schedule 2.

**"Project Completion Date"** means the date set in the Articles of Agreement for the completion of the Project.

**"Schedule"** means a schedule to the Agreement.

**"Statement of Work"** refers to the document in Schedule 2 containing the description of the Project.

### 2. Material Changes

No material changes will be made to the estimated total scope or nature of any element of the Project without the prior written consent of the Minister. Without limiting the generality of the

foregoing, a material change will have occurred if:

- (a) a Project performance milestone is not expected to be achieved within six (6) months of the projected completion date mentioned in the Statement of Work for that element;
- (b) the estimated Eligible Costs mentioned in the Statement of Work are expected to be exceeded by 20% or more;
- (c) the Project is carried out at locations other than those mentioned in the Statement of Work;
- (d) a change in respect of any other aspect of the Project (including but not limited to a change to key Project personnel, Project financing, or ownership of the Proponent) which has been specifically identified in another part of the Agreement as a "material change" for the purpose of this provision, has occurred.

These material changes may constitute a material term under article 8 of this Agreement.

### 3. Disposal of Assets

The Proponent shall retain possession and control of the Project assets, the cost of which has been contributed to by the Minister under the Agreement, and shall not dispose of the same until they are no longer required to complete the Project.

### 4. Claims for Payment

#### **4.1 Payment of Claims**

The Minister will pay the Contribution to the Proponent in respect of Eligible Costs incurred on the basis of itemized claims submitted in accordance with the procedures set out in Schedule 3.

#### **4.2 Hold-Back Rights**

The Minister may withhold up to ten per cent (10%) of the Contribution prior to the completion of the Project or until such audit as he/she may require has been performed. In the event that no audit has been performed eighteen months after receipt of the final claim, any amount so withheld shall be released to the Proponent.

#### **4.3 Overpayment by Minister**

Where for any reason:

- (a) the Proponent is not entitled to the Contribution; or
- (b) the Minister determines that the amount of the
- (c) Contribution disbursed exceeds the amount to which the Proponent is entitled,

the Proponent will repay to the Minister, promptly and no later than 30 days from notice from the Minister, the amount of the Contribution disbursed or the amount of the overpayment, as the case may be, together with interest at the Interest Rate from the

date of the notice to the day of repayment to the Minister in full. Any such amount is a debt due to Her Majesty in Right of Canada and is recoverable as such.

#### **4.4 Set-off Rights of Minister**

Without limiting the scope of the set-off rights provided for under the *Financial Administration Act*, it is understood that the Minister may set off against the Contribution, any amounts owed by the Proponent to Her Majesty in Right of Canada under legislation or contribution agreements and the Proponent shall declare to the Minister all amounts outstanding in that regard when making a claim under Schedule 3.

### **5. Monitoring**

#### **5.1 Minister's Right to Audit Accounts and Records**

The Proponent will, at its own expense, preserve and make available for audit and examination by the Minister or the Minister's representatives the books, accounts and records of the Project and of the information necessary to ensure compliance with the terms and conditions of this Agreement, including payment of amounts to the Minister. The Minister will have the right to conduct such additional audits at the Minister's expense as may be considered necessary using the audit staff of the Minister, the Audit Services Group of Consulting and Audit Canada, an independent auditing firm or the Proponent's external auditors. The Proponent will ensure that any licence agreement it enters into for the exploitation of the Intellectual Property will contain similar provisions to permit the Minister to audit licensees' accounts and records in respect to the calculation of amounts that may be payable by the Proponent to the Minister under this Agreement.

#### **5.2 Access to Premises**

The Proponent will provide the representatives of the Minister reasonable access to the Proponent's premises to inspect and assess the progress of the Agreement or any element thereof and supply promptly on request such data as the Minister may reasonably require for statistical or project evaluation purposes.

#### **5.3 Access to Third-Party Information**

The Proponent will, to the extent practicable, assist the Minister with the implementation of the Agreement and facilitate access by the Minister to information from third parties, relating to the Agreement.

### **6. Representations, Warranties and Undertakings**

#### **6.1 Power and Authority of Proponent**

The Proponent represents and warrants that it is duly incorporated and validly existing and in good standing and has the power and authority to carry on its business, to hold property and to enter into this Agreement and undertakes to take all necessary action to maintain itself in good standing and to preserve its legal capacity.

#### **6.2 Authorized Signatories**

Each party represents and warrants that the signatories to the Agreement have been duly authorized to execute and deliver the Agreement.

#### **6.3 Binding Obligations**

Each party represents and warrants that the execution, delivery and performance of the Agreement have been duly and validly authorized and that when executed and delivered, the Agreement will constitute a legal, valid and binding obligation enforceable in

accordance with its terms.

#### **6.4 No Pending Suits or Actions**

The Proponent warrants that it is under no obligation or prohibition, nor is it subject to or threatened by any actions, suits or proceedings which could or would prevent compliance with the Agreement. The Proponent will advise the Minister forthwith of any such occurrence during the term of the Agreement.

#### **6.5 No Gifts, Inducements or Commissions**

The Proponent represents and warrants that it has not, nor has any person on its behalf:

a) offered, promised or provided to any official, employee or any other person representing Her Majesty the Queen in Right of Canada, any bribe, gift or other inducement for or with a view to obtaining the Contribution, or

b) employed or retained any person in respect of obtaining the Contribution for a commission, contingency fee or any other consideration dependant upon the execution of the Agreement.

#### **6.6 Intellectual Property**

(a) The Proponent represents and warrants that it either owns the Background Intellectual Property or holds sufficient rights in the same to permit the Project to be carried out and the Intellectual Property to be exploited by the Proponent.

(b) The Proponent will ensure that title to the Intellectual Property is to be vested, and unless otherwise agreed to in writing by the Minister, to remain, exclusively with the Proponent.

(c) The Proponent shall take appropriate steps to protect the Intellectual Property and shall, upon request, provide information to the Minister in that regard.

#### **6.7 Compliance with Environmental Protection Requirements**

The Proponent shall apply, in relation to the Project, in all material respects, the requirements of all applicable environmental laws, regulations, orders and decrees and of regulatory bodies having jurisdiction over the Proponent or the Project.

#### **6.8 Other Agreements**

The Proponent represents and warrants that it has not entered, and undertakes not to enter, without the Minister's written consent, into any agreement that would prevent the full implementation of the Agreement by the Proponent.

#### **6.9 Dividend Restriction**

The Proponent will not make any dividend payments or other shareholder distributions that would prevent it from implementing the Project and other Proponent's obligations under the Agreement including the making of payments to the Minister as required under the Agreement.

#### **6.10 Other Financing**

The Proponent remains solely responsible for providing or obtaining the funding, in addition to the Contribution, required for the carrying out of the Project and the fulfilment of the Proponent's other obligations under the Agreement.

### **6.11 Lobbyist Registration Act**

The Proponent represents and warrants that any person who is required to be registered pursuant to the Lobbyists Registration Act, including consultants and in-house lobbyists, is registered pursuant to that Act. This representation and warranty are material terms of this Agreement.

## **7. Term of Agreement**

### **7.1 Benefits**

The Agreement will terminate when all of the Proponent's undertakings in regard to the benefits mentioned in Schedule 4 have been fulfilled.

### **7.2 Advance Payment**

Any advance or accelerated payment by the Proponent of the amounts due to the Minister under Schedule 4 shall not have the effect of shortening the period set in Schedule 4 for the fulfilment of benefits to Canada.

### **7.3 Audit**

The audit rights of the Minister under section 5 above will survive for one year the termination date established under subsection 7.1 above.

## **8. Default and Recovery**

### **8.1 Events of Default**

The Minister may declare that an event of default has occurred if:

- (a) the Proponent is adjudged or declared bankrupt or if it goes into receivership or takes the benefit of any statute from time to time in force relating to bankrupt or insolvent debtors
- (b) an order is made which is not being contested or appealed by the Proponent or a resolution is passed for the winding-up of the Proponent or it is dissolved;
- (c) the Proponent has intentionally submitted false or misleading information to the Minister or intentionally made a false or misleading representation;
- (d) any material term, condition or undertaking in the Agreement is not complied with in any material respect; or
- (e) the Proponent neglects or fails to pay to the Minister any amount due in accordance with this Agreement;

provided that the Minister will not declare an event of default has occurred by reason of paragraphs (c), (d) or (e) unless the Minister has given notice to the Proponent of the condition or event which in the Minister's opinion constitutes an event of default and the Proponent has failed, within 30 days of receipt of the notice, either to correct the condition or event complained of or to demonstrate, to the satisfaction of the Minister, that it has taken such steps as are necessary to correct the condition, and has notified the Minister of the rectification.

### **8.2 Remedies on Default**

(i) If the Minister declares that an event of default has occurred, the Minister may exercise one or more of the following remedies:

- (a) suspend any obligation by the Minister to contribute or continue to contribute to the Eligible Costs including any obligation to pay any amount owing prior to the date of such suspension;
- (b) terminate any obligation of the Minister to contribute or continue to contribute to the Eligible Costs, including any obligation to pay any amount owing prior to the date of such termination;
- (c) require the Proponent to repay to the Minister all or part of the Contribution paid by the Minister to the Proponent, and pay the Minister any amounts due under the Agreement, together with interest from the date of demand at the Interest Rate;

(ii) If an event of default has occurred in relation to paragraph 8.1(a) or (b), or as a result of the failure of the Proponent to comply with subsection 6.6 of these General Conditions (Intellectual Property), section A (Payments to Minister) or subsection B.1 (Work in Canada) of Schedule 4, or the provisions that may be part of the Agreement regarding the disposal of special purpose equipment, the Minister may direct the Proponent to transfer and deliver to the Minister title to, possession of, and all rights of the Proponent in the Intellectual Property, and the Proponent will immediately comply.

### **8.3 Remedies Fair and Reasonable**

The Proponent acknowledges that in view of the policy objectives served by the Minister's agreement to make the contribution, the fact that the contribution comes from public monies, and that the amount of damages sustained by the Crown in the event of default is difficult to ascertain, that it is fair and reasonable that the Minister be entitled to exercise any or all of the remedies provided for in this section 8 and to do so in the manner provided for in that section if an event of default occurs; provided that in exercising any remedy in accordance with paragraph 8.2 (c) other than for a breach of paragraph 8.1(e), the Minister will credit the Proponent for any amounts paid to the Minister under Schedule 4 of this Agreement.

### **8.4 No Waiver**

The fact that the Minister refrains from exercising a remedy he or she is entitled to exercise under the Agreement will not constitute a waiver of such right and any partial exercise of a right will not prevent the Minister in any way from later exercising any other right or remedy under the Agreement or other applicable law.

## **9. Force Majeure**

### **9.1 Event of Force Majeure**

The Proponent will not be in default by reason only of any failure in performance of the Project in accordance with Schedule 2 if such failure arises without the fault or negligence of the Proponent and is caused by any event of force majeure.

### **9.2 Definition of Force Majeure**

Force majeure means any cause which is unavoidable or beyond the reasonable control of the Proponent, including war, riot, insurrection, orders of government, strikes or any Act of God or other similar circumstance which is beyond the Proponent's

control, and which could not have been reasonably circumvented by the Proponent without incurring unreasonable cost.

## **10. Announcements**

### **10.1 Consent to Public Announcements**

The Proponent hereby consents to public announcements by or on behalf of the Minister containing any of the information contained in Schedule 6 entitled "Project Fact Sheet for News Release".

### **10.2 Confidentiality Obligation**

The Minister will inform the Proponent of the date on which the first public announcement is to be made and the Proponent will not disclose the existence of this Agreement until such date.

### **10.3 Reporting under Security Laws**

Nothing in this Agreement shall be interpreted as preventing the fulfilment by the Proponent of its reporting obligations under applicable security laws.

## **11. Notice**

### **11.1 Form and Timing of Notice**

Any notice, information or document provided for under the Agreement shall be effectively given if delivered or sent by letter or facsimile, postage or other charges prepaid. Any notice that is delivered shall have been received on delivery; any notice sent by facsimile shall be deemed to have been received one working day after having been sent, and any notice mailed shall be deemed to have been received eight (8) calendar days after being mailed.

### **11.2 Change of Address**

A party may change the address which that party has stipulated in the Agreement by notifying in writing the other party of the new address.

## **12. Compliance with Laws**

In implementing the Agreement, the Proponent will comply with all applicable federal, provincial and municipal laws, including but not limited to statutes, regulations, by-laws, ordinances and decrees.

## **13. Members of Parliament**

No member of the House of Commons will be admitted to any share or part of this Agreement or to any benefit to arise therefrom. No person who is a member of the Senate will, directly or indirectly, be a party to or be concerned in the Agreement.

## **14. Annual Appropriations**

### **14.1 Parliamentary Allocation**

Any payment by the Minister under this Agreement is subject to there being an appropriation for the Fiscal Year in which the payment is to be made; and to cancellation or reduction in the event that departmental funding levels are changed by Parliament.

### **14.2 Lack of Appropriation**

In the event that the Minister is prevented from disbursing the full amount of the Contribution due to a lack or reduction of appropriation or departmental funding levels, the parties agree to review the effects of such a shortfall in the Contribution on the implementation of the Agreement and to adjust, as appropriate, the benefits specified in Schedule 4.

## **15. Confidentiality**

### **15.1 Consent Required**

Subject to section 10 and the Access to Information Act, each party shall keep confidential and shall not without the consent of all parties disclose the contents of the Agreement and the documents pertaining thereto, whether provided before or after the Agreement was entered into, or of the transactions contemplated herein.

### **15.2 International Dispute**

The Minister is hereby authorized to disclose any of the information referred to in paragraph 15.1 above where, in the opinion of the Minister, such disclosure is required to an international trade panel for the purposes of the conduct of a dispute in which Canada is a party or a third party intervener. The Minister shall give prior notice to the Proponent of such disclosure.

### **15.3 Financing and Licensing**

The Minister hereby consents to the Proponent disclosing the Agreement or any portion thereof for the purposes of securing additional financing or of licensing for commercial exploitation, subject to the Proponent having the person to whom the information is disclosed execute a non-disclosure agreement prior to disclosure.

## **16. Consent of the Minister**

Whenever the Agreement provides for the Proponent obtaining the consent or agreement of the Minister, it is understood that such consent or agreement shall not be unreasonably withheld and that the Minister may make the issuance of such consent or agreement subject to reasonable conditions.

## **17. No Assignment of Agreement**

The Proponent shall not assign the Agreement nor any part thereof without the prior written consent of the Minister.

## **18. Compliance with Post-Employment Provisions**

The Proponent confirms that no individual for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders or the Conflict of Interest and Post-Employment Code for the Public Service apply, will derive a direct benefit from this Agreement unless that individual is in compliance with the applicable post-employment provisions.

## **19. Contribution Agreement Only**

The Agreement is a contribution agreement only, not a contract for services or a contract of service or employment, and nothing in the Agreement, the parties relationship or actions is intended to create, nor shall be construed as creating, a partnership, employment or agency relationship between them. The Proponent is not in any way authorized to make a promise, agreement or contract and to incur any liability on behalf of Canada, nor shall Canada make a promise, agreement or contract and incur any liability on behalf of the Proponent, and the Proponent shall be solely responsible for any and all payments and deductions required by the applicable laws.

## **20. Binding Agreement**

This Agreement is binding on the parties and their successors and permitted assigns.

## **21. Severability**

Any provision of this Agreement prohibited by law or otherwise ineffective will be ineffective only to the extent of such prohibition

or ineffectiveness and will be severable without invalidating or otherwise affecting the remaining provisions of the Agreement.

**22. Applicable Law**

The Agreement shall be interpreted in accordance with the laws in force in the province where the Proponent's head office is located.

**23. Signature in Counterparts**

This Agreement may be signed in counterparts, each of which when taken together, will constitute an original Agreement.

**SCHEDULE 2 - THE PROJECT**

The Project is described in the attached Statement of Work

**STATEMENT OF WORK**

**ANNEX A**

**FORM A - GANTT CHART**

**PROPONENT NAME:**

**PROJECT NUMBER:**

TPC Project No.

**ANNEX A**  
**FORM B - MILESTONES**

**PROPONENT NAME:**

**PROJECT NUMBER:**

| <b>Key Project Milestone</b> |               | <b>Date</b>              |
|------------------------------|---------------|--------------------------|
| <b>1</b>                     | (Description) | (Target completion date) |
| <b>2</b>                     |               |                          |
| <b>3</b>                     |               |                          |
| <b>4</b>                     |               |                          |
| <b>5</b>                     |               |                          |
| <b>6</b>                     |               |                          |

TPC Project No.

**ANNEX A**

**FORM C - CURRENT FISCAL YEAR COST BREAKDOWN BY MAJOR ACTIVITIES**

**PROPONENT NAME:**

**PROJECT NUMBER:**

**FOR FISCAL YEAR ENDING MARCH 31, 20??**

| Description of Activity <sup>1</sup> | Estimated Eligible Costs (\$000) |                  |                              |                    |           |          |       |
|--------------------------------------|----------------------------------|------------------|------------------------------|--------------------|-----------|----------|-------|
|                                      | Direct Labour Costs              | Direct Materials | Subcontracts and Consultants | Other Direct Costs | Equipment | Overhead | Total |
| 1.                                   |                                  |                  |                              |                    |           |          |       |
| 2.                                   |                                  |                  |                              |                    |           |          |       |
| 3.                                   |                                  |                  |                              |                    |           |          |       |
| 4.                                   |                                  |                  |                              |                    |           |          |       |
| 5.                                   |                                  |                  |                              |                    |           |          |       |
| 6.                                   |                                  |                  |                              |                    |           |          |       |
| <b>Total</b>                         |                                  |                  |                              |                    |           |          |       |

Notes:

1. Title of key Project tasks enumerated and described in the SOW.

**ANNEX A**

**FORM D - COST BREAKDOWN BY FISCAL YEAR**

**PROPONENT NAME:**

**PROJECT NUMBER:**

| Fiscal Year<br>(Ending<br>March 31) | Estimated Eligible Costs (\$000) <sup>1</sup> |                  |                                 |                       |           |          |       |
|-------------------------------------|---|------------------|---------------------------------|-----------------------|-----------|----------|-------|
|                                     | Direct Labour                                 | Direct Materials | Subcontracts<br>and Consultants | Other Direct<br>Costs | Equipment | Overhead | Total |
| 20XX                                |   |                  |                                 |                       |           |          |       |
| 20XX                                |   |                  |                                 |                       |           |          |       |
| 20XX                                |   |                  |                                 |                       |           |          |       |
| 20XX                                |   |                  |                                 |                       |           |          |       |
| <b>Total</b>                        |   |                  |                                 |                       |           |          |       |

***Option 1 - CRA Overhead Proxy Rate to be used***

The above cost breakdown includes all estimated direct costs and associated overhead costs for the Project. For claim purposes, these costs will be determined in accordance with the TPC Cost Principles (Schedule 3) with overhead being calculated at 65% of the salaries and wages of employees directly engaged in the Project, as defined in the Canada Revenue Agency policy on Scientific Research and Development.

***Option 2 - PWGSC fixed Overhead Rate to be used***

The above cost breakdown includes all estimated direct costs and associated overhead costs for the Project. For claim purposes, these costs will be determined in accordance with the TPC Cost Principles (Schedule 3). Overhead costs will be claimed at the fixed Project overhead rates negotiated by the Proponent with Public Works and Government Services Canada.

***Option 2 - PWGSC Rates to be used***

The above cost breakdown includes all estimated direct costs and associated overhead costs for the Project. For claim purposes, these costs will be determined using the applicable Public Works and Government Services Canada (PWGSC) costing rates negotiated with the Proponent in accordance with the PWGSC 1031-2 Contract Cost Principles. For any period where the PWGSC rate negotiations have not been completed at the time of claim preparation for the period, the previous year's negotiated PWGSC costing rates will be used in the interim.

TPC Project No.

**ANNEX A**

**FORM E-1 - PROJECT LOCATION AND COSTS**

**PROPONENT NAME:**

**PROJECT NUMBER:**

| <b>Project Location</b> | <b>Start Period<br/>(Fiscal Year and Quarter)</b> | <b>Work Performed</b> | <b>Estimated<br/>Costs<br/>(\$000)</b> |
|-------------------------|---|-----------------------|--|
| <b>Location #1</b>      |   |                       |  |
| <b>Location #2</b>      |   |                       |  |
| <b>Total</b>            |   |                       |  |
|                         |   |                       |  |

Note: Government fiscal year runs April 1 - March 31.

TPC Project No.

**ANNEX A**

**FORM E-2 - EQUIPMENT COST BREAKDOWN**

**PROPONENT NAME:**

**PROJECT NUMBER:**

| Equipment Description | Planned Acquisition Period<br>( Fiscal Year and Quarter) | Estimated Costs<br>(\$000) |
|-----------------------|--|----------------------------|
| 1.                    |  |                            |
| 2.                    |  |                            |
| 3.                    |  |                            |
| 4.                    |  |                            |
| 5.                    |  |                            |
| 6.                    |  |                            |
| <b>Total</b>          |  |                            |

Notes:

1) For the purposes of this table, equipment includes all equipment with a unit cost of more than \$250K , or specific equipment essential to the project’s success, whose aggregate cost is significant, but whose unit cost is below \$250K.

2) Government fiscal year runs April 1 - March 31.

TPC Project No.

**ANNEX A**

**FORM E-3 - MATERIALS COST BREAKDOWN**

**PROPONENT NAME:**

**PROJECT NUMBER:**

| <b>Materials Description</b> | <b>Planned Acquisition Period<br/>( Fiscal Year and Quarter)</b> | <b>Estimated Costs<br/>(\$000)</b> |
|------------------------------|--|------------------------------------|
| 1.                           |  |                                    |
| 2.                           |  |                                    |
| 3.                           |  |                                    |
| 4.                           |  |                                    |
| 5.                           |  |                                    |
| 6.                           |  |                                    |
| <b>Total</b>                 |  |                                    |

Notes:

Government fiscal year runs April 1 - March 31.

TPC Project No.

**ANNEX A**

**FORM E-4 - SUB-CONTRACT COST BREAKDOWN**

**PROPONENT NAME:**

**PROJECT NUMBER:**

| <b>Sub-contracts</b> | <b>Anticipated Contractor(s)</b> | <b>Start Period (Fiscal Year and Quarter)</b> | <b>Estimated Costs (\$000)</b> |
|----------------------|----------------------------------|---|--------------------------------|
| 1.                   |                                  |   |                                |
| 2.                   |                                  |   |                                |
| 3.                   |                                  |   |                                |
| 4.                   |                                  |   |                                |
| 5.                   |                                  |   |                                |
| 6.                   |                                  |   |                                |
| <b>Total</b>         |                                  |   |                                |

Notes:

- 1) Government fiscal year runs April 1 - March 31.

TPC Project No.

**ANNEX A**

**FORM E-5 - OTHER COSTS BREAKDOWN**

**PROPONENT NAME:**

**PROJECT NUMBER:**

| <b>Other Cost</b> | <b>Start Period<br/>(Fiscal Year and Quarter)</b> | <b>Estimated<br/>Costs<br/>(\$000)</b> |
|-------------------|---|--|
| <b>1.</b>         |   |  |
| <b>2.</b>         |   |  |
| <b>3.</b>         |   |  |
| <b>Total</b>      |   |  |

Notes:

Government fiscal year runs April 1 - March 31.

### SCHEDULE 3 - CLAIMS AND TPC PROJECT COSTS PRINCIPLES (SRED Option)

#### A - CLAIMS

1. The Minister will pay the Contribution to the Proponent, in respect of Eligible Costs incurred, on the basis of claims which will:
  - (a) be submitted on a [*specify whether monthly or quarterly*] basis (“**Claim Period**”), except for the first claim which will cover a longer period going back to [*insert eligibility date*];
  - (b) be submitted on TPC claim forms, within forty-five (45) days of the end of each Claim Period; and sent to the address specified in Article 7.1 of the agreement;
  - (c) be accompanied with details of all costs being claimed, which will be substantiated by such documents as may be required by the Minister and presented in accordance with the structure and the milestones contained in the Statement of Work in Schedule 2.
  - (d) be certified by the chief financial officer of the Proponent or other person satisfactory to the Minister;
  - (e) be accompanied by a report on the progress made in carrying out the Project during the Claim Period, containing such information as mentioned in the section of Schedule 5 (Reporting Requirements) entitled Claim Reports;
  - (f) include a deduction for Eligible Costs included in a previous claim but which have not been paid by the Proponent within ninety (90) days of such claim.
2. In regard to paragraph 1(f) above, the Minister may request at any time that the Proponent provide satisfactory evidence to demonstrate that Eligible Costs have been paid.
3. Within one hundred and twenty (120) days of the submission of the final claim, the Proponent shall submit an itemized statement certified by the Proponent’s chief financial officer attesting to the Eligible Costs for the entire Project having been incurred and paid.

## **B - TPC PROJECT COST PRINCIPLES**

### *1. GENERAL PRINCIPLE*

The total Eligible Costs of the Project shall be the sum of the applicable direct and indirect costs which are, or are to be reasonably and properly incurred and/or allocated, in the performance of the Project, less any applicable credits. These costs shall be determined in accordance with the Proponent's cost accounting system as accepted by the Minister and applied consistently over time.

### *2. DEFINITION OF REASONABLE COST*

- (1) A cost is reasonable if, in nature and amount, it does not exceed that which would be incurred by an ordinary prudent person in the conduct of a competitive business.
- (2) In determining the reasonableness of a particular cost, consideration shall be given to:
  - (a) whether the cost is of a type generally recognized as normal and necessary for the conduct of the Proponent's business or performance of the Project;
  - (b) the restraints and requirements by such factors as generally accepted sound business practices, arm's length bargaining, federal, provincial and local laws and regulations, and Agreement terms;
  - (c) the action that prudent business persons would take in the circumstances, considering their responsibilities to the owners of the business, their employees, customers, the Government and public at large;
  - (d) significant deviations from the established practices of the Proponent which may unjustifiably increase the Eligible Costs; and
  - (e) the specifications, delivery schedule and quality requirements of the particular Project as they affect costs.

### *3. DIRECT COSTS*

There are three categories of direct costs:

- (a) Direct Material Cost meaning the cost of materials which can be specifically identified and measured as having been used or to be used for the performance of the Project and which are so identified and measured consistently by the Proponent's cost accounting system as accepted by the Minister.
  - (i.) These materials may include, in addition to materials purchased solely for the Project and processed by the Proponent, or obtained from subcontractors, any other materials issued from the Proponent's general stocks.
  - (ii.) Materials purchased solely for the Project or subcontracts shall be charged to the Project at the net laid down cost to the Proponent before cash discounts for prompt payment.
  - (iii.) Materials issued from the Proponent's general stocks shall be charged to the Project in accordance with the method as used consistently by the Proponent in pricing material inventories.
- (b) Direct Labour Cost meaning that portion of gross wages or salaries incurred for activities which

can be specifically identified and measured as having been performed or to be performed on the Project and which is so identified and measured consistently by the Proponent's cost accounting system as accepted by the Minister. Direct labour costs include payment for vacation, sick days and statutory holidays but not taxable or related benefits.

- (c) Other Direct Costs meaning those applicable costs, not falling within the categories of direct material or direct labour, but which can be specifically identified and measured as having been incurred or to be incurred in performance of Project activities and which are so identified and measured consistently by the Proponent's costing system as accepted by the Minister.

#### 4. *INDIRECT COSTS*

- (1) Indirect Costs (overhead) meaning those costs which, though necessarily having been incurred during the period of the performance of the Project activities for the conduct of the Proponent's business in general, cannot be identified and measured as directly applicable to the Project.
- (2) These Indirect Costs may include, but are not necessarily restricted to, such items as:
  - (a) indirect materials and supplies (\*);
  - (b) indirect labour;
  - (c) fringe benefits (the Proponent's contribution only);
  - (d) service expenses: expenses of a general nature such as power, heat, light, operation and maintenance of general assets and facilities;
  - (e) fixed/period charges: recurring charges such as property taxes, rentals and reasonable provision for depreciation;
  - (f) general and administrative expenses: including remuneration of executive and corporate officers, office wages and salaries and expenses such as stationery, office supplies, postage and other necessary administration and management expenses;
  - (g) selling and marketing expenses associated with the products or services being acquired under the Agreement;
  - (h) general research and development expenses as considered applicable by the Minister.

Canada Revenue Agency's definition of direct labour (for the purpose of defining the overhead base) and overhead are detailed in the Guide to Form T661 – Claiming Scientific Research and Experimental Development (SR&ED) Expenditures. The SR&ED overhead rate (currently at 65%) is applied to direct labour costs and no other overhead is permitted. A summary of this guide, entitled "TPC Overhead Proxy", is attached to this Schedule.

- \* For supplies of similar low-value, high-usage items the costs of which meet the above definition of Direct Material Costs but for which it is economically expensive to account for these costs in the manner prescribed for direct costs, then they may be deemed to be indirect costs for the purposes of the Project.

#### 5. *ALLOCATION OF INDIRECT COSTS*

Indirect costs shall be accumulated in appropriate indirect cost pools, reflecting the Proponent's organizational or operational lines and these pools subsequently allocated to the Project or contracts, in accordance with the following two principles:

- (a) the costs included in a particular indirect cost pool should have a similarity of relationship with the Project or contracts, as applicable, to which that indirect cost pool is subsequently distributed; further, the costs included in an indirect cost pool should be similar enough in their relationship to each other that the allocation of the total costs in the pool provides a result which would be similar to that achieved if each cost within that pool were separately distributed;
- (b) the allocation basis for each indirect cost pool should reflect, as far as possible, the causal relationship of the pooled costs to the Project to which these costs are distributed.

#### 6. CREDITS

The applicable portion of any income, rebate, allowance, or any other credit relating to any applicable direct or indirect costs, received by or accruing to the Proponent, shall be credited to the Eligible Costs.

#### 7. NON-APPLICABLE COSTS

Notwithstanding that the following costs may have been or may be reasonably and properly incurred by the Proponent during the performance of Project activities, they are considered non-applicable costs to the Project:

- (a) allowance for interest on invested capital, bonds, debentures, bank or other loans together with related bond discounts and finance charges;
- (b) legal, accounting and consulting fees in connection with financial reorganization, security issues, capital stock issues, obtaining of patents and licenses and prosecution of claims against the Minister;
- (c) losses on investments, bad debts and expenses for the collection thereof;
- (d) losses on other projects or contracts;
- (e) federal and provincial income taxes, excess profit taxes or surtaxes and/or special expenses in connection therewith;
- (f) provisions for contingencies;
- (g) premiums for life insurance on the lives of officers and/or directors where proceeds accrue to the Proponent;
- (h) amortization of unrealized appreciation of assets;
- (i) depreciation of assets paid for by the Minister;
- (j) fines and penalties;
- (k) expenses and depreciation of excess facilities;
- (l) unreasonable compensation for officers and employees;

- (m) product development or improvement expenses not associated with the product being acquired under the Project;
- (n) advertising, except reasonable advertising of an industrial or institutional character placed in trade, technical or professional journals for the dissemination of information for the industry or institution;
- (o) entertainment expenses;
- (p) donations except those to charities registered under the Income Tax Act;
- (q) dues and other memberships other than regular trade and professional associations;
- (r) fees, extraordinary or abnormal for professional advice in regard to technical, administrative or accounting matters, unless approval from the Minister is obtained.

### **ADDENDUM TO TPC PROJECT COST PRINCIPLES**

#### **A Intellectual Property Protection**

Notwithstanding section 7(b) above, legal, accounting and consulting fees in connection with the obtaining of patents and statutory protection of other elements of the Intellectual Property are Eligible Costs.

#### **B SR&ED Method of Calculating Labour and Overhead Allowance**

Notwithstanding the provisions on Direct Labour Costs and Indirect Costs described above, the Parties hereby confirm that the Canada Revenue Agency policy on Scientific Research and Experimental Development has been chosen by the Proponent as a proxy for Direct Labour Costs and overhead calculations for this Project, and accordingly, the following guide shall apply.

*[Insert the following where Special Purpose Equipment is involved]*

#### **C Special Purpose Equipment**

For Eligible Costs in respect to Special Purpose Equipment, see the Schedule entitled Special Purpose Equipment.

## **Summary of CRA Guide to SR&ED**

*Calculating the Prescribed Proxy Amount for Eligible Overhead Expenditures, A Summary of CRA T4088(E) Rev.03 Guide to Form T661 - Claiming Scientific Research and Experimental Development Expenditures* <http://www.cra-arc.gc.ca/E/pub/tg/t4088/README.html>. This summary outlines the major elements of calculating the prescribed proxy amount (PPA). In case of disagreement between this summary and the SR&ED rules, SR&ED will apply.

Under this method, a PPA for eligible overhead costs is calculated based on a fixed percentage of the salaries or wages, or portion thereof, of the employees directly engaged in the Project. The base will include wages/salaries as well as normal sick and vacation leave and statutory holidays. It will not include expenditures for taxable benefits, as well as remuneration based on profits and bonuses, or related benefits (the employer's share of EI, CPP or QPP, WCB or CSST, employee pension and medical plans).

The current SR&ED PPA rate is 65% of the base.

The PPA will cover overhead expenditures such as:

- the related benefits (employer's share) of the approved wages/salaries
- office supplies
- general purpose office equipment
- heat, water, electricity and telephones
- support staff salaries or wages
- travel and training
- property taxes
- maintenance and upkeep of Project premises, facilities or equipment
- any other eligible expenditures, not specifically identified in the Statement of Work, that are incremental costs as a result of the approved Project activity.

Note, there are rules that limit the amount of wage/salary costs of specified employees that can be included in the base. For year 2002, the maximum amount is \$97,750 per specified employee. Specified employees are those employees who do not deal at arm's length with the employer or who own directly or indirectly, at any time during the year, 10% or more of the issued shares of any capital stock of the employer or of any corporation related to the employer.

The following table highlights the types of activity that should be included in calculating the base as well as applicable limits.

**Calculating the Prescribed Proxy Amount Base**

| <b>Include the Portion of Wages/Salaries for Time spent on the Project of:</b>   | <b>Do Not Include:</b>   |
|--|--|
| <p>Employees directly engaged in the Project, based on such tasks as:</p> <ul style="list-style-type: none"> <li>• preparing equipment and materials for experiments, tests and analysis (but not for maintaining equipment);</li> <li>• experimenting, testing and analysing;</li> <li>• collecting data for experimentation and analysis; and,</li> <li>• directing the course of the ongoing Project activities being claimed for the year.</li> </ul> <p>Other employees' time is also considered to be directly engaged in the Project to the extent the following tasks are required as part of the SOW:</p> <ul style="list-style-type: none"> <li>• recording measurements, making calculations and preparing charts and graphs;</li> <li>• conducting statistical surveys and interviews;</li> <li>• preparing computer programs; and,</li> <li>• working in areas of engineering or design, operations research, mathematical analysis and psychological research.</li> </ul> <p>Supervisors or managers time spent directly involved in the technical aspects of the Project.</p> <p>Note: employees who spend all or substantially all of their time (90%) on SOW activities are considered to spend all of their time on the Project.</p> | <p>Employees providing a service to Project staff including clerks, secretaries and receptionists engaged in activities in such areas as accounting, payroll, finance, legal, shipping, inventory control, maintenance and word processing.</p> <p>Time managers and supervisors spend on the non technical management aspects of activities such as long-term decision making, contract administration and other decision-making functions that do not directly influence the Project activities.</p> <p>Usually, do not include work performed beyond the first-line supervision level.</p> <p>For a specified employee, the maximum amount of salary that can be included in the base is limited to 75% of salary/wage costs, regardless of the share of time working on the Project exceeds this amount. This amount is further restricted, to be the lessor of the prior calculation or the following formula:</p> <p><math>2.5 \text{ times the Maximum Pensionable Earnings (for CPP purposes, \\$39,100 for year 2002) times the number of days in the taxation year that the person is employed by the client divided by 365.}</math></p> |

**SCHEDULE 3 - CLAIMS AND TPC PROJECT COSTS PRINCIPLES (PWGSC  
Overhead Option)**

**A - CLAIMS**

1. The Minister will pay the Contribution to the Proponent, in respect of Eligible Costs incurred, on the basis of claims which will:
  - (a) be submitted on a [*specify whether monthly or quarterly*] basis (“**Claim Period**”), except for the first claim which will cover a longer period going back to [*insert eligibility date*];
  - (b) be submitted on TPC claim forms, within forty-five (45) days of the end of each Claim Period; and sent to the address specified in Article 7.1 of the agreement;
  - (c) be accompanied with details of all costs being claimed, which will be substantiated by such documents as may be required by the Minister and presented in accordance with the structure and the milestones contained in the Statement of Work in Schedule 2.
  - (d) be certified by the chief financial officer of the Proponent or other person satisfactory to the Minister;
  - (e) be accompanied by a report on the progress made in carrying out the Project during the Claim Period, containing such information as mentioned in the section of Schedule 5 (Reporting Requirements) entitled Claim Reports;
  - (f) include a deduction for Eligible Costs included in a previous claim but which have not been paid by the Proponent within ninety (90) days of such claim.
2. In regard to paragraph 1(f) above, the Minister may request at any time that the Proponent provide satisfactory evidence to demonstrate that Eligible Costs have been paid.
3. Within one hundred and twenty (120) days of the submission of the final claim, the Proponent shall submit an itemized statement certified by the Proponent’s chief financial officer attesting to the Eligible Costs for the entire Project having been incurred and paid.

## **B - TPC PROJECT COST PRINCIPLES**

### *1. GENERAL PRINCIPLE*

The total Eligible Costs of the Project shall be the sum of the applicable direct and indirect costs which are, or are to be reasonably and properly incurred and/or allocated, in the performance of the Project, less any applicable credits. These costs shall be determined in accordance with the Proponent's cost accounting system as accepted by the Minister and applied consistently over time.

### *2. DEFINITION OF REASONABLE COST*

- (1) A cost is reasonable if, in nature and amount, it does not exceed that which would be incurred by an ordinary prudent person in the conduct of a competitive business.
- (2) In determining the reasonableness of a particular cost, consideration shall be given to:
  - (a) whether the cost is of a type generally recognized as normal and necessary for the conduct of the Proponent's business or performance of the Project;
  - (b) the restraints and requirements by such factors as generally accepted sound business practices, arm's length bargaining, federal, provincial and local laws and regulations, and Agreement terms;
  - (c) the action that prudent business persons would take in the circumstances, considering their responsibilities to the owners of the business, their employees, customers, the Government and public at large;
  - (d) significant deviations from the established practices of the Proponent which may unjustifiably increase the Eligible Costs; and
  - (e) the specifications, delivery schedule and quality requirements of the particular Project as they affect costs.

### *3. DIRECT COSTS*

There are three categories of direct costs:

- (a) Direct Material Cost meaning the cost of materials which can be specifically identified and measured as having been used or to be used for the performance of the Project and which are so identified and measured consistently by the Proponent's cost accounting system as accepted by the Minister.
  - (i.) These materials may include, in addition to materials purchased solely for the Project and processed by the Proponent, or obtained from subcontractors, any other materials issued from the Proponent's general stocks.
  - (ii.) Materials purchased solely for the Project or subcontracts shall be charged to the Project at the net laid down cost to the Proponent before cash discounts for prompt payment.
  - (iii.) Materials issued from the Proponent's general stocks shall be charged to the Project in accordance with the method as used consistently by the Proponent in pricing material inventories.
- (b) Direct Labour Cost meaning that portion of gross wages or salaries incurred for activities which

can be specifically identified and measured as having been performed or to be performed on the Project and which is so identified and measured consistently by the Proponent's cost accounting system as accepted by the Minister. Direct labour salaries and wages exclude payment for vacation, sick days and statutory holidays. These are captured in overhead or in fringe benefits.

- (c) Other Direct Costs meaning those applicable costs, not falling within the categories of direct material or direct labour, but which can be specifically identified and measured as having been incurred or to be incurred in performance of Project activities and which are so identified and measured consistently by the Proponent's costing system as accepted by the Minister.

#### 4. *INDIRECT COSTS*

- (2) Indirect Costs (overhead) meaning those costs which, though necessarily having been incurred during the period of the performance of the Project activities for the conduct of the Proponent's business in general, cannot be identified and measured as directly applicable to the Project.

- (2) These Indirect Costs may include, but are not necessarily restricted to, such items as:

- (a) indirect materials and supplies (\*);
- (b) indirect labour;
- (c) fringe benefits (the Proponent's contribution only);
- (d) service expenses: expenses of a general nature such as power, heat, light, operation and maintenance of general assets and facilities;
- (e) fixed/period charges: recurring charges such as property taxes, rentals and reasonable provision for depreciation;
- (f) general and administrative expenses: including remuneration of executive and corporate officers, office wages and salaries and expenses such as stationery, office supplies, postage and other necessary administration and management expenses;
- (g) selling and marketing expenses associated with the products or services being acquired under the Agreement;
- (i) general research and development expenses as considered applicable by the Minister.

\* For supplies of similar low-value, high-usage items the costs of which meet the above definition of Direct Material Costs but for which it is economically expensive to account for these costs in the manner prescribed for direct costs, then they may be deemed to be indirect costs for the purposes of the Project.

#### 5. *ALLOCATION OF INDIRECT COSTS*

Indirect costs shall be accumulated in appropriate indirect cost pools, reflecting the Proponent's organizational or operational lines and these pools subsequently allocated to the Project or contracts, in accordance with the following two principles:

- (a) the costs included in a particular indirect cost pool should have a similarity of relationship with the

TPC Project No.

Project or contracts, as applicable, to which that indirect cost pool is subsequently distributed; further, the costs included in an indirect cost pool should be similar enough in their relationship to each other that the allocation of the total costs in the pool provides a result which would be similar to that achieved if each cost within that pool were separately distributed;

- (b) the allocation basis for each indirect cost pool should reflect, as far as possible, the causal relationship of the pooled costs to the Project to which these costs are distributed.

#### 6. CREDITS

The applicable portion of any income, rebate, allowance, or any other credit relating to any applicable direct or indirect costs, received by or accruing to the Proponent, shall be credited to the Eligible Costs.

#### 7. NON-APPLICABLE COSTS

Notwithstanding that the following costs may have been or may be reasonably and properly incurred by the Proponent during the performance of Project activities, they are considered non-applicable costs to the Project:

- (a) allowance for interest on invested capital, bonds, debentures, bank or other loans together with related bond discounts and finance charges;
- (b) legal, accounting and consulting fees in connection with financial reorganization, security issues, capital stock issues, obtaining of patents and licenses and prosecution of claims against the Minister;
- (c) losses on investments, bad debts and expenses for the collection thereof;
- (d) losses on other projects or contracts;
- (e) federal and provincial income taxes, excess profit taxes or surtaxes and/or special expenses in connection therewith;
- (f) provisions for contingencies;
- (g) premiums for life insurance on the lives of officers and/or directors where proceeds accrue to the Proponent;
- (h) amortization of unrealized appreciation of assets;
- (i) depreciation of assets paid for by the Minister;
- (j) fines and penalties;
- (k) expenses and depreciation of excess facilities;
- (l) unreasonable compensation for officers and employees;
- (m) product development or improvement expenses not associated with the product being acquired under the Project;
- (n) advertising, except reasonable advertising of an industrial or institutional character placed in trade, technical or professional journals for the dissemination of information for the industry or institution;

- (o) entertainment expenses;
- (p) donations except those to charities registered under the Income Tax Act;
- (q) dues and other memberships other than regular trade and professional associations;
- (r) fees, extraordinary or abnormal for professional advice in regard to technical, administrative or accounting matters, unless approval from the Minister is obtained.

### **ADDENDUM TO TPC PROJECT COST PRINCIPLES**

#### **A Intellectual Property Protection**

Notwithstanding section 7(b) above, legal, accounting and consulting fees in connection with the obtaining of patents and statutory protection of other elements of the Intellectual Property are Eligible Costs.

*[Insert the following where Special Purpose Equipment is involved]*

#### **B Special Purpose Equipment**

For Eligible Costs in respect to Special Purpose Equipment, see the Schedule entitled Special Purpose Equipment.

## SCHEDULE 4 - BENEFITS

*(Example of Gross Business Revenue case.)*

### A - PAYMENTS TO MINISTER

#### 1. Definitions

**"Gross Business Revenues"** means all revenues, receipts, monies and other considerations of whatever nature made or received by the Proponent, whether in cash, or by way of benefit, advantage, or concession, and without deductions of any nature, but net of any returns or discounts actually credited and any sales, excise, ad valorem or similar taxes paid but without deduction for bad debts or doubtful accounts, as determined in accordance with generally accepted accounting principles, applied on a consistent basis.

**Transactions with Related Persons:** All revenues, or deemed revenues, that the Proponent acquired or is deemed to have acquired, from transactions with Related Persons (as defined in the Income Tax Act) with respect to this Project, will form part of the revenues. Transactions with Related Persons, and the deemed amounts received, shall be adjusted in the manner described below. All transfers of property, or of services, between the Proponent and Related Persons will form part of the revenues with the revenue from each disposal, transaction or transfer deemed equal to the average disposal price negotiated with arm's length parties for the disposal of a similar product in the preceding calendar year by the Proponent or any Related Persons.

In the event that no similar product was disposed of in the previous year, the latest disposal in previous years shall be used. In the event that no similar product has ever been disposed of, the disposal shall be deemed to have occurred at a price equal to the total direct costs of the product divided by the average percentage cost of goods sold of the company, where the average percentage cost of goods sold of the company is defined as direct costs of goods sold divided by the gross revenues, as stated in the latest annual financial statements.

The determination of these transactions with Related Persons may be subject to audit pursuant to the audit provisions of Schedule 1 of the Agreement.

**"Royalty Period"** means the period during which royalties will accrue, as specified in paragraph 2.2 below

## 2. Royalty Payments

### 2.1 Royalty Rate and Royalty Basis

The Proponent will pay to the Minister a royalty of *[insert percent]* % of annual Gross Business Revenues during the Royalty Period.

### 2.2 Royalty Period

The Royalty Period will begin on *[insert date]* and will end on *[insert date]*. If, however, cumulative royalties are less than \$ *[insert cap]* by *[insert date]*, then the royalty period will continue until the earlier of *[insert date]* or until a cumulative royalty ceiling of \$ *[insert cap]* is reached.

### 2.3 Royalty Statements and Payments

The Proponent will provide to the Minister an annual statement of the Gross Business Revenues, certified by the Proponent's Chief Financial Officer, within four (4) months of the end of each company fiscal year *[insert Proponent fiscal year ending month]*, together with the related royalty payment and send to the address specified in Article 7.1 of the agreement. The first statement and related royalty payment must be provided to the Minister by *[insert date four months after end of first royalty year]* in respect of the fiscal year ending *[insert appropriate Proponent fiscal year end date]*, and by *[insert month and day when subsequent payments are due]* each year thereafter in regard to the previous fiscal year. Payments shall be made by cheque to the order of the Receiver General and sent to the Minister.

### 2.4 Late Payments

The Proponent will pay interest on overdue royalty payments, at the Interest Rate, from the date on which the royalty payment is due, until payment in full is received by the Minister. Such interest is payable without notice to the Proponent, and in addition to any remedies of the Minister for default by the Proponent.

## 3. Changes in regard to Company's Business

3.1 The Proponent shall notify the Minister should the business carried out by the Proponent be split so as to be carried out in part by other persons.

3.2 In the event that part of the Proponent's business is carried out by related persons (subsidiaries or otherwise affiliated), the same royalty base shall continue to apply and the Proponent shall have the related persons involved report their gross revenues to the Minister and the Proponent shall make, or continue to make, as the case may be, payments to the Minister as if the Proponent's business had not

been split. The audit rights of the Minister as mentioned in Section 5 of the General Conditions shall extend to these related persons and the Proponent shall ensure that such audit rights may be exercised by the Minister.

- 3.3** In the event that part of the Proponent's business is carried out by an unrelated person, the royalty rate shall be increased so that the Minister is receiving comparable royalties as if that part of the Proponent's business had remained with the Proponent. After due consultation with the Proponent, the Minister shall make a determination as to the increased royalty rate. In the event that the Proponent disagrees with such increased rate, the Proponent may refer the matter to arbitration under the federal Commercial Arbitration Act, within 45 days of being notified of the new rate by the Minister.

## **B - BENEFITS TO CANADA**

### **1. Work in Canada**

- (a) Unless otherwise agreed to in writing by the Minister, the Proponent will ensure that the Project is performed and the Intellectual Property is exploited in Canada. This obligation shall continue for the resulting products until the end of the Royalty Period as set out in section 2.2 of this schedule.
- (b) The Proponent will not, without the prior written consent of the Minister, grant any right to the production of resulting products or transfer title to any of the Intellectual Property outside of Canada, except the licence or sublicense in conjunction with the sale of resulting products, and will impose the same restriction on all licensees or transferees.
- (c) The expression "resulting products" as used in paragraph (a) and (b) above means products, including services, resulting from the use of the Intellectual Property.

*(Example of Gross Project Revenues case.)*

## **A - PAYMENTS TO MINISTER**

### **1. Definitions**

**"Gross Project Revenues"** means all sales, revenues, receipts, monies and considerations made or received by any person, including the Proponent, directly or indirectly attributable to the sale, licensing or other transfer of the Resulting Products, or service related thereto, whether received in cash, or by way of benefit, advantage, or

concession, without deduction for doubtful accounts or bad debts. A Resulting Product will be deemed sold, leased or transferred at the time the transaction is booked, in accordance with generally accepted accounting principles, applied on a consistent basis.

**Transactions with Related Persons:** All revenues, or deemed revenues, that the Proponent acquired or is deemed to have acquired, from transactions with Related Persons (as defined in the Income Tax Act) with respect to this Project, will form part of the revenues. Transactions with Related Persons, and the deemed amounts received, shall be adjusted in the manner described below. All transfers of property, or of services, between the Proponent and Related Persons will form part of the revenues with the revenue from each disposal, transaction or transfer deemed equal to the average disposal price negotiated with arm's length parties for the disposal of a similar product in the preceding calendar year by the Proponent or any Related Persons.

In the event that no similar product was disposed of in the previous year, the latest disposal in previous years shall be used. In the event that no similar product has ever been disposed of, the disposal shall be deemed to have occurred at a price equal to the total direct costs of the product divided by the average percentage cost of goods sold of the company, where the average percentage cost of goods sold of the company is defined as direct costs of goods sold divided by the gross revenues, as stated in the latest annual financial statements.

The determination of these transactions with Related Persons may be subject to audit pursuant to the audit provisions of Schedule 1 of the Agreement.

**"Resulting Products"** means all products and services developed as a result of this Project, including variants and derivatives thereof.

**"Royalty Period"** means the period during which royalties will accrue, as specified in paragraph 2.1 below.

## 2. Payments to the Minister - Royalties

### 2.1 Payment Basis and Period

- (a) The Proponent will pay to the Minister a royalty of [*insert percent*] % of annual Gross Project Revenues, during a royalty period beginning [*insert date*] and extending to [*insert date*].
- (b) If, by [*insert date*], cumulative royalties accrued are less than \$ [*insert cap*], the royalty period will continue until \$ [*insert cap*] has been accrued or [*insert date*], whichever occurs first.

## **2.2 Royalty Statements and Payments**

The Proponent will provide to the Minister an annual statement of the Gross Project Revenues, certified by the Proponent's Chief Financial Officer, within four (4) months of the end of each company fiscal year [*insert Proponent fiscal year ending month*], together with the related royalty payment and send to the address specified in Article 7.1 of the agreement. The first statement and related royalty payment must be provided to the Minister by [*insert date four months after end of first royalty year*] in respect of the fiscal year ending [*insert appropriate Proponent fiscal year end date*], and by [*insert month and day when subsequent payments are due*] each year thereafter in regard to the previous fiscal year. Payments shall be made by cheque to the order of the Receiver General and sent to the Minister.

## **2.3 Late Payments**

The Proponent will pay interest on overdue royalty payments, at the Interest Rate, from the date on which the royalty payment is due, until payment in full is received by the Minister. Such interest is payable without notice to the Proponent, and in addition to any remedies of the Minister for default by the Proponent.

# **B - BENEFITS TO CANADA**

## **1. Work in Canada**

- (a) Unless otherwise agreed to in writing by the Minister, the Proponent will ensure that the Project is performed and the Intellectual Property is exploited in Canada. This obligation shall continue for the resulting products until the royalty obligations set out in Section A above are met.
- (b) The Proponent will not, without the prior written consent of the Minister, grant any right to the production of resulting products or transfer title to any of the Intellectual Property outside of Canada, except the licence or sublicense in conjunction with the sale of resulting products, and will impose the same restriction on all licensees or transferees.
- (c) The expression "resulting products" as used in paragraph (a) and (b) above means products, including services, resulting from the use of the Intellectual Property.

2. *[Add other benefits to Canada, if any, that are contractual commitments on the part of the Proponent, i.e. that may result in formal default, as opposed to mere forecasts and projections. These may include commitments of specific investments, minimum employment level in R&D, corporate mandate in regard to other products -this may require written confirmation directly from the parent company - ...etc. Make sure a time frame/deadline is set for the fulfilment of each additional benefit].*

## **SCHEDULE 5 - REPORTING REQUIREMENTS**

### **1. Claim Reports**

Whenever the Proponent submits a claim, it shall attach to the claim a progress report containing:

- (a) a description of the progress made in the fulfilment of the Statement of Work during the Claim Period, detailed by Activity as defined in the Statement of Work;
- (b) a statement of milestones achieved, if any, during the Claim Period;
- (c) an assessment of any significant delay in completing the Project or the attainment of any milestone identified in the Statement of Work, the reasons for such delay, and mitigation measures being taken;
- (d) the Proponent's revised projections of Project cash flows for the current Fiscal Year, except that in cases where the Claim Period is monthly, this information is to be provided on June 30<sup>th</sup>, September 30<sup>th</sup>, December 31<sup>st</sup>, and March 31<sup>st</sup> of each year.

*[insert following where applicable]*

- (e) *an update to the list of current holdings of Special Purpose Equipment (Special Purpose Equipment Form in Schedule 7) if any modifications have been made since the last claim;*

No claim for the Contribution will be processed unless and until such report is provided to the Minister.

### **2. Annual Review**

Unless otherwise agreed to, the parties shall meet at least once annually during the Project period, at a mutually agreeable time, to review the progress of the Project.

### **3. Project Progress Reports**

At least one (1) month prior to the date set for the Annual Review meeting mentioned in section 2 above, the Proponent shall provide the Minister with a written progress report containing:

- (a) a description of the progress in completion of the Project activities, in comparison with the schedule and milestones contained in the Statement of Work and the related Project expenditures for that segment of Project activities;
- (b) the Proponent's revised cost breakdown for the Project, including an estimated cost breakdown by major activity and by Fiscal Year; and
- (c) an indication of any delay in completing the Project and the reasons for such delay, together with the Proponent's revised schedule and any proposed revisions to the Statement of Work;

#### **4. Annual Information Updates**

By February 15, [*insert year*], and by the same date each year thereafter until this Agreement ends in accordance with section 7 of the General Conditions, the Proponent shall provide the following information updates and certifications to the Minister:

- (a) an update of the projected and actual payments to the Minister, as set out in Form TPC-1 (*Report on Estimated & Actual Payments to the Minister*) attached hereto, together with an explanation of any significant changes from the last update.

(Note: Once the payment period starts, this update shall be provided annually at the time of making payment, in accordance with the provisions entitled "Payments to Minister" in Schedule 4)

- (b) an update of projected and actual person years (PYs), as set out in Form TPC-2 (*Report on Job Creation and Maintenance*) attached hereto, together with an explanation of any significant changes from the last update;
- (c) an update of other representations and expected results as set out in Form TPC-3 (*Report on Other Representations & Expected Results*) attached hereto, together with an explanation of any significant changes from the last update;
- (d) an update of investment leverage, as set out in Form TPC - 4 (*Report on Investment Leverage*) attached hereto, together with an explanation of any significant changes from the last update;
- (e) an update on sustainable development impacts, as set out in Form TPC - 5 (*Report on Sustainable Development Impacts*) attached hereto, together with an explanation of any significant changes from the last update;
- (f) the certification attached as Form TPC – 6 (*Report on Gifts or Inducements and Lobbyist Registration Act*);

- (g) the certification attached as Form TPC – 7 (Permission to Release Information);
- (h) a summary of the progress made in the fulfilment of specific commitments in regard to benefits to Canada identified in Schedule 4.

***[Insert the following where applicable]***

- (x) *an update to the list of current holdings of Special Purpose Equipment as set out in the Special Purpose Equipment Form forming part of Schedule 7;*
- (x) *an identification of any planned or completed transfer to commercial production, transfer outside of Canada, sale, lease or other disposal of Special Purpose Equipment.*
- (x) *a certification to the Minister that the Proponent is maintaining the required environmental protection measures in relation to the Project.*

**5. Annual Financial Statements**

The Proponent shall provide the Minister with a copy of its annual ***[insert audited or unaudited]*** financial statements within four (4) months of the end of each of the Proponent's fiscal years.

***[insert Article below for Agreements with a Contribution equal to or greater than \$10M]:***

**6. Changes in Annual Ceilings for Contribution**

The revised forecasts on Project costs contained in the Claim Reports, the Project Progress Reports and the Annual Information Updates, do not constitute requests for reprofiling of annual ceilings for the Contribution as mentioned in Article 4.34. Any reprofiling request shall be specifically and separately made by the Proponent.



Technology Partnerships  
Canada

Partenariat technologique  
Canada

# Annual Information Update

**Project Number:**

**Date:**

**Proponent:**

**Project:**

| AIU CERTIFICATION OF COMPLETENESS   |            |             |
|---|------------|-------------|
| <p><b>PRINT NAME OF AUTHORIZED</b></p> <p><b>OFFICER</b> _____ <b>TITLE</b> _____</p>   |            |             |
| SIGNATURE _____   | DATE _____ | PHONE _____ |
| <p>(_____) _____</p> <p>The Proponent certifies that all figures provided in this AIU document (TPC-1 to TPC-5) represent reasonable estimated and actual results that the Minister can expect from this Project. The Minister recognizes that those estimates may vary through time, due to factors over which the Proponent has little or no control.</p> |            |             |

**Technology Partnerships Canada**  
**Report on Estimated & Actual Payments to the Minister**

**FORM TPC-1**

**Instructions:**

All payments expected from this project to the end of the Benefits Phase are indicated below. In the table below, please complete the **non-shaded cells of Column (B) only**, by estimating the payments due to the Minister for each year of the Benefit Phase, based on estimated eligible sales and the royalty terms set out in the agreement. For this, and all other forms, **Work Phase** is defined as the period commencing with the signing of the contribution agreement and ending at completion of the Statement of Work (SOW). The **Benefits Phase** commences upon completion of the SOW and ends when final payment is received or other benefit related activities cease, whichever comes last. Note that for certain agreements, payments may be required while the project is still in the Work Phase. In such instance, estimates of payments on this form shall commence accordingly. **Please note this form reports on a government fiscal year basis of April 1 to March 31.**

(Please report all figures in \$000s)

TPC Project No.

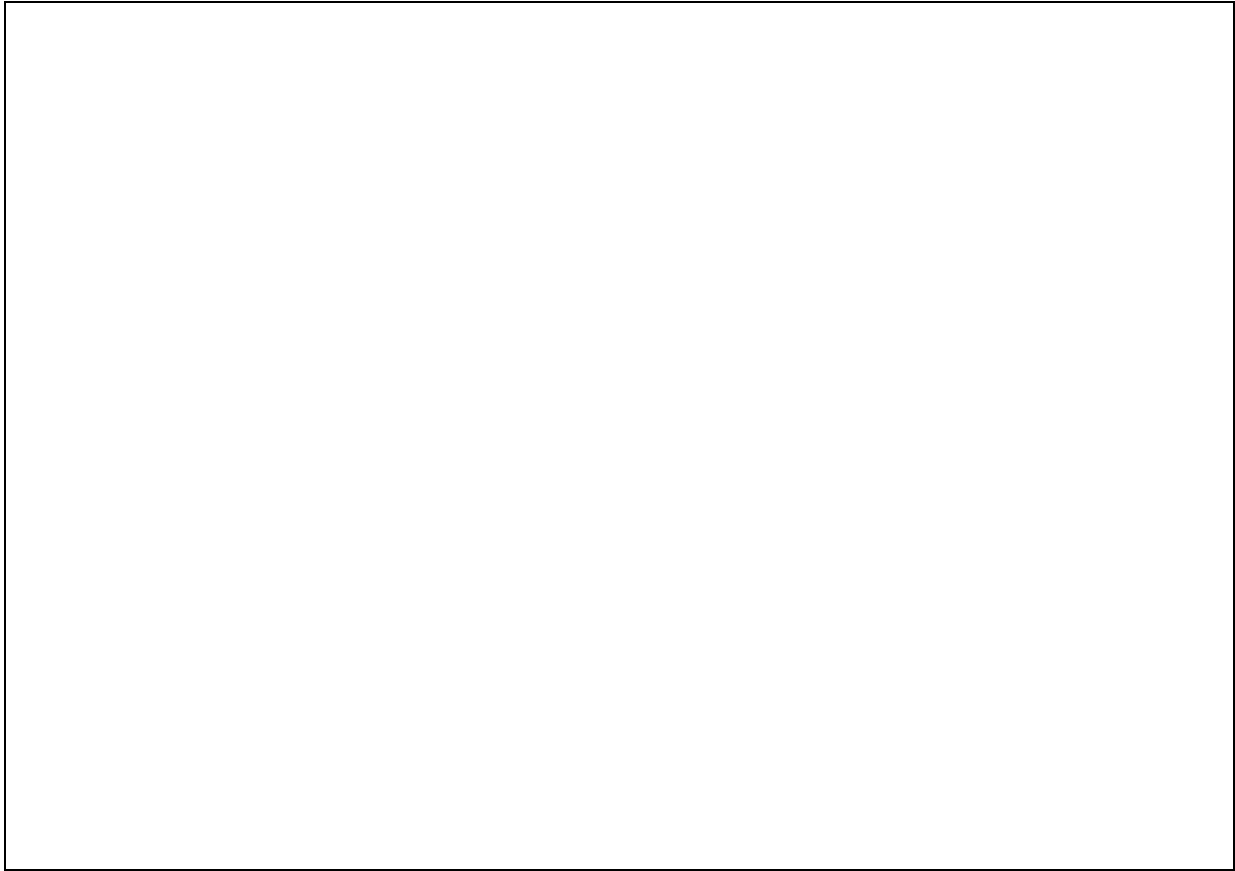
|                        | (A)  | (B)                                    | (C)                   |
|------------------------|--|--|-----------------------|
| Year Ending (March 31) | Last Forecast of Estimated Payments (1997-98) or As per Contribution Agreement (1997-98) | Current Forecast of Estimated Payments | Payments Made to Date |
| 1998                   |  |  |                       |
| 1999                   |  |  |                       |
| 2000                   |  |  |                       |
| 2001                   |  |  |                       |
| 2002                   |  |  |                       |
| 2003                   |  |  |                       |
| 2004                   |  |  |                       |
| 2005                   |  |  |                       |
| 2006                   |  |  |                       |
| 2007                   |  |  |                       |
| 2008                   |  |  |                       |
| 2009                   |  |  |                       |
| 2010                   |  |  |                       |
| 2011                   |  |  |                       |
| 2012                   |  |  |                       |
| 2013                   |  |  |                       |
| 2014                   |  |  |                       |
| 2015                   |  |  |                       |
| 2016                   |  |  |                       |
| 2017                   |  |  |                       |
| 2018                   |  |  |                       |
| 2019                   |  |  |                       |
| 2020                   |  |  |                       |
| 2021                   |  |  |                       |
| 2022                   |  |  |                       |
| 2023                   |  |  |                       |
| 2024                   |  |  |                       |
| 2025                   |  |  |                       |
| 2026                   |  |  |                       |
| 2027                   |  |  |                       |
| 2028                   |  |  |                       |
| 2029                   |  |  |                       |
| <b>Totals</b>          |  |  |                       |

**\*\* DO NOT WRITE IN SHADED AREAS \*\***

**Explanations of Significant Variances:**

In the space below, provide a brief explanation for significant variances (>15%) between previous (column (A)) and current (column (B)) forecast payments. If required, please attach separate page.

TPC Project No.



**Project Number:**  
**Proponent:**

**Date:**  
**Project:**

**Technology Partnerships Canada  
Report on Job Creation and Maintenance**

**FORM TPC-2**

The intent of this schedule is to identify the number of Person Years, (PYs), expended on Project related activities during any one year of the duration of the Agreement, according to category of employment. Both part-time and full-time employees should be claimed, as employment of all types represents a Project benefit. A single PY unit can be one person working fulltime for one year, or any number of persons working an aggregate of 1800-2000 hours between them for the whole year.

1. Data is to be provided based on a **52-week calendar year** and should be expressed in PY units.
2. **Direct PYs are to be counted.** The term direct PYs relates to the work performed in Canada by employees of the proponent. Only those direct PYs, which result from the project, are to be counted. Work performed outside of Canada by Canadian employees is not to be included except for eligible activities performed as part of the Statement of Work during the Work Phase. Reported PYs may be performed by existing staff or by new hires.
3. Indirect PYs refer to work performed in Canada as a result of the project by employees who are not employed by the Proponent, and normally at a location other than the Proponent's facility. **Apart from the following two exceptions, indirect PYs are not to be included in the PY count:**
  - A. Sub-contracted PYs in the Work phase of R&D/innovation projects are included in the PY count, provided that the related activity is explicitly set out in the Statement of Work of the Contribution Agreement.
  - B. Benefit phase production PYs of related entities to the Proponent are included in the PY count, provided that the Contribution Agreement explicitly includes PY reporting requirements on the parties concerned and the Proponent provides the Minister access to the related facilities for monitoring purposes.

**Instructions:**

**Part 1 - Work Phase:** Report in this part only if at any time during the immediately preceding calendar year, the project was in the Work Phase. Reporting during the Work Phase requires a yearly breakdown by category of employment. **Report on Part 1, by completing the non-shaded cells for each category of employment.**

TPC Project No.

**Part 2 - Benefits Phase:** All Proponents must report in the Benefits Phase part of Form TPC-2. Reporting during the Benefits Phase requires the average number of PYs during this Phase, by category of employment. **Report on Part 2, by completing the non-shaded cells of Column D, and, if at anytime in the immediately preceding calendar year the project was in the Benefits Phase, Column B as well.**

**Example:**

The Benefits Phase is expected to last 9 years and “General Production” PYs are expected to be 8 per year in the first 3 years, 5 per year in the next 3 years and 2 per year in the last 3 years. The average PYs reported in column D for “General Production” would be 5.  $[(3 \times 8) + (3 \times 5) + (3 \times 2)] / 9 = 5$

However, if the Proponent is in the 4<sup>th</sup> year of the Benefits Phase, and the actual PYs for the first 3 years were 11 per year, the average PYs reported in column D for “General Production” would be 6.  $[(3 \times 11) + (3 \times 5) + (3 \times 2)] / 9 = 6$

| PART 1 : WORK PHASE - Data compiled as of: December 31, _____ |  |         |           |      |      |      |      |       |
|---|--|---------|-----------|------|------|------|------|-------|
| CATEGORY OF EMPLOYMENT  | TOTAL NUMBER OF PERSON YEARS FOR YEAR ENDING DECEMBER 31 |         |           |      |      |      |      |       |
|   | ACTUAL   |         | ESTIMATED |      |      |      |      |       |
|   | Cumulative to 2004                                       | In 2005 | 2006      | 2007 | 2008 | 2009 | 2010 | Total |
| 1] KNOWLEDGE-BASED (SCIENCE, ENGINEERING & TECHNICAL)         |  |         |           |      |      |      |      |       |
| 2] MANAGEMENT & ADMINISTRATION                                |  |         |           |      |      |      |      |       |
| 3] SUB-CONTRACTED WORK  |  |         |           |      |      |      |      |       |
| TOTAL   |  |         |           |      |      |      |      |       |

| PART 2 - BENEFIT PHASE - Data compiled as of: December 31, _____ |  |            |  |                     |  |
|--|--|------------|--|---------------------|--|
| CATEGORY OF EMPLOYMENT   | NUMBER OF PERSON YEARS                   |            |  |                     |  |
|  | ACTUAL PERSON YEARS FOR REPORTING PERIOD |            | ESTIMATED <u>AVERAGE</u> NUMBER OF ANNUAL PERSON YEARS FOR DURATION OF BENEFIT PHASE |                     |  |
|  | A) Cumulative to 2004                    | B) In 2005 | C) Previous Estimate   | D) Revised Estimate |  |
| 1] KNOWLEDGE-BASED (SCIENCE, ENGINEERING & TECHNICAL)            |  |            |  |                     |  |
| 2] GENERAL PRODUCTION  |  |            |  |                     |  |
| 3] MANAGEMENT, ADMINISTRATION, MARKETING, SALES & SUPPORT        |  |            |  |                     |  |
| TOTAL  |  |            |  |                     |  |

| PART 1 : WORK PHASE - Data compiled as of: December 31, _____ |  |         |           |      |      |      |      |       |
|---|--|---------|-----------|------|------|------|------|-------|
| CATEGORY OF EMPLOYMENT  | TOTAL NUMBER OF PERSON YEARS FOR YEAR ENDING DECEMBER 31 |         |           |      |      |      |      |       |
|   | ACTUAL   |         | ESTIMATED |      |      |      |      |       |
|   | Cumulative to 2004                                       | In 2005 | 2006      | 2007 | 2008 | 2009 | 2010 | Total |
| 1] KNOWLEDGE-BASED (SCIENCE, ENGINEERING & TECHNICAL)         |  |         |           |      |      |      |      |       |
| 2] MANAGEMENT & ADMINISTRATION                                |  |         |           |      |      |      |      |       |
| 3] SUB-CONTRACTED WORK  |  |         |           |      |      |      |      |       |
| TOTAL   |  |         |           |      |      |      |      |       |
| CURRENT COMPANY EMPLOYMENT INFORMATION                        |  |         |           |      |      |      |      |       |
| Total Number of Employees                                     |  |         |           |      |      |      |      |       |

**\*\* DO NOT WRITE IN SHADED AREAS \*\***

**Explanations of Significant Variances:**

*In the space below, provide a brief explanation for significant variances (>15%) between most recent estimates (A) and current estimates (B). If required, please attach separate page.*

**Project Number:**  
**Proponent:**

**Date:**  
**Project:**

**Technology Partnerships Canada  
 Report on Other Representations & Expected Results**

**FORM TPC-3**

| <p><b><u>Instructions:</u></b><br/>         Please list any representations and expected results in the table below. If not applicable, please indicate with a “N/A” response.</p> <p><b>Other representations and expected results include:</b></p> <ol style="list-style-type: none"> <li>1. <b>PATENTS:</b> Are there any patents that are expected to result from the development work of the Project?</li> <li>2. <b>ACQUISITION OF TECHNOLOGY:</b> Is the Proponent planning to acquire intellectual property rights, technology, or know-how essential to the success of the Project?</li> <li>3. <b>CORPORATE MANDATES:</b> Specify any new or enhanced mandates expected?</li> <li>4. <b>OTHER SIGNIFICANT REPRESENTATIONS/EXPECTED RESULTS:</b> Strategic alliances or partnerships, new applications of technology, technology diffusion, etc.?</li> </ol> |              |                      |
|---|--------------|----------------------|
| DESCRIPTION OF ACTUAL AND EXPECTED RESULT/REPRESENTATION  | PLANNED DATE | STATUS / ACTUAL DATE |
| <b>1. PATENTS</b>   |              |                      |
| <b>2. ACQUISITION OF TECHNOLOGY</b>   |              |                      |
| <b>3. CORPORATE MANDATES</b>  |              |                      |
| <b>4. OTHER</b>   |              |                      |

TPC Project No.

**Project Number:**

**Date:**

**Proponent:**

**Project:**

**Technology Partnerships Canada  
Report on Investment Leverage**

**FORM TPC-4**

This form estimates all costs incurred in Canada and investment that may be leveraged by TPC funds. These include:

**ELIGIBLE SUPPORTED COSTS:** Those costs incurred by the Proponent and towards which TPC provides financial support.

**OTHER PROJECT RELATED COSTS (INCLUDING POST WORK PHASE INVESTMENT):** Other non-recurring costs incurred in Canada that are directly related to the project. This would include items such as cost overruns but would not include costs prior to the date indicated in Article 4.2 of the Contribution Agreement. For example, a project may include capital costs (for land and building) that are not eligible for TPC support, but which the company will incur directly related to the project.

Post work phase investment refers to any additional non-recurring, post work phase, project related investment in Canada by the Proponent (e.g. non-recurring costs related to production facilities, marketing and distribution activities, etc.). For example, the building of new production lines, creation of a new marketing team, or establishment of a new distribution/line network for the resulting product/technology.

**OTHER INVESTMENTS:** Other investment unrelated to the specific project but included in the contractual commitments made by the Proponent. For example, a company may commit to construction of a building as a condition of receiving a TPC investment, although the building is not directly part of the project.

**Instructions:**

Please complete the **non-shaded cells of column (B) only** in the table for each type of investment, as defined above, by providing actual figures for the immediately preceding year and estimates for the remaining term. Please note **this form reports on a government fiscal year basis of April 1 to March 31.**

TPC Project No.

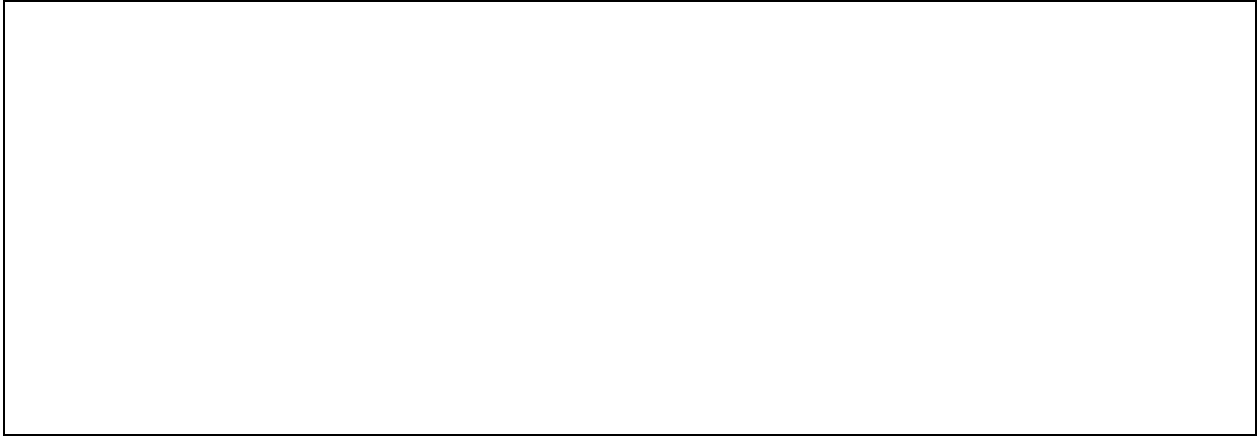
(Please report all figures in \$000s)

| Year Ending March 31 | Eligible Supported Costs           |                               | Other Project Related Costs        |                               | Other Investments                  |                               |
|----------------------|------------------------------------|-------------------------------|------------------------------------|-------------------------------|------------------------------------|-------------------------------|
|                      | (A)Last Revised Forecast (2004-05) | (B)Actual or Current Estimate | (A)Last Revised Forecast (2004-05) | (B)Actual or Current Estimate | (A)Last Revised Forecast (2004-05) | (B)Actual or Current Estimate |
| Cumulative to 2004   |                                    |                               |                                    |                               |                                    |                               |
| 2005                 |                                    |                               |                                    |                               |                                    |                               |
| 2006                 |                                    |                               |                                    |                               |                                    |                               |
| 2007                 |                                    |                               |                                    |                               |                                    |                               |
| 2008                 |                                    |                               |                                    |                               |                                    |                               |
| 2009                 |                                    |                               |                                    |                               |                                    |                               |
| 2010                 |                                    |                               |                                    |                               |                                    |                               |
| 2011                 |                                    |                               |                                    |                               |                                    |                               |
| 2012                 |                                    |                               |                                    |                               |                                    |                               |
| 2013                 |                                    |                               |                                    |                               |                                    |                               |
| 2014                 |                                    |                               |                                    |                               |                                    |                               |
| 2015                 |                                    |                               |                                    |                               |                                    |                               |
| 2016                 |                                    |                               |                                    |                               |                                    |                               |
| 2017                 |                                    |                               |                                    |                               |                                    |                               |
| 2018                 |                                    |                               |                                    |                               |                                    |                               |
| 2019                 |                                    |                               |                                    |                               |                                    |                               |
| 2020                 |                                    |                               |                                    |                               |                                    |                               |
| 2021                 |                                    |                               |                                    |                               |                                    |                               |
| 2022                 |                                    |                               |                                    |                               |                                    |                               |
| 2023                 |                                    |                               |                                    |                               |                                    |                               |
| 2024                 |                                    |                               |                                    |                               |                                    |                               |
| 2025                 |                                    |                               |                                    |                               |                                    |                               |
| 2026                 |                                    |                               |                                    |                               |                                    |                               |
| 2027                 |                                    |                               |                                    |                               |                                    |                               |
| 2028                 |                                    |                               |                                    |                               |                                    |                               |
| 2029                 |                                    |                               |                                    |                               |                                    |                               |
| 2030                 |                                    |                               |                                    |                               |                                    |                               |
| 2031                 |                                    |                               |                                    |                               |                                    |                               |
| 2032                 |                                    |                               |                                    |                               |                                    |                               |
| <b>Totals</b>        |                                    |                               |                                    |                               |                                    |                               |

**\*\* DO NOT WRITE IN SHADED AREAS \*\***

**Explanations of significant variances:**

*In the space below, provide a brief explanation for significant variances (>15%) between previous (column A) and current (column B) forecast investments. If required, please attach separate page.*



**Project Number:**  
**Proponent:**

**Date:**  
**Project:**

**Technology Partnerships Canada  
Report on Environmental Benefits**

**FORM TPC-5**

On a full life cycle basis (from design through manufacture/operation and decommissioning or disposal/recycling), the technologies developed during the course of this R&D project are expected to provide the following downstream Sustainable Development benefits (over existing industrial practices) as they are incorporated into the commercial activities of the firm.

| Benefits  | Significant | Moderate | Minor/None | N/A |
|---|-------------|----------|------------|-----|
| Reduced energy consumption (i.e. efficiency of use) or increased energy production through sustainable means (i.e. efficiency of generation). |             |          |            |     |
| Increased supply of energy from renewable sources.  |             |          |            |     |
| Reduced water consumption or increased supply of clean water.   |             |          |            |     |
| Reduced consumption of raw materials or manufactured materials (reduced material intensity).  |             |          |            |     |
| Reduced production and/or release of pollutant species of any kinds to the atmosphere.  |             |          |            |     |
| Reduced production and/or release of pollutant species of any kinds to receiving waters.  |             |          |            |     |
| Reduced production and/or disposal of solid waste to the land.  |             |          |            |     |
| Reduced usage and/or production and/or disposal of hazardous/toxic substances.  |             |          |            |     |
| Remediation or rehabilitation of contaminated land or water.  |             |          |            |     |
| <b>Other - Please Specify:</b>  |             |          |            |     |
|   |             |          |            |     |
|   |             |          |            |     |
|   |             |          |            |     |
|   |             |          |            |     |
|   |             |          |            |     |

TPC Project No.

**Project Number:**

**Date:**

**Proponent:**

**Project:**

**Technology Partnerships Canada  
Report on Gifts or Inducements and Lobbyist Registration Act**

**FORM TPC-6**

**Certification:**

- **Reproduced on Company letterhead**
- **Signed by the Company President or Vice President**

We, the undersigned, hereby certify that our company, as the "Proponent":

**A- No Gifts, Inducements or Commissions**

The Proponent represents and warrants that it has not, nor has any person on its behalf:

- a) offered, promised or provided to any official, employee or any other person representing Her Majesty the Queen in Right of Canada, any bribe, gift or other inducement for or with a view to obtaining the Contribution, or
- b) employed or retained any person in respect of obtaining the Contribution for a commission, contingency fee or any other consideration dependant upon the execution of the Contribution Agreement.

and

**B - Lobbyist Registration Act**

The Proponent represents and warrants that any person who is required to be registered pursuant to the Lobbyist Registration Act, including Consultant and In-house lobbyists, is registered pursuant to the Act. The failure of such person to register under the Lobbyist Registration Act, or the failure of the Proponent to disclose this fact to the Minister, during the term of the Contribution Agreement constitutes a material term as set out in Article 8 of TPC's General Conditions.

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

TPC Project No.

**Project Number:**  
**Proponent:**

**Date:**  
**Project:**

**Technology Partnerships Canada  
Permission to Release Information**

**FORM TPC-7**

As you may be aware, Technology Partnerships Canada (TPC) often receives requests to demonstrate the benefits of the program. These often come through the Access to Information Act or Parliamentary requests. Further, TPC is mindful of the continuing need for public accountability and transparency.

Projects supported through TPC, including yours, have and will create numerous benefits for Canada and Canadians alike. The program may be asked to share information regarding the creation of these benefits, with parties such as those identified above. For this reason, we request your permission to release the types of information outlined below.

Please be assured that a negative response will in no way result in any repercussions for our relationship.

We thank you for your time on this matter, and hope you can help the program to demonstrate the benefits of its investment in companies like yours.

**Please check the appropriate box(es):**

I give TPC permission to release all of the information listed below in response to Parliamentary requests, without the need to contact me each time.

**OR**

I give TPC permission to release only the following information which I have checked:

- original total forecasted jobs to be created or maintained, during the term of the project
- actual jobs created to date, during the term of the project
- original total payment forecast, as per the agreement
- actual payments made to date, pursuant to the agreement
- original total TPC forecast contribution and company leveraged amount
- actual TPC contribution made and actual company leveraged amount

**OR**

TPC Project No.

I do not give TPC permission to release any of the information listed above, for this purpose.

(Notwithstanding this particular request, please note that the Access to Information Act is still applicable. In this regard, the ATIP Office of Industry Canada may still contact you regarding individual requests, as appropriate.)

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHEDULE 6 - PROJECT FACT SHEET FOR NEWS RELEASE**

|   |  |
|---|--|
| <b>Program: Technology Partnerships Canada</b>      | <b>Project No.:</b>  |
| <b>Name &amp; Address of Proponent:</b>             | <b>Proponent Contact:</b><br><br>Name:<br><br>Telephone:<br>Fax: |
| <b>Project Location:</b>                            | <b>Project Type:</b>   |
| <b>Industrial Sector:</b>                           | <b>Project Purpose:</b>  |
| <b>Authorized Assistance: \$</b>                    |  |
| <b>Project Description and Anticipated Results:</b> |  |

TPC Project No.

## SCHEDULE 7 - SPECIAL PURPOSE EQUIPMENT

### 1. Definition

**“Special Purpose Equipment”** means

-equipment, including ancillary systems, instrumentation, or special test equipment that is purchased, leased, manufactured or otherwise acquired for the purposes of the Project, the item cost of which exceeds \$250,000., excluding jigs, tools, dies and fixtures; and

-prototypes or pilot plants that are designed and built by the Proponent to demonstrate the technology to be commercialized.

### 2. Treatment of Special Purpose Equipment

#### (a) Disposal

Except in the situation described in section (b) below, if the Proponent transfers to commercial production, transfers outside of Canada, sells, leases or otherwise disposes of any Special Purpose Equipment, the Minister will require the Proponent to repay the greater of an amount equal to that of

(i) multiplying the proceeds of disposition of the Special Purpose Equipment by the ratio of the total amount of the contribution paid by the Minister to the total amount paid by the Proponent for Eligible Costs; and

(ii) multiplying the fair market value of the Special Purpose Equipment on the date of the transfer to commercial production, transfer outside of Canada, sale, lease or other disposition by the ratio of the total amount of the contribution paid by the Minister to the total amount paid by the Proponent for Eligible Costs;

but in no event shall the amount payable exceed the amount paid by the Minister to the Proponent under this Agreement.

The Proponent shall make such payment within 30 days of the transfer to commercial production, transfer outside of Canada, sale, lease, or other disposition of the Special Purpose Equipment.

#### (b) Payment on Special Purpose Equipment

If the estimated cost as set out in the Statement of Work of all of the items of Special Purpose Equipment, other than prototypes and pilot plants, is 30% or less of the total estimated Eligible Costs, the Proponent will not be obligated to pay

the Minister for those items which are transferred by the Proponent to commercial production in Canada.

### **3. Costing Principles**

- (a) To be an Eligible Cost, the Special Purpose Equipment must be necessary for the performance of the Project, be described in sufficient detail herein so as to be readily identifiable, and the relevant cost be specified in the Special Purpose Equipment Form attached.
- (b) If the Special Purpose Equipment is to be modified or integrated by the Proponent during the Project, the costs related thereto will be eligible only if specifically identified in the Statement of Work in Schedule 2.
- (c) Eligible Costs for Special Purpose Equipment will be the net laid down cost to the Proponent, after deducting trade discounts and cash discounts for prompt payment.
- (d) Where applicable, periodic payments under a capital lease are Eligible Costs, to a maximum equal to the price of the Special Purpose Equipment, if it were purchased at the commencement of the lease period; all interest and carrying charges are to be excluded. For operating leases, the Eligible Cost is the actual lease payments incurred during the performance of the Project.
- (e) Labor and material costs required in the modification or adaptation of the Special Purpose Equipment, for the purposes of the Project, are eligible costs.
- (f) Unless such is otherwise allowed in the Statement of Work, costs of construction or alteration of plant facilities to accommodate the Special Purpose Equipment or any other item of machinery and equipment, and any profit, fees, general and administrative overhead expenses related thereto, are not eligible.

### **4. Reporting**

As mentioned in sections 1 (Claim Reports) and 4 (Annual Information Updates) of Schedule 5, the Proponent will report to the Minister, using the Special Purpose Equipment Form attached, on all activities associated with Special Purpose Equipment.

The Proponent also agrees to monitor the location and use of all the items of equipment that will eventually appear on the list.

**SPECIAL PURPOSE EQUIPMENT FORM**

**PROPONENT:**

**PROJECT NO.:**

| <p>This list is to include all items of Special Purpose Equipment (SPE), as defined in Schedule 7, purchased by the Proponent for the purposes of carrying out the Project.</p> <p>The Proponent agrees to provide an up-to-date copy of this list with any claim that modifies its content as well as with each annual report, as specified in Schedule 5.</p> |                               |     |                                      |
|---|-------------------------------|-----|--------------------------------------|
| LIST OF EQUIPMENT   |                               |     |                                      |
| 1   | 2                             | 3   | 4                                    |
| ITEM NO   | DESCRIPTION AND SERIAL NUMBER | QTY | COST OF THE ITEM(s) TO FIRM (Cdn \$) |
| 1   |                               |     |                                      |
| 2   |                               |     |                                      |
| 3   |                               |     |                                      |
| 4   |                               |     |                                      |
| 5   |                               |     |                                      |

TPC Project No.

**SCHEDULE X - ENVIRONMENTAL MITIGATION MEASURES**