

CANADIAN SPACE AGENCY

Space Technologies

Collaboration Agreement for the Project: XXXX

Revision 4.5

DATE



**Canadian Space
Agency**

**Agence Spatiale
Canadienne**

COLLABORATION AGREEMENT

THIS AGREEMENT is made

BETWEEN: The Canadian Space Agency (hereinafter referred to as the "CSA")

AND: **NAME OF COMPANY**, a corporation organized and existing under the laws of **Indicate Province**, having offices at **ADDRESS** Canada (hereinafter referred to as the "Company" or "**INDICATE**").

AND: **NAME OF UNIVERSITY** (hereinafter referred to as the "University"), having an office at **ADDRESS** Canada (hereinafter referred to as the "University" or "**NAME**")

Hereby referred to collectively as "The Parties",

WHEREAS the mandate of the CSA is to promote the peaceful use and development of space, to advance the knowledge of space through science and to ensure that space science and technology provide social and economic benefits for Canadians; and, within that mandate, the CSA shall conduct programs and projects relating to scientific and industrial research and development and the application of space technology;

AND WHEREAS **NAME OF COMPANY** has expertise in **INDICATE** for a space environment;

AND WHEREAS **Error! Reference source not found. OF UNIVERSITY** carries out scientific research through its faculty, staff, and students, and is committed to bringing the results of that research into widespread use;

AND WHEREAS The Parties agree to carry out the Project: **NAME** according to this Agreement;

AND WHEREAS the parties designate **NAME** as the Commercialisation Manager;

NOW THEREFORE The Parties agree as follows:

1. DEFINITIONS

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

1.1 "Agreement" means this agreement, including the attached Schedules.

1.2 "Background Information" means all Technical Information that is not Foreground Information and that is proprietary to or the confidential information of the Parties, its Subcontractors or any other supplier of the Parties, as well as all Technical Information disclosed and to be disclosed by The Parties to each other (i) which that Party is, or will be, free to license to others, or (ii) which is in the public domain; and which will be used during the performance of the Project or linked with Intellectual Property Rights in Foreground Information.

1.3 "Commercialization Manager" means the Party designated by consensus among the Parties to coordinate the global protection and commercialization strategy of the Project. The Commercialization Manager may be changed by agreement of the Parties.

1.4 "Completion Date" means the actual completion date of the Project to the satisfaction of The Parties and which is presently targeted at April 30, 2011.

1.5 "Confidential Information" means all information disclosed between the Parties, unless the nature of the information or the circumstances in which it was disclosed clearly indicates that the information is not confidential;

1.6 "Results" means the Project results as set out in SCHEDULE A.

1.7 "Effective Date" means the date on which this Agreement becomes effective. For the purposes of this Agreement, the Effective Date is DATE.

1.8 "Fiscal Year" means the period from April 1st in any year to March 31st in the next calendar year.

1.9 "Firmware" means any computer program stored in integrated circuits, read-only memory

1.10 "Foreground Information" means any Invention first conceived, developed or reduced to practice as part of the Project and all other Technical Information conceived, developed or produced as part of the Project;

1.11 "Intellectual Property Rights" means any intellectual property right recognized by the law, including any intellectual property right protected through legislation (such as that

governing patents, copyright, industrial design, integrated circuit topography, or plant breeders' rights, or the foreign equivalents of the foregoing) or arising from protection of information as a trade secret or as confidential information which is capable of being licensed;

1.12 "Invention" means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter, whether or not patentable;

1.13 "Milestones" mean the milestones of the Project as set out in SCHEDULE A.

1.14 "Moral Rights" has the same meaning as in the Copyright Act, R.S. 1985, c. C-42;

1.15 "Project" means the **NAME** as described in SCHEDULE A.

1.16 "Project Leader" means the University employee that the Parties designate among key personnel to coordinate The Project.

1.17 "Publication" means any document prepared with an aim to publish.

1.18 "Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, and includes modifications to any of the foregoing.

1.19 "Subcontract" means a contract let by any party at any tier for the performance or supply of a part of the Work, and the derivatives of the word shall be construed accordingly;

1.20 "Technical Information" means all information of a scientific, technical or artistic nature relating to the Project, whether oral or recorded in any form or medium and whether or not subject to copyright, including but not limited to any Inventions, designs, methods, processes, techniques, know-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, collections of information, manuals and any other documents, and Software. Technical Information does not include data concerned with the administration of the Agreement by the Parties, such as internal financial or management information, unless it is a deliverable under the Agreement;

1.21 "Work" means the whole of the activities, services, materials, equipment, Software, matters and things required to be done, delivered or performed by the Parties in support of the Project in accordance with the terms of the Agreement.

2. SCOPE OF THE PROJECT

2.1 Performance of the Work

The Parties shall carry out the Project as set out in the statement of work contained in SCHEDULE A. Without affecting the generality of the foregoing, The Parties are responsible for (a) conducting their own research and development activities, and (b) ensuring that the Milestones are met and that the Project results are released to the other Parties by the Completion Date.

2.2 Nature of the Work

The Parties recognize that the Project involves research and speculative development. As such, the Parties shall make a best effort to reach the performance targets and the specific research objectives identified in Schedule A, while recognizing that definite achievements and specifications cannot be assured. The Parties recognize that, in the event that there is a material deviation from the statement of work, the remedies include: (i) re-performing the work, (ii) reducing or redefining the scope of the Project and the budget, (iii) amending the Completion Date, and (iv) terminating this Agreement.

2.3 Status and Relationship between the Parties

2.3.1 It is understood and agreed that this Agreement does not create any relationship other than collaboration for conducting research in accordance with this Agreement and that there are no terms, covenants, representations, statements or conditions binding on the Parties other than those contained in this Agreement. For greater certainty, nothing in this Agreement shall be construed as creating an agency, partnership, joint venture or special relationship of any kind among the Parties.

2.3.2 Each Party shall hold and represent itself as an independent Party to third parties for all purposes whatsoever, including but not limited to commercialization of Background or Foreground Information whether carried out under a licence granted under section 8 or not.

3. CONTRIBUTIONS TO THE PROJECT

3.1 Allocation of Contributions.

3.1.1 The Parties shall provide and dedicate resources to the Project as follows:

	In-kind Contributions, labor & others (\$CAD)	Cash Contributions (\$CAD)	Total of All Contributions (\$CAD)

	In-kind Contributions, labor & others (\$CAD)	Cash Contributions (\$CAD)	Total of All Contributions (\$CAD)
CSA participation	\$	\$ ¹	\$
COMPANY participation	\$	\$	\$
UNIVERSITY participation	\$	\$	\$
Total estimated contribution to the Project:	\$	\$	\$

3.1.2 For greater certainty, The Parties agree that nothing in this Agreement shall compel or be interpreted so as to compel any of The Parties to provide more resources than those identified in paragraph 3.1.1 above, without the prior written amendment of this Agreement.

3.1.3 There will be no exchange of funds or other resources among The Parties that effectively alter the total set contribution of each Party in the context of this Project. Guidelines defining eligible in-kind expenditures related to the Project are included in SCHEDULE B.

3.1.4 **NAME OF UNIVERSITY** shall invoice Company in **X** yearly installments of **\$XX** CAD. Payments shall be due net 30 days from receipt of invoice. Invoices shall be submitted the Effective Date of the Agreement and then subsequently on the first and second anniversaries of the Effective Date of the Agreement

4. TERM OF THIS AGREEMENT

4.1 Term

Except as otherwise expressly noted, this Agreement shall terminate on the Completion Date. The Parties shall have no obligation to provide further resources to this Project after the Completion Date.

5. KEY PERSONNEL

The Parties will designate the key personnel to work on the Project.

The Parties will designate among the key personnel a Project Leader. If the Project Leader is unable to complete the Project for any reason and the Parties cannot agree on a mutually

¹ This amount is provided herein for information purposes only and is subject to the Grant Agreement Terms and Conditions.

acceptable replacement, the Parties may terminate the project, subject to the obligations upon termination specified in the present Agreement.

SCHEDULE D provides the list of the Parties' key personnel. For greater certainty, the Parties agree that any change to any of the Schedules shall be treated as an amendment to this Agreement.

5.1 Project Leader Responsibilities

5.1.1 The Parties agree that The Project Leader undertakes to act in a manner consistent with the terms of the Collaboration Agreement and shall be responsible for coordinating the performance of the Work by the Parties in accordance with the terms of this Agreement.

5.1.2 In fulfilling his responsibilities under paragraph 5.1.1 above, the Project Leader shall:

5.1.2.1 call meetings as appropriate, including interim progress review meetings, and chair those meetings;

5.1.2.2 request information from the Project Participants that may be reasonably required in order to allow him to fulfill his responsibilities, including but not limited to progress reports from time to time and information that must be provided under SCHEDULE C and paragraphs 5.2.4 and 5.2.5 below;

5.1.2.3 ensure that the reports identified in SCHEDULE C are provided to the Parties, and provide any other report on the Project that a Party may reasonably require from time to time;

5.1.2.4 coordinate the schedule

5.1.3 The Project Leader will give written notice to the Commercialization Manager designated in section 8 at least thirty (30) business days in advance of any public disclosure to be made by the Project Leader or by Research Participants of Foreground Information that the Project Leader is made aware of. The Commercialization Manager will forthwith provide a copy of such intended publication or disclosure to the Parties for their review and comments. Upon a Party's written request received within twenty (20) business days of that Party's receipt of such copy, but within the thirty (30) business days first noted, the Project Leader must delete any Confidential Information provided by that Party from the manuscript or proposed disclosure. If the Commercialization Manager wishes, or a Party wishes to cause the Commercialization Manager to file for protection of Intellectual Property Rights in Foreground Information, the publication or disclosure will be delayed for a further period not to exceed three (3) months, from receipt of such written request as may be requested by the Commercialization Manager, acting reasonably, to enable the Commercialization Manager to secure adequate protection of the Intellectual Property Rights in the Foreground Information that would otherwise be affected by said publication or disclosure. Subject to the foregoing, the Project Leader may publish or disclose

Foreground Information arising from the performance of the Project and will acknowledge the support of the Parties in all such publications.

5.1.4 This Agreement will not impose restrictions on the content or handling, for academic purposes, of a thesis defence of the Research Participants regarding the Project, except as follows:

5.1.4.1 The Research Participant shall provide to the Parties a draft paper copy of the oral thesis defence presentation at least two (2) months before the intended defence. During that period, if applicable, the Parties shall review the thesis defence and consult on any appropriate actions to deal with possible protection or commercialization of any Foreground Information or removal of that Party's Confidential Information present in the thesis defence during this period;

5.1.5 In accordance with section 8, the Project Leader will keep confidential all of the Confidential Information that the Project Leader may receive.

5.1.6 The Project Leader will disclose to all Parties all Foreground Information in a timely fashion by filing the appropriate invention disclosure form and will inform the Commercialization Manager about the creation of Foreground Information which may require legal protection before public disclosure. The Project Leader agrees that if the Project Leader is in doubt about the potential for legal protection, the Project Leader will consult with the Commercialization Manager about the matter. In addition, at this point in time it is assumed that the Project Leader will have researched with due diligence to ensure that no third party has any ownership or other claim or other pre-existing rights that would interfere with the commercialization of Foreground Information, whether by virtue of partial funding of its development or otherwise, except as may have been disclosed in the Project Proposal or as specified in this Collaboration Agreement.

5.1.7 The Project Leader will cooperate fully in the signing of documents and taking such other steps as may be reasonably requested by the Commercialization Manager to obtain and maintain patent or other intellectual property protection for the Foreground Information and in connection with any infringement action in any way relating to the Intellectual Property Rights in the Foreground Information.

5.2 Research Participant Responsibilities

On behalf of their respective Parties, Research Participants will:

- 5.2.1 Use all reasonable efforts to achieve the objectives and project results defined in the Project description;
- 5.2.2 In accordance with section 8, keep confidential all of the Confidential Information that the Research Participant may receive;
- 5.2.3 Comply with all the publication conditions that are set out in section 8.
- 5.2.4 Keep the Project Leader fully and promptly informed on an on-going basis of the development of Foreground Information which may require legal protection before public disclosure. The Research Participant agrees that if the Research Participant is in doubt about the potential for legal protection, the Research Participant will consult with the Project Leader or the Commercialization Manager about the matter. In addition, at this point in time it is assumed that the Commercialization Manager will have researched with due diligence to confirm the Project Leader's determination (Clause 5.1.6) that no third party has any ownership or other claim or other pre-existing rights that would interfere with the commercialization of Foreground Information, whether by virtue of partial funding of its development or otherwise, except as may have been disclosed in the Project Proposal or as specified in this Collaboration Agreement;
- 5.2.5 Cooperate fully in the signing of documents and taking such other steps as may be reasonably requested by the Commercialization Manager to obtain and maintain patent or other intellectual property protection for the Foreground Information and in connection with any infringement action in any way relating to the Intellectual Property Rights in the Foreground Information;
- 5.2.6 In the case of University Research Participants, agree that the Foreground Information developed under the project, will belong to **NAME**, and
- 5.2.7 Agree that the allocation of Net Revenues received as a result of the commercialization of the Intellectual Property Rights in the Foreground Information to which University Research Participants contribute as Inventors will be made in a manner consistent with the policies of **NAME** regarding the sharing of invention royalties, and the Collaboration Agreement. In the event that the University Policy and this Collaboration Agreement conflict, the Collaboration Agreement will prevail.

5.3 Acknowledgement

The Party responsible for the Project Leader will ensure that the Project Leader will sign and comply with the Project Leader Acknowledgement Letter attached as SCHEDULE E. **NAME** will ensure that its Research Participant will sign and comply with the University Research Participant Acknowledgement Letter attached as SCHEDULE F.

6. RECORDS AND PROGRESS REPORTS

6.1 Required Reports

The Parties shall prepare and submit biannual progress reports on the Project and a final report of the results of the Project in the form specified in SCHEDULE C.

7. LIMITATION OF LIABILITY AND INDEMNIFICATION

The Parties agree to an indemnification pursuant to which:

7.1 Each Party that undertakes to commercialize Background Information or Foreground Information, whether under a license or not, shall indemnify and save harmless the other Parties and their servants and agents from and against any damages, costs or expenses and from any claim, action, suit or other proceeding which they or any of them may at any time incur or suffer as a result of or arising out of damage of any type to third parties, including injury to persons (including injuries resulting in death) or loss of or damage to property, which may be or be alleged to be caused by or suffered as a result of commercialization of any licensed Background Information or Foreground Information and whatever the legal basis for such claim, action, suit or proceeding.

7.2 Each Party that undertakes to commercialize Background Information or Foreground Information, whether under a license or not, shall indemnify and save harmless the other Parties and their servants and agents from and against any damages, costs or expenses and from any claim, action, suit or other proceeding which they or any of them may at any time incur or suffer as a result of or arising out of damage of any type to third parties, including injury to persons (including injuries resulting in death) or loss of or damage to property, which may be or be alleged to be caused by or suffered as a result of commercialization of any licensed Background Information or Foreground Information and whatever the legal basis for such claim, action, suit or proceeding.

7.3 A Party that undertakes to commercialize Background Information or Foreground Information, whether under a license or not, shall take out and maintain product liability insurance, warranted by a chartered and acknowledged insurer, of a type normally issued for products and services generated with the Background Information or with the Foreground Information, and carrying the amount and territorial extent of coverage generally accepted in the industry for such products and services.

7.4 Paragraph 7.2 above shall not be applicable to claims for damage caused by willful misconduct or to claims based on infringement of intellectual property rights to the extent that a Party responsible for willful misconduct or infringement of intellectual property rights of a third party shall not be entitled to indemnification against such claims from the Party that commercializes Background Information or Foreground Information.

7.5 Notwithstanding paragraph 7.2 above, a Party responsible for willful misconduct or infringement of intellectual property rights of a third party shall indemnify and save harmless the other Parties and their servants and agents, from and against any damages, costs or expenses and from any claim, action, suit or other proceeding which they or any of them may at any time incur or suffer as a result of or arising out of damage of any type to third parties, including injury to persons (including injuries resulting in death) or loss of or damage to property, which may be or be alleged to be caused by or suffered as a result of such willful misconduct or infringement of intellectual property rights.

8. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

8.1 Confidentiality

8.1.1 Each Party undertakes and agrees to maintain in secrecy and confidence Confidential Information disclosed by another Party and any Foreground Information developed during the course of the Project. The receiving Party shall not at any time disclose or communicate to any person any of the Confidential Information and the Foreground Information, except to the following persons provided that they are bound to the receiving Party by terms and conditions no less restrictive than those set forth in this Agreement:

- its own employees; and
- contractors who need to know for a purpose permitted by this Agreement;

8.1.2 The receiving Party shall accord such Confidential Information and Foreground Information the same degree of care in its safeguarding as the receiving Party affords to its most valuable trade secrets and confidential information.

8.1.3 The receiving Party undertakes and agrees to maintain the obligation of confidentiality under this Agreement for a period of five (5) years following the termination or expiry of this Agreement, except for information which the disclosing Party identifies in writing as information that must remain confidential for a longer period.

8.1.4 Clause 8.1.1 of this ARTICLE does not apply to any portion of the Confidential Information and the Foreground Information which:

- (a) is in the public domain through no fault of the receiving Party; or
- (b) was known to the receiving Party before its receipt from the disclosing Party and which can be evidenced to the reasonable satisfaction of the disclosing Party; or
- (c) is independently developed by the receiving Party as evidenced by written proof; or
- (d) is lawfully disclosed to the receiving Party by a third Party not in violation of any obligation of confidentiality to the disclosing Party, and is not traceable to a breach of this Agreement; or
- (e) is disclosed as required by statute or judicial decree.

8.1.5 Notwithstanding any other provision of this Agreement, the receiving Party shall be fully responsible to the disclosing Party for any claim, loss, damage or liability resulting to the disclosing Party due to any improper or negligent disclosure of the Confidential Information and the Foreground Information by the receiving Party or by any of the Parties referred to in this ARTICLE.

8.1.6 It is understood that the CSA has obligations under the Access to Information Act and that any undertaking by the CSA under the terms of this Article is subject to the provisions of the said Act. The CSA undertakes to consider the Confidential Information and the Foreground Information referred to in this Agreement to be protected by Section 20 of the Act;

8.1.7 As necessary, prior to the transfer of any information, the Parties may agree on further measures that may be required to protect the information.

8.2 Marking of Confidential Information

The Parties shall mark any report or other document that contains Background and Foreground Information as "confidential" or "proprietary". The Parties agree to inform each other forthwith following any publication, patent filing, public disclosure or public use of any Background and Foreground Information.

8.3 Publications

8.3.1 Publications shall be subject to the provisions of paragraphs 5.1.3 and 5.1.4 of the agreement.

8.3.2 In the case of publications prepared by two Parties or more in which there are contributions from authors of the CSA, the ownership of the copyright for the publications will be vested to the CSA.

8.4 Survival

The provisions of Sections 8.1, 8.2 and 8.3 shall survive the termination of this Agreement and shall continue to be in force and effect for a period of five (5) years after the Completion Date.

8.5 License to Intellectual Property Rights in Background Information

8.5.1 Without restricting the scope of any license or other right in the Background Information that the Parties may otherwise hold, the Parties hereby grant to each other a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required in order for the Parties to exercise their Intellectual Property Rights in the Foreground Information. The Parties agree, subject to paragraph 8.5.5, to make any such Background Information (including, in the case of Software, source code) promptly available to each other for any such purpose.

8.5.2 The Parties also undertake to grant to other organizations a licence to their respective Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work for using the results of the Project on reasonable terms and conditions

- a) for further research and development purposes only, without charge; and
- (b) for further commercialization at reasonable commercial rates.

8.5.3 The Parties acknowledge that CSA may wish to award contracts for a purpose contemplated in subsection 8.5.1 and that such contract awards may follow a competitive process. The Company and the University agree that CSA's license in relation to the Intellectual Property Rights in the Background Information includes the right to disclose the Background Information to bidders for such contracts and to sublicense or otherwise authorize the use of that information by any contractor engaged by CSA solely for the purpose of carrying out such a contract. CSA shall require bidders and the contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.

8.5.4 Where the Intellectual Property Rights in any Background Information are owned by a Subcontractor at any tier, the Party employing the subcontractor shall either obtain a license from that Subcontractor that permits compliance with subsections 8.5.1 and 8.5.3 or arrange for the Subcontractor to convey directly to CSA the same rights by execution of the form provided for that purpose by the Minister, in which case the Company or the University shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to CSA of that Background Information.

8.5.5 Notwithstanding subsection 8.5.1, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Agreement. Furthermore, in the case of commercial off-the-shelf software, the Party's obligation to make the source code promptly available to the Parties for a purpose set out in subsection 8.5.1 shall apply only to source code that is within the control of or can be obtained by the Parties or any Subcontractor thereof, and in that event a Party shall, if requested by another Party, make the source code available to the requesting Party on reasonable terms including timeliness and other commercial terms.

8.5.6 A description of the Background Information, and the owner, as it applies to this Project, is included in SCHEDULE G. The Parties will notify each other as soon as possible after the creation or incorporation in the Project of any Background Information not already included in SCHEDULE G.

8.6 Ownership of Intellectual Property Rights in Foreground Information

8.6.1 Cases where Foreground Information is developed by one Party:

Where paid or unpaid personnel, or students, of only one Party create or conceive Foreground Information, all Intellectual Property Rights in the Foreground Information shall immediately, as soon as they come into existence, vest in and remain the property of the said Party. This Party will be responsible for protection and commercialization of the Intellectual Property Rights in the Foreground Information.

8.6.2 Cases where Foreground Information is developed by two or more Parties:

8.6.2.1 Where paid or unpaid personnel, or students, of at least two Parties jointly conceive or create the Foreground Information subject to Intellectual Property Rights, the Intellectual Property Rights will be jointly owned by the Parties whose personnel or students participated in its conception or creation. The Commercialization Manager will be responsible for protection and commercialization of the Intellectual Property Rights in the Foreground Information. Decisions on protection strategies and sharing of related costs will be made with the consent of the other joint owners of the Intellectual Property Rights.

8.6.2.2 Where paid or unpaid personnel, or students, of two Parties jointly conceive or create the Foreground Information subject to Intellectual Property Rights without the involvement of the Party designated as the Commercialization Manager, these two Parties will jointly decide on protection strategies and sharing of related costs.

8.6.2.3 Upon the creation of jointly owned Foreground Information, the parties will reach a consensus on the allocation of the respective contribution of each inventor.

8.6.3 The Parties whose personnel or students participated in the conception or creation of Foreground Information shall execute such conveyances or other documents relating to the Intellectual Property Rights in the Foreground Information as the Commercialization Manager may require, and the Parties shall afford that Manager all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Right in any jurisdiction, including without limitation the assistance of the inventor in the case of Inventions.

8.6.4 The Parties shall disclose to the Commercialization Manager any information related to the development of new Foreground Information upon its creation. In addition to the disclosure to the Commercialization Manager, personnel of the CSA, in accordance with the Public Servants Inventions Act, shall also disclose to the CSA Intellectual Property Management Office any information related to the development of n Foreground Information upon its creation.

8.7 License to Intellectual Property Rights in Foreground Information

8.7.1 The Party or Parties that have ownership of Intellectual Property Rights in the Foreground Information hereby undertake to grant to the other Parties a license to use the Intellectual Property Rights in the Foreground Information:

- a) for further research and development purposes only, without charge, including publication of research results; and
- (b) for further commercialization at reasonable commercial rates.

8.8 Framework for the Commercialization of Intellectual Property Rights in Foreground Information

8.8.1 Prior to implementing a commercialisation strategy for Intellectual Property Rights in Foreground Information, the Commercialization Manager must inform all Parties and obtain the agreement of every Party who owns such Intellectual Property Rights.

8.8.2 Each Party may decide to elaborate its own commercialization strategy for any Intellectual Rights in Foreground Information for which they are the unique owner as long as the Commercialization Manager and the other Parties are kept informed to prevent conflicts between each Party's commercialization strategy and the global commercialization strategy.

8.8.3 Royalties accruing from commercialization of the Intellectual Property Rights in Foreground Information by the Commercialization Manager will be shared among the Parties in proportion to the respective Research Participant's contribution to the creation of the commercialised Foreground Information.

8.9 Warrantee

The Parties represent and warrant that they have, or shall obtain, the right to grant to each other the licences to exercise the Intellectual Property Rights in the Foreground Information and in the Background Information as set out herein.

8.10 Not to Impair the Interests of the Parties

The Parties shall exercise due diligence to ensure that Intellectual Property Rights in Foreground Information is not used, copied, reproduced or reverse engineered in violation of the Parties interests, by their employees, agents, representatives, or subcontractors.

8.11 Waiver of Moral Rights

The Parties shall provide to the Commercialization Manager, at the completion of the Work or at such other time as the Manager may require, a written permanent waiver of Moral Rights, in a form acceptable to the Manager, from every author that contributed to any Foreground Information which is subject to copyright protection.

8.12 Survival

The provisions of Sections 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11 and 8.12 shall survive any termination of this Agreement.

9. REPRESENTATIONS AND WARRANTIES

9.1 Required Expertise

The Parties mutually represent and warrant that they collectively possess all the expertise required for the successful execution of the Project and that they have a proven track record in the research areas contemplated by the Project.

9.2 Status and Authority

Each of the Parties to this Agreement represents and warrants that:

- 9.2.1 it has the capacity to enter into this Agreement,
- 9.2.2 that the signatories have the authority to sign on behalf of the Parties
- 9.2.3 that this Agreement constitutes a legal, valid and binding obligation of the Parties; and
- 9.2.4 it is under no obligation or prohibition, nor is it subject to, or threatened by any action, suit or proceeding which could prevent compliance with this Agreement.

10. NOTICES IN WRITING

All notices, requests, demands or other communications required or permitted by this Agreement shall be given in writing by personal delivery, by registered or ordinary mail, or transmitted by facsimile or other form of written or electronic communication, as follows:

If to the Canadian Space Agency:

By mail or personal delivery

Michel Doyon
Manager Technologies for Space Science and Exploration
Canadian Space Agency
6767 route de l'aéroport
St-Hubert, Québec, Canada, J3Y 8Y9
Telephone Number: (450) 926-4458, Facsimile Number: (450) 926-4613
e-Mail Address: michel.doyon@asc-csa.gc.ca

If to **COMPANY X**

By mail or personal delivery

NAME & ADDRESS

Telephone Number:

Facsimile Number:

e-Mail Address:

If to **Error! Reference source not found.:**

By mail or personal delivery

UNIVERSITY CONTACT

UNIVERSITY ADDRESS

Telephone Number:

Facsimile Number:

e-Mail Address

or at such other address or number as may notified to the other Parties in writing. A notice delivered in person or by electronic means is deemed to be received on the day of delivery. A notice sent by mail is deemed to be received five (5) days after it is mailed.

11. OTHER PROVISIONS

11.1 Assignment or Amendment

This Agreement may be amended or varied by instrument in writing duly executed by all The Parties. No Party shall assign any or all of its interest or obligations in this Agreement unless the prior written consent of the other Parties to this Agreement is obtained. This Agreement shall enure to the benefit of and be binding on The Parties, their successors, representatives and permitted assigns.

11.2 Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the Province where the University is located and the applicable laws of Canada, and shall be treated in all respects as a contract of the Province where the University is located. The Parties irrevocably attorn to the jurisdiction of the courts of the Province where the University is located.

11.3 Language of choice

This Agreement has been drafted in English at the express wish of the Parties. Cette entente a été rédigée en anglais à la demande expresse des Parties.

11.4 Members of the House of Commons

No member of the House of Commons or the Senate shall be admitted to any share or part of this Agreement or to any benefit to arise there from.

11.5 Sections and Headings

The Parties agree that the use of headings or titles and the division of this Agreement into Sections, Sub-Sections and Paragraphs is for convenience only and shall not affect the construction or interpretation of this Agreement.

11.6 Acknowledgement of Support

11.6.1 The Parties shall acknowledge each other in published papers, reports, publicly distributed materials, and, where reasonable in commercial advertising.

11.6.2 The Parties hereby consent to a public announcement in the form of a news release containing information about the Project. The Parties agree to consult each other and obtain prior approval about the wording of any such announcement.

11.6.3 If a public announcement is planned by any Party, it shall inform the other Parties promptly and in writing of the announcement date, and each shall maintain the confidentiality of this agreement and the announcement until that date.

11.6.4 The Parties further agree that, to the extent reasonably possible, all materials produced in connection with or as a result of the Project, whether in documentary or electronic format, which are made publicly available during the course of the term of this Agreement shall make reference to their respective role in the Project.

11.7 Mediation and Arbitration

11.7.1 In the event of any dispute between the Parties arising out of the construction, meaning or effect of any Clause or matter contained in this Agreement or of the rights and liabilities of the Parties, the Parties shall endeavour to settle the matter through *bona fide* negotiations.

11.7.2 Failing an amicable settlement to any such dispute, each Party may request, by sending a written notice to the other Party, that the dispute shall be referred to binding arbitration pursuant to the Commercial Arbitration Act and the Commercial Arbitration Code. This arbitration shall be subject to the following rules:

11.7.2.1 The Parties shall jointly appoint a single Arbitrator. If the Parties cannot agree on the choice of an Arbitrator, each Party shall appoint an Arbitrator, and both Arbitrators shall jointly appoint a third Arbitrator.

11.7.2.2 Each Party shall pay its own costs and shall bear an equal share of all other arbitration costs as well as the fees of the Arbitrator.

11.7.2.3 The Parties may jointly determine, by written agreement, the procedure to be followed by the Arbitrator in conducting the proceedings, or may request the Arbitrator to do so.

11.7.2.4 The hearing shall take place in the City of Ottawa.

11.7.2.5 The Arbitrator shall issue a written award within thirty days following the completion of the hearing. This award cannot include punitive damages or an award for costs.

11.7.2.6 Subject to the provisions of the Commercial Arbitration Code, the award shall be final and binding on the Parties.

12. TERMINATION

12.1 Termination by Agreement or on Notice

The Parties may terminate this Agreement at any time by mutual consent. One of The Parties may terminate this Agreement by giving to the other Parties thirty (30) days advance notice in writing to that effect. In the event of termination, the Parties shall cease work under this Agreement and provide each other a final accounting report of all costs incurred prior to the termination date and for any reasonable costs involved in winding down the Project. In addition, the Parties shall provide to each other a final report on the status of their work for the Project even though the work is not completed.

12.2 Termination on Default

In the event of a default, the Parties shall have no further obligation to contribute to the cost of the Project and may require that the defaulting Party transfer clear title and an unrestricted right to use the Intellectual Property Rights in Foreground and Background Information to the other Parties.

12.3 Events Constituting Default

The following events constitute default:

12.3.1 a Party becomes bankrupt or insolvent or goes into receivership;

12.3.2 an order is made or resolution passed winding down or dissolving a Party;

12.3.3 a Party ceases to carry on business;

12.3.4 a Party submits false or misleading information to the other Parties or makes a false representation; or

12.3.5 a Party fails to proceed diligently with the Project, provided that no default shall be deemed to occur, unless a notice to that effect has been duly given by one Party to the other Parties and thirty (30) days have passed after the delivery of the said notice.

12.4 Article 7 (Limitation of Liability and indemnification) shall survive the expiry of this Agreement, or its termination for whatever reason.

13. ENTIRE AGREEMENT

This Agreement is the whole agreement between The Parties and supersedes all communications, negotiations, arrangements and other agreements relating to the Project prior to this Agreement. This Agreement includes the following Schedules:

SCHEDULE A	Project Plan and Statement of Work
SCHEDULE B	In-Kind contributions Guidelines
SCHEDULE C	Progress and Reporting Requirements
SCHEDULE D	Project Leader and List of Key Personnel
SCHEDULE E	Project Leader Acknowledgement Letter
SCHEDULE F	University Research Participant Acknowledgment Letter
SCHEDULE G	Background Information

IN WITNESS WHEREOF, this Agreement has been duly executed on behalf of the Parties by their duly authorized officers.

[Signed, sealed and delivered]

Canadian Space Agency

Date

Gilles Leclerc, Director General
Space Technologies

COMPANY NAME

Date

NAME

UNIVERSITY NAME

Date

NAME AND TITLE

SCHEDULE A. PROJECT PLAN AND STATEMENT OF WORK

PROJECT NAME

1. SYNOPSIS

PROVIDE SYNOPSIS

2. BACKGROUND

PROVIDE BACKGROUND INFO ON PROJECT

3. DETAILED PROPOSAL

PROVIDE DETAILS OF PROPOSAL

4. THE PROJECT WORK PLAN

PROVIDE DETAILS OF WORK PLAN

5. PERFORMANCE TARGETS

The project object is XXX

The final TRL level will be XXX

6. PROJECT SCHEDULE WITH MILESTONES AND RESULTS (INCLUDING REPORTS)

The Project schedule is shown in the table below (extracted from the NSERC CRD proposal). It includes: (i) all the activities that comprise the work plan, (ii) all project milestones, and, (iii) all anticipated dates for the required meetings and project results

Milestone	Description of activities	Anticipated starting date	Anticipated completion date

7. PROJECT BUDGET

PROPOSED EXPENDITURES						
	Year 1		Year 2		Year 3	
	Cash	In-kind	Cash	In-kind	Cash	In-kind
1) Salaries and benefits						
Students						
Postdoctoral fellows						
Technical/professional assistants						
Other						
2) Equipment or facility						
Purchase or rental						
Operation and maintenance costs						
User fees						
Other						
Materials and supplies						
Travel						
Conferences						
Field work						
Project-related travel						
Dissemination						
Publication costs						
Technology transfer activities						
Field trials						
Prototypes						
TOTAL PROPOSED EXPENDITURES						

SCHEDULE B. IN-KIND CONTRIBUTIONS GUIDELINES

GENERAL CONDITIONS

The definitions and descriptions of the in-kind contributions are applicable to all Participants to the Project.

ELIGIBLE CONTRIBUTIONS

In-kind contributions are support provided by the Parties in the form of either labour, facilities or purchases or developments completed prior to the project start date. Any cost claimed as an in-kind contribution must be eligible according to the Financial Administration Act.

In-kind contributions are eligible as follows:

Labour (in person-years)

a. The eligible personnel groups providing labour are scientists, engineers, technicians, technical writers, draughtsmen, laboratory and experimental shop labour, analysts, programmers and technical personnel conducting the Eligible Project.

Direct Materials

- a. Direct materials include components required to test and produce models and prototypes, and must be referred to in the Project Plan
- b. Indirect materials are also eligible to the extent that they are specifically identified in the approved Research Project Plan.

Sub-Contractors & Consultants

a. Work performed by Canadian sub-contractors or consultants to advance the Project is eligible to the extent it is identified in the Project Plan of the Collaboration Agreement.

Special Purpose Equipment

a. Special-Purpose Equipment is equipment necessary for the performance of the Research Project. To be an eligible contribution, the equipment and its cost must be described in detail in the Project Plan.

General In-Kind Restrictions

If the value of the contribution is difficult or impossible to determine or if the participant does not provide adequate documentation, the contribution will be deemed ineligible

SCHEDULE C. PROGRESS AND REPORTING REQUIREMENTS

The following sections contain an annotated outline of the formats to be used for Biannual and Final Reports on the progress and results of the Project.

1. ANNUAL REPORTS OUTLINE

CSA will require copies of progress reports delivered to NSERC's CRD Grants Program.

CSA will require an Annual Intellectual Property disclosure reporting on the following points:

- What is the descriptive title of the FIP (Foreground Intellectual Property) and associated BIP (Background Intellectual Property) required;
- Explain how the FIP meets the objective of the project
- Under which category (ies) would you best describe the FIP and why: Patent, Invention, Trade Secrets, Copyright, Industrial Designs, Rights in Integrated Circuit Topography, Know-how, Other;
- Describe the features or aspects of the FIP that are novel, useful and not obvious;
- What are the limitations or drawbacks of present apparatus, product or process;
- Can you provide references in published literature or patents relating to the problem or subject? If yes, do so.
- Has the FIP been tested or demonstrated? If yes, please summarise the results;
- Has any publication or disclosure to others been made? If so, to whom, when, where, how and why?
- Provide names and addresses of the inventors;
- Please specify name and position of person approving / authorizing this disclosure. This person is to sign and date the disclosure.

2. FINAL REPORT OUTLINE

The Final Report shall be submitted at the conclusion of the Research Project. This report will be comprehensive in nature and in the following format:

- **Cover Page and Fact Sheet:** The cover page followed by a one-page “snap-shot” of key information, such as project name, participants, start and completion dates, etc.
- **Executive Summary:** A summary of the project suitable for publication as a stand alone document, including main objectives, key technical challenges and how they were addressed, and major technical accomplishments.

- **Research Description:** Specific details of the project's direction and goals. A detailed description of the research domain and an overall evaluation of the research in relation to other research being done in the same domain.
- **Key Research Results:** Description of the research accomplishments (both major and minor). including an overview of the initial expectations of the project and the eventual outcomes. The knowledge created within the project is provided in the following reports:
 - the number of products, prototypes, component technologies and enabling technologies created
 - the number of products, prototypes, component technologies and enabling technologies employed
 - the number of licences or patents, both potential and realized
- **Continuation of Research:** An indication as to whether or how the project team will be continue work after the project i.e., are the participants continuing their relationship, are they continuing to invest in the research with their own funding, etc.
- **Project Results:** A checklist of project results, including: Documentation Listing on diskettes, project reports on diskettes, videos, publications by academics, software, prototypes, presentation materials on diskettes, etc.

SCHEDULE D. PROJECT LEADER AND LIST OF KEY PERSONNEL

Project Leader: Prof. NAME.

UNIVERSITY NAME

Key Personnel: Prof. NAME.

Graduate Student, name TBD – to be confirmed at project start with an amended Schedule D

Postdoctoral Researcher, name TBD – to be confirmed at project start with an amended Schedule D

COMPANY X Key Personnel: NAMES

Canadian Space Agency Key Personnel: NAME

SCHEDULE E. PROJECT LEADER ACKNOWLEDGEMENT LETTER

Acknowledgement. I have had an opportunity to read the Collaboration Agreement for PROJECT NAME including its Schedules and I hereby acknowledge its terms.

Signature

PROFESSOR NAME

Date

SCHEDULE F. UNIVERSITY RESEARCH PARTICIPANT ACKNOWLEDGMENT LETTER

Acknowledgement. I have had an opportunity to read the Collaboration Agreement for PROJECT NAME including its Schedules and I hereby acknowledge its terms.

Signature

PROFESSOR NAME

Date

Signature

TBC Graduate Student

Date

Signature

TBC Post Graduate Student

Date

SCHEDULE G. BACKGROUND INFORMATION

1. COMPANY X BACKGROUND INFORMATION

XXX

2. THE GOVERNING COUNCIL OF THE UNIVERSITY OF XXX BACKGROUND INFORMATION

XXX

3. CANADIAN SPACE AGENCY BACKGROUND INFORMATION

XXX