

COMMUNITY GENERATION CAPACITY BUILDING PROGRAM

PARTICIPANT AGREEMENT

THIS AGREEMENT dated the ___ day of _____, _____

BETWEEN:

ALBERTA URBAN MUNICIPALITIES ASSOCIATION
(the "AUMA")

Of the First Part

-and-

<GRANT RECIPIENT>
(the "Recipient")

Of the Second Part

WHEREAS:

- A. Her Majesty the Queen in right of the Province of Alberta (the "Government of Alberta"), as represented by the Minister of Environment and Parks, and the AUMA entered into an agreement, dated May 16, 2018 for the Community Renewable Energy and Energy Efficiency Project (the "CEEREP"), whereby the Government of Alberta agreed to provide the AUMA with money for the Community Generation Capacity Building Program (the "CGCB") and other programs to be administered by the Municipal Climate Change Action Centre (the "MCCAC");
- B. The MCCAC was established by the Government of Alberta in 2009 to support municipalities in addressing climate change. The MCCAC provides municipalities with funding programs, technical assistance, and education to help them reduce their greenhouse gas emissions;
- C. The MCCAC is a working unit within the AUMA, delivering projects under a collaborative governance model which includes members from the AUMA, Rural Municipalities of Alberta (the "RMA"), the Government of Alberta, and Energy Efficiency Alberta (the "EEA");
- D. In the course of its mandate, the MCCAC has developed the CGCB to support municipalities with the initial phases of development of a community generation project, as well as support the development of tools and training which support the community generation industry;
- E. Through the AUMA, the MCCAC is offering the Recipient a financial grant for the Project described in this Agreement.
- F. The Recipient wishes to accept the financial grant under the terms and conditions set out in this Agreement.

- G. Based on the terms of the CEERP, any unused balance as of April 30, 2023 (or such later date as may be agreed upon) is to be returned by the AUMA to the Government of Alberta;

NOW THEREFORE, in consideration of the mutual promises and payments made herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. INTERPRETATION

1.1 Definitions

Unless otherwise defined herein, the following terms shall have the following meanings:

- (a) **“Agreement”** means this agreement together with all schedules and attachments hereto and all amendments made in writing between the Parties;
- (b) **“AUMA”** means the Alberta Urban Municipalities Association;
- (c) **“Background Technology”** means any Intellectual Property in respect of the Project that pre-dates the Term;
- (d) **“Budget”** means a budget for the Project as set forth in Schedule “A”;
- (e) **“Confidential Information”** means information not known or generally available to the public of a technical or business nature, including all technical, corporate, financial, economic, legal or other information or knowledge generally concerning a third party, AUMA, its directors or officers, or specifically concerning the Project, whether disclosed orally, or in the form of written material, computer data or programs, and includes information respecting models, mechanisms, processes, Intellectual Property, trade secrets or otherwise. Confidential Information shall include, but not be limited to Background Technology. Confidential Information shall not include the results of the Project, the Reports, the Non-Confidential Final Report and the Project Technology;
- (f) **“Confidentiality Period”** has the meaning set forth in Section 6.1;
- (g) **“Environmental Laws”** means all applicable international, federal, provincial, territorial, municipal or local treaties, conventions, laws, statutes, regulations, orders, by-laws, governmental decrees or ordinances relating to fisheries, health and safety, the protection or preservation of the environment or the manufacture, processing, distribution, use, treatment, storage, disposal, discharge, transport or handling of hazardous substances;
- (h) **“Event of Default”** has the meaning set forth in Section 8.1;
- (i) **“Final Outcomes Report”** means the final technical report of the Project submitted by the Recipient to the MCCAC in accordance with the terms of this Agreement, as set out in Section C.3 of Schedule “C”;
- (j) **“Government of Alberta”** has the meaning set forth in recital A. above;

- (k) **“Grant”** means the conditional financial payment from the AUMA to the Recipient, described in more detail and the amount of which is set out in Section 2.1, which shall only be applied towards the Project Costs;
- (l) **“Grant Proceeds”** means all amounts paid to the Recipient under this Agreement, including the Grant and all interest or other income earned from investment of such amounts;
- (m) **“Intellectual Property”** includes without limitation all materials, inventions, designs, specifications, patterns, models, prototypes, devices, formulae, methods, processes, data, compilations of information, reports, drawings, plans, photographs, musical works, patents or patent applications, trade secrets, and computer software and programming patents or patent applications;
- (n) **“MCCAC”** has the meaning set forth in recital C. above.
- (o) **“Non-Confidential Final Report”** has the meaning set forth in Section C.4 of Schedule “C”
- (p) **“Notice”** has the meaning set forth in Section 12.1;
- (q) **“Party”** means either the AUMA or the Recipient and **“Parties”** means both of them;
- (r) **“Payment Schedule”** means the schedule of payments of the Grant as described in Schedule “B”;
- (s) **“Progress Reports”** has the meaning set forth in Section C.2 of Schedule “C”;
- (t) **“Project”** means the project described in Schedule A, including any modification made in accordance with Section 3.1;
- (u) **“Project Completion Date”** means the completion date of the Project as described in Schedule “A”;
- (v) **“Project Costs”** means those costs described in Schedule A hereto and must include only Reasonable Expenses;
- (w) **“Project Start Date”** means the date set forth in Schedule “A”, as the earliest date on which the Recipient can begin incurring Project Costs;
- (x) **“Project Technology”** means the Intellectual Property developed or obtained by the Recipient in the course of the Project during the Term, but excludes the Background Technology and the Non-Confidential Final Report;
- (y) **“Reasonable Expenses”** has the meaning set forth in Section 2.4;
- (z) **“Recipient”** means the recipient set forth on page 1 of this Agreement;
- (aa) **“Remedy Notice”** has the meaning set forth in Section 8.2;

- (bb) **“Reports”** means the interim and final reports described in Schedule “C”, but for certainty does not include the Non-Confidential Final Report;
- (cc) **“Term”** means the period during which the Project will be conducted from the Project Start Date to and including the Project Completion Date and includes any extension agreed to in writing by the AUMA in accordance with Section 3.1; and
- (dd) **“Work Plan”** means the work plan of the Project described in Schedule A.

1.2 In this Agreement, unless the context requires otherwise:

- (a) words importing a gender include all genders;
- (b) words importing the singular include the plural and vice versa;
- (c) include or including means include or including without limitation;
- (d) any references to dollars or currency are to Canadian dollars (\$CAD);
- (e) any technical or industry specific words or phrases not otherwise defined herein shall have the meaning ascribed to such terms in the industry in which they are normally applied or used; and
- (f) any references to legislation or regulations include any amendments thereto or successor legislation or regulations.

1.3 The following schedules are incorporated in and form a part of this Agreement.

Schedule “A” – Project Scope, Work Plan and Budget
Schedule “B” – Payment Schedule
Schedule “C” – Reports

1.4 In the event of any inconsistency or conflict between the Schedules and the body of this Agreement, the body of this Agreement shall govern.

1.5 This Agreement, including the Schedules, hereto constitutes the entire agreement between the AUMA and the Recipient with respect to the Project and the Grant, and supersedes all previous agreements, negotiations and understandings. There are no agreements, representations, warranties, terms, conditions or commitments except as expressed in this Agreement.

1.6 No amendment made to this Agreement is valid unless it is incorporated into the Agreement in writing and the amendment is signed by the Parties hereto;

1.7 The Recipient shall not assign this Agreement, in whole or in part, without the written consent of the AUMA. Any assignment carried out without such consent shall render the Agreement null and void.

2. THE GRANT

- 2.1 Provided the Recipient is in compliance with its obligations under this Agreement, the AUMA will provide the Recipient, in accordance with the Payment Schedule, with a grant (the “Grant”) not exceeding \$<maximum grant> Canadian Dollars for the purposes of the Project.
- 2.2 Notwithstanding anything in this Agreement, the AUMA may terminate its obligations under this Agreement immediately or at any time during the Term (or any renewal thereof) in the event that the Government of Alberta at any time suspends, revokes, reduces or terminates funding to the MCCAC. The AUMA shall notify the Recipient of such suspension, revocation, reduction or termination of funding by the Government of Alberta as soon as is reasonably practicable and shall advise the Recipient of the effective date of termination of this Agreement.
- 2.3 The obligation of the AUMA to pay the Grant is conditional on the AUMA, acting reasonably, being satisfied that:
- (a) the Recipient has received legally binding commitments or funds from third parties for the Project as set out in Schedule “A”;
 - (b) the Recipient is in compliance with all of its obligations under this Agreement;
 - (c) the Project is proceeding, continues to conform to the Work Plan and the tasks/milestones set out in Schedule “A” are being completed and met, and shall be completed by the Project Completion Date; and
 - (d) third party commitments or funds provided by third parties for funding sufficient to carry out and complete the Project have remained in place.

For greater certainty, the AUMA shall not be obligated to pay any instalments subsequent to the first instalment of the Grant if the AUMA, in its sole and unfettered discretion, believes that the Recipient or any of its officers, directors, shareholders, agents, affiliates, subsidiaries, contractors or associates are conducting their business and affairs in a manner that is contrary to the spirit and intent of the mandate of the AUMA and the MCCAC.

- 2.4 The Recipient shall use the Grant Proceeds solely for reasonable expenses incurred for the purpose of carrying out the Project in accordance with Schedule “A” (“Reasonable Expenses”).
- 2.5 In all cases, the determination as to what constitute Reasonable Expenses in administering the Project shall be in the sole discretion of the AUMA. The AUMA hereby agrees that the line items as presented in the Budget at Schedule “A” are Reasonable Expenses.
- 2.6 Immediately upon receiving the Grant Proceeds, the Recipient shall identify in its records the Grant Proceeds as being committed exclusively to the Project. Any portion of the Grant Proceeds that are not immediately expended by the Recipient shall be deposited into a separate interest bearing account maintained by the Recipient exclusively for the Project. The Grant Proceeds shall be held and managed by the Recipient in a risk free manner. For greater certainty, the AUMA shall not pay any interest on the Grant.

2.7 The Recipient acknowledges that the Grant may not be sufficient to cover the entire cost of the Project and the Recipient shall be solely responsible for raising funds from other sources to complete the Project.

2.8 The maximum amount the AUMA shall pay the Recipient under this Agreement is the amount of the Grant.

3. THE PROJECT

3.1 The Recipient shall carry out the Project as described in Schedule "A", with only such modifications as may be agreed to in writing by the AUMA, in its sole and absolute discretion.

3.2 The AUMA shall not pay any portion of the Grant Proceeds and the Grant Proceeds shall not be used towards any Project Costs that the Recipient incurs prior to the Project Start Date or after the Project Completion Date.

3.3 The Recipient shall complete the Project on or before the Project Completion Date. Any portion of the Grant Proceeds not used or not used in strict compliance with this Agreement is repayable by the Recipient to the AUMA. Any portion of the Grant Proceeds expended by the Recipient other than directly on the Project for Reasonable Expenses becomes immediately repayable by the Recipient to the AUMA.

3.4 The Recipient shall comply with all applicable laws, orders and authorizations that expressly or by implication apply to the Project or the Recipient in respect of the Project and this Agreement and shall immediately disclose to the AUMA if it contravenes any of the foregoing. The Recipient hereby consents to the AUMA contacting all relevant regulatory or licensing authorities to verify the Recipient's compliance with same although the AUMA is not required to do so and may rely solely on the representations from the Recipient.

3.5 The Recipient shall not, without the prior written consent of the AUMA, cause or suffer to exist any sale, transfer, assignment, or pledge of interest which would result in:

- (a) a change in majority ownership or control of the Recipient;
- (b) the disposition of all or substantially all of the assets of the Recipient; or
- (c) the amalgamation or merger of the Recipient with any third party.

4. RECIPIENT'S REPRESENTATIONS, COVENANTS AND WARRANTIES

4.1 The Recipient covenants, represents and warrants that:

- (a) the Project will be performed in compliance with the Recipient's accepted form of code of conduct and conflict of interest policy;
- (b) any invoice that it presents to the AUMA for expenses incurred in completing the Project will be for Reasonable Expenses;
- (c) it shall carry out the Project in a diligent and professional manner;

- (d) it has or will have the necessary financial resources to complete the Project;
- (e) it has made full, true and plain disclosure to the AUMA of all facts relating to the Project that are material to this Agreement;
- (f) it has, or shall obtain, all necessary licenses, permits, approvals and authorizations, including, without limitation, any licenses, permits, approvals and authorizations required under law, including Environmental Laws, to proceed with the Project and to perform its obligations under this Agreement;
- (g) any environmental issues or concerns relating to the Project which are known or ought to be known to the Recipient have been disclosed to the AUMA, and the Recipient shall inform the AUMA of any environmental issues or concerns regarding the Project which arise during the Term;
- (h) it is a valid and subsisting organization capable of entering into legally binding agreements the execution by the Recipient of this Agreement and the carrying out of this Agreement and the Project by the Recipient have been duly and validly authorized by the Recipient in accordance with applicable law, and this Agreement will constitute a binding legal obligation of the Recipient;
- (i) there is presently no action, suit or proceeding being brought or pending or threatened against or affecting the Recipient which could result in the expropriation of any property of the Recipient or which could affect its operations, properties or financial condition or its ability to complete the Project;
- (j) it has not entered into any agreements with other funders or sponsors in relation to the Project which conflict with the obligations of the Recipient under this Agreement or is prejudicial to the rights of the AUMA under this Agreement;
- (k) it is in compliance with all laws, orders and authorizations which relate to or affect it and is not subject to any order of any court or other tribunal affecting its operations;
- (l) it will ensure that the individuals named in the Work Plan and who are employees or contractors of the Recipient will be assigned to or otherwise enabled to perform their respective roles in the Project;
- (m) it shall not alter the scope of the Project without prior written consent of the AUMA;
- (n) any person who has been lobbying on behalf of the Recipient to obtain the Grant and who is required to be registered pursuant to the *Lobbyists Act* (Alberta) was registered pursuant to such Act at the time the lobbying occurred;
- (o) it shall not pledge any part of the Grant as security for any loan or debt of any kind except as expressly authorized by the AUMA in writing;
- (p) if directed by the AUMA, it shall forthwith repay to the AUMA any overpayments or unexpended balances of the Grant Proceeds and such amounts shall constitute a debt due to the AUMA; and

- (q) it shall to the satisfaction of the AUMA, acting reasonably, ensure that all Project Costs are incurred in a manner that is transparent, competitive and provides value for Grant Proceeds received.

5. RECORDS, REPORTING AND MONITORING

- 5.1 During the Term and for a period of three years thereafter, the Recipient shall maintain or cause to be maintained full, accurate and complete records of the activities conducted in furtherance of, and the results achieved through the conduct of, the Project, including, without limitation, full, accurate and complete records and books of account relating to the receipt and expenditure of the Grant and other funds received and expended for the purposes of the Project. Any records required to be maintained pursuant to this Agreement are subject to the protection and access provisions of the *Freedom of Information and Protection of Privacy Act (Alberta)*.
- 5.2 The Recipient shall, if requested by the AUMA, permit any authorized representatives of the AUMA, or auditors engaged by the AUMA, reasonable access to its premises to do the following:
 - (a) inspect and assess the progress of the Project; and
 - (b) examine the Recipients books, accounts and other records related to the Project and the Grant, and to make copies thereof.
- 5.3 The AUMA, either with or without its authorized agents may, from time to time, upon reasonable Notice to the Recipient, audit or examine the records and books of account maintained by the Recipient in accordance with Section 5.1. The cost of any special audit, examination or report shall be payable by the AUMA, unless the audit, examination or report reveals material breaches of this Agreement or indicates that the records and books of account were inadequate to permit a determination of how the Grant Proceeds were used by the Recipient or what results were achieved through the conduct of the Project, in which case the cost shall be borne by the Recipient.
- 5.4 Notwithstanding any other provision contained in this Agreement, the Recipient shall comply with the reporting requirements of Schedule "C".
- 5.5 The AUMA is entitled, at reasonable times and upon reasonable Notice to the Recipient, to have its authorized agents attend at the premises of the Recipient or at the place where the Project is being carried out, for the purpose of examining premises and files, documents and records, and any other assets pertinent to the Project in order to assess whether the Recipient is in compliance with the terms of this Agreement. The Recipient shall provide the authorized agents with such assistance as may be reasonably required during such an inspection. This right of inspection is limited to the purpose of ascertaining whether this Agreement is being and has been complied with.

6. INTELLECTUAL PROPERTY, INNOVATION AND KNOWLEDGE TRANSFER

- 6.1 The Recipient acknowledges the importance to the AUMA that any Project Technology be used to the benefit of Alberta and Albertans. Ownership of any Project Technology will follow the practices of the Recipient and agreements to which the Recipient is a party.

- 6.2 Subject to Section 6.3, the AUMA will keep all Project Technology and Reports confidential for a period of **two (2)** years from the Project Completion Date (the “**Confidentiality Period**”), except to the extent that
- (a) any Project Technology or information in the Reports becomes publically available through no fault of the AUMA; or
 - (b) the Parties agree otherwise.
- 6.3 Notwithstanding the Confidentiality Period, the AUMA may share with its Affiliates any records or information of any kind whatsoever, including all Project Technology and Reports, provided to it under this Agreement.
- 6.4 The Recipient hereby grants the AUMA a non-exclusive, world-wide, royalty-free, non-transferable, perpetual, irrevocable, fully paid-up licence to make, use, copy, modify, display, telecommunicate, sublicense and otherwise exploit the Non-Confidential Final Report, which licence shall become effective upon the AUMA’ receipt of same. At any time following the Project Completion Date, the AUMA or the MCCAC may publish the Non-Confidential Final Report on its public website, and may, from time to time, make a general public notice that such report has become available.
- 6.5 The AUMA shall make no representations or warranties regarding the content or use of the research, the Project, the Non-Confidential Final Report or the Reports by any person and a disclaimer, disclaiming any liability for such use, has been provided in Schedule “C”.

7. LIABILITIES, INDEMNITY AND INSURANCE

- 7.1 The AUMA, its officers, directors, members, employees, contractors, Affiliates, subsidiaries, partners or agents shall have no responsibility and shall not be liable whatsoever to the Recipient for any direct, indirect or consequential loss, injury or damage suffered by the Recipient as a result of the establishment or operation of the Project.
- 7.2 The Recipient shall be liable for and indemnify and hold harmless the AUMA, its officers and directors, employees, agents, contractors and their respective officers, directors and employees from and against any and all liabilities, claims, demands, actions and costs (including legal costs on a solicitor-client basis) whatsoever that may arise directly or indirectly out of any act or omission of the Recipient or its officers, directors, shareholders, employees, contractors, affiliates, subsidiaries, partners or agents in respect of this Agreement. This indemnity and hold harmless provision shall survive this Agreement.
- 7.3 The Recipient shall abide by all Environmental Laws with respect to the Project and indemnify and hold harmless the AUMA, its officers and directors, employees, agents, contractors and their respective officers, directors and employees from any and all liabilities, claims, demands, actions and costs (including legal costs on a solicitor-client basis) whatsoever that may arise directly or indirectly out of any act or omission of the Recipient or its officers, directors, shareholders, employees, contractors, affiliates, subsidiaries, partners or agents in respect of any breach of any Environmental Laws by the Recipient in the performance of the Project, including any reclamation or remediation costs associated with the Project. This indemnity and hold harmless provision shall survive this Agreement.

- 7.4 The Recipient shall, at its own expenses and without limiting its liabilities herein, insure its operations:
- (a) under a contract of General Liability Insurance in accordance with the insurance legislation of its jurisdiction, in an amount not less than <FIVE> MILLION (\$5,000,000.00) dollars inclusive per occurrence, insuring against bodily injury, personal injury and property damage, including loss or use thereof, which insurance shall include products liability; and
 - (b) an all risk replacement cost policy for property that the Recipient owns or has an insurable interest in which is used in any way in connection with the Project.

The AUMA may require evidence of the required insurance in a form satisfactory to the AUMA at any time. All required insurance shall be endorsed to provide the AUMA with thirty (30) days' Notice of cancellation or material change restricting coverage.

8. NON-PERFORMANCE

- 8.1 Each of the following events constitutes an event of default under this Agreement (“**Event of Default**”):
- (a) the Recipient, in the AUMA’ sole and unfettered discretion,
 - (i) fails to proceed with the Project; or
 - (ii) is not carrying out the Project;
 - (b) the Recipient alters the Project without the consent of the AUMA;
 - (c) the Recipient uses any part of the Grant Proceeds other than for the Project; or
 - (d) the Recipient otherwise breaches any of its obligations pursuant to this Agreement.
- 8.2 Upon the occurrence of an Event of Default the AUMA may give Notice (the “**Remedy Notice**”) to the Recipient referring to such Event of Default and requiring the Recipient to completely remedy the breach within fifteen (15) days.
- 8.3 If the AUMA has given the Remedy Notice and the Recipient has failed to commence to remedy the breach within the time specified in the Remedy Notice or the Recipient fails to diligently pursue the remedy of such breach to completion, the AUMA may do any one or more of the following:
- (a) terminate this Agreement immediately;
 - (b) demand repayment of all or any portion of the Grant Proceeds; and
 - (c) pursue any remedy available to the AUMA in law or equity.

9. TERMINATION

- 9.1 The AUMA may terminate this Agreement without cause by providing sixty (60) days' Notice to the Recipient. This Agreement shall be terminated as of the date given in such Notice.
- 9.2 The AUMA may terminate this Agreement in accordance with Section 8.3.
- 9.3 The AUMA may terminate this Agreement in accordance with Section 2.2.
- 9.4 On termination of this Agreement pursuant to Section 9.1, Section 9.2 or Section 9.3, the AUMA may require the Recipient to do one or more of the following and, depending on the requirement, the Recipient shall immediately:
- (a) make no further commitments for expenditures and make no further disbursements from the Grant Proceeds except with the AUMA' prior written consent;
 - (b) transfer to the AUMA any or all Grant Proceeds;
 - (c) provide an accounting of the Grant Proceeds with an audit report setting out details of revenues and expenditures from the Grant Proceeds from the date of last audited financial statements to the date of termination including the balance of the Grant Proceeds remaining; and
 - (d) provide any of the reports that would have been due on the Project Completion Date.

10. COMMUNICATIONS

- 10.1 The Recipient shall acknowledge the support of the MCCAC in all of the Recipient's publications, promotions or advertising that relate to the Project in the following ways:
- (a) in all published articles, presentations, posters, websites, signage, or other presentation of the Project or any portion thereof, the MCCAC shall be acknowledged and the MCCAC logo must be used in conjunction with this acknowledgment;
 - (b) the use of the full name – Municipal Climate Change Action Centre is preferred;
 - (c) verbal acknowledgment must be made of MCCAC support for all opportunities where the Project is profiled, including lectures, tours, lab visits and media interviews;
 - (d) all media interest or inquiries to profile the Project to the media must be directed to the MCCAC director and the Recipient must inform the MCCAC director if the Project results or research will be published in a major journal such that it might result in a press release from such journal; and
 - (e) one (1) copy of all the documents, materials or presentations referred to in Subsection (a) above, must be sent to the AUMA for the AUMA' records on the Project.
- 10.2 Prior to publication, the Recipient shall obtain the AUMA' written approval to publish any articles, presentations, posters, websites, signage or other presentation of the Project, which approval shall not be unreasonably withheld.

- 10.3 The Recipient shall not make any public announcement or issue any press release regarding the entering into of this Agreement or the making of the Grant, except in consultation with and approval of the AUMA as to the contents of the announcement or press release, which approval shall not be unreasonably withheld.
- 10.4 In the event of a significant discovery, breakthrough or achievement in relation to the Project that may merit consideration for public announcement, the Recipient shall:
- (a) notify the MCCAC in a timely manner of the discovery, breakthrough or achievement, with reasonable details;
 - (b) consult with the MCCAC regarding the desirability of and content of a public announcement or press release; and
 - (c) refrain from making any public announcement or press release except with the approval of the MCCAC as to the contents of the announcement or press release, which approval shall not be unreasonably withheld.

11. CONFIDENTIAL INFORMATION

- 11.1 The Recipient shall not disclose any Confidential Information or document nor make use of any intellectual property rights subject-matter that it becomes aware of or takes possession of during the implementation of the Project regarding a third party or provided by a third party, without having obtained written authorization from such third party releasing it from the obligation of confidentiality, and the Recipient shall ensure that all of its employees, representatives, delegates, agents, consultants or subcontractors act accordingly. Upon the AUMA' request, the Recipient shall provide the AUMA with a copy of the authorization obtained.
- 11.2 The Recipient shall not disclose any Confidential Information or document nor make use of any intellectual property rights subject-matter that it becomes aware of or takes possession of during the implementation of the Project regarding the AUMA or provided by the AUMA, without first having obtained written permission by the AUMA, and the Recipient shall ensure that all of its employees, representatives, delegates, agents, consultants or subcontractors act accordingly.
- 11.3 Sections 11.1 and 11.2 will not apply to Confidential Information that:
- (a) was shown to be in the Recipient's rightful possession before receipt from either the AUMA or the third party;
 - (b) is or becomes a matter of public knowledge through no fault of the Recipient and without breach of this Agreement;
 - (c) is rightfully received by the Recipient from a third party without a duty of confidentiality;
 - (d) is independently developed by the Recipients' personnel who had no access to the Confidential Information;
 - (e) must be disclosed in accordance with a lawful order of a court or administrative tribunal requiring Recipient to disclose any or all of the information, provided Recipient shall

promptly notify the AUMA to allow a reasonable time to oppose such process, before disclosure occurs; or

- (f) is disclosed by the AUMA to a third party without a duty of confidentiality on the third party.

12. NOTICES

12.1 Any notices, approvals, consents and other communication under this Agreement shall be in writing (each such communication being a form of “**Notice**”) and are effective when delivered in person, by mail, by email, couriered or faxed to the following respective addresses:

- (a) if to the MCCAC:

Municipal Climate Change Action Centre
 Alberta Municipal Place
 300-8616 51 Avenue
 Edmonton, Alberta T6E 6E6

Attention: Trina Innes

Phone: (780) 901-7031
 Email: tinnes@mccac.ca

if to the Recipient:

Attention:

Phone:
 Fax:
 Email:

[The address above should match exactly the address where cheques will be sent. Can have two addresses – one for Scientific Matters; and one for Contract/Financial Matters]

Either Party may change its address information by giving Notice to the other Party. Any Notice is deemed to have been received on the day of delivery, if hand-delivered, when the other Party acknowledges receipt, if sent by registered mail and one business day following transmission, if sent by facsimile or email.

13. MISCELLANEOUS

13.1 This Agreement is an agreement for the Grant only. It does not create a partnership, agency, joint venture or employer/employee relationship between the Parties and the Recipient shall not represent itself as such, including in any agreement with a third party.

13.2 The Recipient declares and guarantees that no offer, gift or payment, consideration or benefit of any kind, which constitutes an illegal or corrupt practice, has been or will be made to anyone by the Recipient, either directly or indirectly, as an inducement or reward for the award or execution

of the Agreement. Any such practice is grounds for terminating the Agreement or taking any other corrective action as required.

- 13.3 The Parties agree, from time to time, to do all such acts and provide such further assurances and instruments as may reasonably be required in order to carry out the provisions of this Agreement according to their spirit and intent.
- 13.4 This Agreement will enure to the benefit of and be binding upon the Parties and their respective heirs, executors, administrators, successors and permitted assigns.
- 13.5 If any provision of this Agreement is found to be invalid at law by a court of competent jurisdiction, then such provision will be deemed to be severed from this Agreement and the remainder of this Agreement will not be affected and will remain in full force to the extent permitted by law.
- 13.6 This Agreement may be signed by originals or by facsimile or portable document format (pdf) and executed in any number of counterparts, and each executed counterpart will be considered to be an original. All executed counterparts taken together will constitute one agreement.
- 13.7 Time is of the essence in this Agreement.
- 13.8 This Agreement shall be governed by the laws of the Province of Alberta and the Federal laws of Canada applicable therein and the Alberta courts shall have jurisdiction with regard to all matters arising under or in connection with them.

THE Parties have therefore executed this Agreement, each by its duly authorized representative on the date first shown above.

ALBERTA URBAN MUNICIPALITIES ASSOCIATION

Print Name of Authorized Signing Authority

Signature

<LEGAL NAME OF RECIPIENT>

Print Name of Authorized Signing Authority

Signature

SCHEDULE "A"

PROJECT SCOPE, PLAN AND BUDGET

The attached constitutes the Work Plan for the Project, as agreed to by the Recipient. The Project Start Date, Project Completion Date, Budget and Work Plan should be described and defined below.

[The MCCAC and Recipient will agree on the final form of the scope of work. This sets out the types of details to be considered in creating scope of work. An application for funding – the original proposal – may not be the same as the scope of work. The application is a “wish list”. The scope of work is what the two parties have agreed to, and will be consistent with the amount of the Grant.]

SCHEDULE "B"**PAYMENT SCHEDULE**

Subject to and in accordance with the Agreement, including without limitation receipt of the reports required by Schedule "C", the grant of up to \$<total grant> CDN will be paid, upon receipt of invoices and according to the following schedule:

- (1) Up to \$<payment 1> within a reasonable time after both parties have signed this Agreement.
[NTD - Use only for projects where risk is low.]
- 2) Up to \$<payment 2> after receipt and, in the AUMA' sole discretion, acceptance of the Progress Reports as set out in C.2 of Schedule "C" due on <forecast date>.
- 3) Up to \$<payment 3> after receipt and, in the AUMA' sole discretion, acceptance of the Final Outcomes Report as set out in C.3 of Schedule "C" due on <project completion date>.

[NTD - Add as many payments as are required by the MCCAC project manager to ensure proper management of the Project. Payments should be aligned with the Budget in Schedule A. i.e. If task 1 is 15% of the Budget, then that payment should be 15% of the Grant.]

[NTD - The final payment represents payment to the Recipient of the holdback of the Grant and should usually amount to 20% or more of the Grant.]

SCHEDULE "C"**REPORTS**

- C.1 Reports Format** – All reports must contain the information and be in a format specified by or acceptable to the AUMA. Report templates will be provided.
- C.2 Progress Reports** – During the Term, as set out in Schedule "B", the Recipient shall provide:
- One electronic copy in Microsoft Word (or comparable word processing software) of the interim technical progress report providing information on the progress of the Project; and
 - One electronic copy in Microsoft excel of the interim financial report accounting for all Project revenues and expenditures, together with all interest earned from investments of the **Grant**.
- Interim Progress Reports should outline the activities and achievements for the period in which they apply and foreshadow the following period.
- C.3 Final Outcomes Report** – The Recipient shall provide a final technical report that reports on the technical outcomes of the Project. The Final Outcomes Report is to include all data from the project. It should report on the project in sufficient detail that the results could be verified by an independent third party without further research required. The Final Outcomes Report must also include a concise summary of what the Project has achieved and provide conclusions and recommendations for further fields of research inquiry together with the status of performance of the Project in terms of process, output, outcomes and impact measures. The Final Outcomes Report must also delineate all Project Technology developed in the course of the Project and must be in sufficient detail to permit readers to use or adapt the results and to understand how the conclusions were arrived at.
- C.4 Non-Confidential Final Report** – The Recipient shall provide a non-confidential final report, in one electronic version, detailing the outcomes of the Project. The Non-Confidential Final Report shall be based upon the Final Outcomes Report contemplated in Section **C.3** above and shall have confidential information of the Recipient, which may be contained in the Final Outcomes Report, removed. The Non-Confidential Final Report is intended to be a public document detailing the Project outcomes. The Recipient shall deliver the Non-Confidential Final Report within thirty (30) days of the Project Completion Date.
- C.5 Use of Reports** – The Recipient grants the AUMA an irrevocable, royalty and fee free, world-wide, non-exclusive right to use the Final Outcomes Report and the Non-Confidential Final Report for publication or for any other purpose. The Recipient agrees to provide waivers of moral rights in form and substance satisfactory to the AUMA of the authors of the Final Outcomes Report and the Non-Confidential Final Report in favour of the AUMA.

C.6 Disclaimer – All reports must include the following disclaimer on the cover of the report or at the commencement of the report:

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