

MEMORANDUM OF GRANT CONDITIONS

# Attachment A

## Additional Terms and Conditions of the Grant

### A1. Definitions

For the purpose of this Memorandum, the following definitions shall apply in addition to those definitions provided for in the main body of this Memorandum:

*Centre Funds* shall mean moneys set out in the Project Budget (Attachment C) which are provided or to be provided as the case may be, subject to the terms and conditions contained in this Memorandum.

*Collaborative Project* shall mean a project undertaken jointly by two or more recipients of the Centre (*Collaborating Institutions — preamble of this Memorandum where this applies*).

*Commencement Date* shall mean the date set out in Section 5 of this Memorandum.

*Contract Completion Date* shall mean the earlier of: a) the date specified in Section 5 of this Memorandum; b) the date on which all milestones, including final reports, are submitted to the Centre and final payments have been made by the Centre; or c) the Termination Date as defined herein.

*Grant Duration* shall mean the number of months during which Centre Funds are available to the Recipient to carry out the Research Work, as defined in section 5 of this Memorandum.

*Digital Library* refers to the free, electronic, internet-based and publicly accessible archive hosted and maintained by the Centre containing, among other things, records of Project Outputs.

*Intellectual Property* means (i) all domestic and foreign patents and applications therefor and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) all patentable inventions, invention disclosures, improvements, trade secrets, proprietary information, know-how, technology, technical data, schematics and customer lists, and all documentation relating to any of the foregoing; (iii) all copyrights, copyright registrations and applications therefor, and all other rights corresponding thereto throughout the world; (iv) all designs and any registrations and applications therefor; (v) all trade names, corporate names, domain names, trade dress, logos, common law trademarks, trademark registrations and applications therefor; and (vi) all rights to sue for past, present and future infringements or misappropriations of any of the foregoing.

*International Organization* shall mean an organization founded by an agreement of state governments and having legal personality at international law.

*Memorandum* shall mean this Memorandum of Grant Conditions, which incorporates all Attachments appended to it.

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*Milestone or Milestones* shall mean a significant event in the progress of the Project as outlined in Attachment B. Examples of Milestones include, but are not limited to, technical reports, financial reports, meetings, and workshops.

*Project Invention* shall mean (i) all domestic and foreign patents and applications therefor and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) all patentable inventions, invention disclosures, improvements, trade secrets, proprietary information, know-how, technology, technical data, schematics and customer lists, and all documentation relating to any of the foregoing; related to the Project, which the Recipient, its employees or Subcontractors may invent, conceive, produce or reduce to practice, either solely or jointly with others in pursuit of the Project objectives.

*Project Outputs* shall mean any and all research-related outputs and results of the Project and publications and reports produced in relation to the Project, submitted by the Recipient to the Centre in any form now existing or hereafter invented.

*Project Phase* shall mean a different project, which comprises Research Work closely related to the Research Work included in this Memorandum. The different projects, which constitute Project Phases, are documented under different Memoranda.

*Property* includes real and personal property of every description, and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods, and all funds transferred from the Centre to the Recipient pursuant to this Memorandum by whatever means of transfer.

*Research Work* shall mean those tasks undertaken by the Recipient as part of its efforts to achieve specific Project objectives.

*Research Work Completion Date* shall have the meaning set out in section 5 of this Memorandum.

*Subcontractors* shall include but not be limited to recipients and sub-recipients of the Recipient.

*Termination Date* shall mean the date on which this Memorandum terminates pursuant to sections A16, A18, A29 or A30.

## **A2. No Legal Partnership**

The Recipient undertakes the Project on its own behalf and not on behalf of the Centre, and this Memorandum and the Centre Funds flowing there from shall in no way be construed as creating the relationship of principal and agent, of partnership in law; or of joint venture as between the Centre and the Recipient or any other person involved in the Project.

The Centre assumes no liability with respect to any accident to any person or any loss or damage to any person or property arising from the Project.

## **A3. Right of Deduction**

After the Centre receives the Recipient's acceptance of the present Memorandum, and concludes similar agreements with any Collaborating Institutions, if any, the Centre will make the initial

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payment under this Memorandum to the Recipient in accordance with Attachment B (Schedule of Project Milestones) of this Memorandum; provided the Recipient is in compliance with all of its contractual obligations to the Centre, including such obligations that may arise in connection with any other agreement it may have concluded with the Centre (“Other Contractual Obligations”).

All further payments with respect to this Project shall be made in accordance with the terms of this Memorandum on the continued condition that the Recipient remains in compliance with this Memorandum and all of its Other Contractual Obligations, if any.

Should the Recipient be in default of its obligations pursuant to this Memorandum or Other Contractual Obligations, if any, the Centre reserves the right to deduct any or all amounts which the Recipient may owe the Centre against the amounts the Centre may owe the Recipient pursuant to this Memorandum.

**A4. Ethical Standards**

It is the policy of the Centre that Research Work involving human subjects or animals be carried out in accordance with high ethical standards. The signature of the Recipient on the Memorandum signifies that the Recipient fully complies with these standards.

The Recipient shall immediately report to the Centre any difficulties it encounters in complying with the ethical standards described below. In the final technical report, the Recipient shall describe how it complied with the ethical standards in carrying out the Project.

**A4.1. Information Gathering**

The Recipient agrees to comply with the following principles which aim at protecting the dignity and privacy of every individual who, in the course of the Research Work carried out under this Project, will be requested to provide personal or commercially valuable information about him/herself or others (hereinafter referred to as “Subject of Research”):

- a) Before an individual becomes a Subject of Research, he/she shall be notified of:
  - the aims, methods, anticipated benefits and potential hazards of the research;
  - his/her right to abstain from participation in the research and his/her right to terminate at any time his/her participation; and
  - the confidential nature of his/her replies
- b) No individual shall become a Subject of Research unless he/she is given the notice referred to in the preceding paragraph and provides a freely given consent that he/she agrees to participate. No pressure or inducement of any kind shall be applied to encourage an individual to become a Subject of Research.
- c) The identity of individuals from whom information is obtained in the course of this Project shall be kept strictly confidential. At the conclusion of the Project, any information that reveals the identity of individuals who were Subjects of Research shall be destroyed unless the individual concerned has consented otherwise in writing. No information revealing the identity of any individual shall be included in the final report or in any other communication prepared in the course, or as a result, of this Project, unless the individual concerned has consented in writing to its inclusion beforehand.
- d) When children are involved in the Project, it is the policy of the Centre that special care be taken to ensure that their participation is undertaken in accordance with high ethical

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standards. Accordingly, in addition to the requirements of paragraphs A4.1(a) – A4.1(c) being complied with, children shall not be allowed to participate unless:

- their parents or guardians have been counseled with respect to the children's participation in accordance with the requirements of paragraphs A4.1(a) – A4.1(c); and
- their parents or guardians have given their free, explicit, and informed consent to the participation of the children in the Project.

Parents or guardians shall have the right to withdraw their children from the Project at any time.

**A4.2. Projects Involving Human Subjects in Biomedical Research**

The Recipient agrees to comply with the following terms and conditions in carrying out any Research Work under the Project, which involves human subjects in biomedical research:

- a) In accepting Centre Funds pursuant to this Memorandum, the Recipient agrees to comply with the *International Ethical Guidelines for Biomedical Research Involving Human Subjects* developed by the Council for International Organizations of Medical Sciences and the World Health Organization.
- b) In addition to the requirements of paragraphs A4.1(a) – A4.1(d) being complied with, the Recipient shall:
  - i) submit the research protocol for the Project to an appropriately constituted ethics review committee in its institution or at the national level (in the country where the Research Work will be carried out); and
  - ii) provide the Centre with a copy of the Committee's written approval of the protocol.
- c) The Recipient shall take whatever steps may be necessary to ensure:
  - i) that health care services that are essential to the safe conduct of research are available and accessible to Subjects of Research as necessary; and
  - ii) that effective treatment is provided to those Subjects of Research who react adversely to any aspect of the experimental procedure to which they have been subjected.
- d) The Recipient shall take all reasonable steps to ensure:
  - i) that Subjects of Research who are discovered to have health problems as a result of the research are referred to appropriate support and health care services consistent with national health care standards in the country in which they are resident; and
  - ii) that beneficial interventions or products developed as a result of research undertaken in the course of the Project are made available to Subjects of Research who were involved in the Project and who may benefit from them.

**A4.3. Projects Involving Biological Knowledge**

The Centre supports the objectives of the 1992 Convention on Biological Diversity, in particular that of promoting the fair and equitable sharing of the benefits arising from the use of genetic resources. Recipients involved in any project that may entail the use or

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dissemination of knowledge, including traditional knowledge, to which a person or group of persons may claim moral or legal rights, will not take steps that would prejudice such claims or diminish their value. In particular, the Recipient will not profit or act in such a way as to facilitate profit by third parties through the commercialization or dissemination of such knowledge without the concurrence of the Centre. Where the use or dissemination of such knowledge is envisioned, the Recipient will ensure that the moral or legal rights of any potential claimants are respected, through consultation with them and compensation to them where available. This section will survive beyond the Contract Termination Date.

**A4.4. Medical Treatments**

The Centre does not support Projects promoting or resulting in the promotion of medical treatments that are not sanctioned as safe and efficacious in accordance with recognized national and international standards. The Recipient will not, during the course of this Project or through activities arising from it, recommend the use of medical treatments that do not meet these standards.

**A4.5. Projects Involving the Use of Animals**

It is the policy of the Centre that any animals used in Centre-supported Projects should be treated in a humane way. Therefore, it is a condition of this Memorandum that:

- a) All animals are acquired according to law;
- b) The facilities in which the animals are kept accommodate their needs;
- c) The environment in which the animals are kept is reasonably comfortable and constant;
- d) Reasonable amounts of food and water are provided to the animals;
- e) Reasonable veterinary care is provided to the animals;
- f) No animal is subjected to pain or distress unless it is a necessary aspect of experiments that has been approved by the Centre; and
- g) Where euthanasia is necessary, the method used rapidly produces a state of unconsciousness.

**A5. Goods, Vehicles, and Equipment**

**A5.1. Procurement**

The Recipient shall ensure that all procurement orders valued over 5,000 CAD are conducted on a competitive basis, locally or internationally as appropriate.

When a Canadian Recipient purchases goods, vehicles, or equipment on behalf of a Collaborating Institution, it shall arrange for their delivery to the collaborating institution. The Canadian Recipient shall arrange for the goods, vehicles, or equipment to be adequately insured during shipment and undertakes that such coverage shall remain valid until the Collaborating Institution takes delivery of them.

The Centre assumes no responsibility in the event of loss or damage to such goods, vehicles, or equipment.

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**A5.2. Importation**

The Recipient, if taking delivery of goods, vehicles or equipment purchased with Centre Funds for the Project, whether purchased by the Recipient, by a Collaborating Institution, or by the Centre, is responsible for undertaking all formalities and other administrative arrangements necessary for importing the goods, vehicles or equipment into the country in which the Research Work will take place. The Recipient will also take all necessary steps to ensure that Centre Funds are not used for the direct payment of custom, import, or other duties or taxes levied with respect to such importation.

**A5.3. Ownership and Insurance of Goods, Vehicles and Equipment**

All goods, vehicles, or equipment purchased with Centre Funds, whether procured by the Recipient, a Collaborating Institution, or the Centre, shall be regarded, at the time of delivery, as Property belonging to the Recipient receiving the goods, vehicles or equipment. The Recipient shall insure any goods, vehicles, or equipment purchased with Centre Funds and assumes any and all liability relating to its failure or inability to secure insurance coverage. Under no circumstances will the Centre assume responsibility in the event of loss or damage to any goods, vehicles or equipment purchased with Centre Funds.

**A5.4. Vehicle and Equipment Safety**

The Recipient shall ensure that any equipment or vehicle provided through this Memorandum is used with the required safety precautions so that risks to the physical safety of individuals are minimized.

**A5.5. Use of Vehicles Purchased in this Project or an Earlier Project Phase**

The Recipient shall ensure that any vehicle purchased with Centre Funds shall be used exclusively for carrying out the objectives of the Project and only made available to personnel working on the Project for their official use. A suitable logbook shall be maintained to record vehicle use, and the Centre reserves the right to examine this travel logbook.

Any vehicle purchased with Centre Funds during a previous Project Phase shall be used exclusively for carrying out the objectives of the Project and only made available to personnel working on the Project for their official use. The vehicle logbook shall continue to be maintained to record vehicle use, and the Centre reserves the right to examine this travel logbook.

**A5.6. Sale, Cession, or Disposal of Equipment or Goods**

During the course of the Project, no goods, vehicles, or equipment purchased with Centre Funds shall be sold, ceded, or otherwise disposed of without the prior approval of the Centre.

Sales made after the Project is completed may trigger taxes; such taxes shall be the exclusive responsibility of the Recipient.

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## **A6. Dissemination of Results**

### **A6.1. License**

1. The Recipient irrevocably grants the Centre a non-exclusive, royalty free right throughout the world to:
  - a) use all or any part or parts of the Project Outputs for non-commercial purposes in relation to the IDRC Digital Library, including, without limitation, to reproduce, copy, store, distribute, publish, adapt, digitize, transmit, communicate, telecommunicate and display, or otherwise use, the Project Outputs in any medium now existing or hereafter invented; and
  - b) authorize and license any third party accessing the Project Outputs via the Digital Library to read, download, print, reproduce, copy, distribute or search the Project Outputs and to link to the full texts of such outputs, crawl them for indexing, pass them as data to software or otherwise use them for any other lawful non-commercial purpose.
2. The Recipient authorizes the Centre to provide to any member of the public who so requests, one copy of any report, writings, films, tapes or other medium containing Project Outputs in digital, electronic or other form now existing or hereafter invented.
3. Following consultation with the Recipient, the Centre may undertake other forms of publication or distribution of the Project Outputs, directly or through a third party where it is in the best interests of promoting development.
4. The Recipient shall provide the Centre with two copies of any Project Outputs, including any Project Outputs existing as audio or visual material. In addition an electronic version specifying the software and, where applicable, hardware used will be provided by the Recipient to the Centre. When submitting Project Outputs to the Centre pursuant to this subsection 4, and to ensure that due credit is given by the Centre in using such Project Outputs, the Recipient shall insert notices in each Project Output submitted using the following formats:

*“This work is used with the permission of \_\_\_\_\_ [insert legal name of copyright holder – either the Recipient or other party as appropriate].*

*Copyright, \_\_\_\_\_ [insert year of creation/copyright], \_\_\_\_\_ [insert legal name of copyright holder – either the Recipient or other party as appropriate].”*

5. The Recipient shall ensure that it obtains all the necessary consents and permissions from its employees, Subcontractors and other parties with whom it contracts in pursuit of the Project objectives to ensure that the Project Outputs are made available to the Centre in accordance with this Section A6.1.

### **A6.2. Copyright Holder’s Continuing Rights**

Copyright holders, including the Recipient where it creates a Project Output continue to have the right to publish, in any form, the Project Outputs and are not required to obtain the

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consent of the Centre to do so, except where the Recipient has signed a subsidiary Memorandum of Understanding with respect to Intellectual Property.

In any Collaborative Project, publication of the Project results will be effected jointly by all Centre recipients, unless such recipients agree otherwise in writing.

**A6.3. Duty to Acknowledge**

1. The Recipient will recognize the support of the Centre by including in all publications the following acknowledgement:

*“This work was carried out with the aid of a grant from the International Development Research Centre, Ottawa, Canada.”*

2. In its distribution of copyright holder’s works, the Centre shall ensure the copyright holders’ works are professionally indexed and that copyright and permitted use notices inserted by the Recipient in Project Outputs pursuant to Section A6.1(4) above are reproduced.

**A6.4. Disclaimers**

The Recipient shall ensure that the following wording is inserted in the credits to any video production produced in the course of the Project, which references the Centre’s financial support for the production of such video: "The views expressed in this video production are those of the participants and interviewees and do not necessarily represent those of IDRC or its Board of Governors."

**A6.5. Warranties**

The Recipient confirms and warrants that:

- a. It has the right to grant the permissions contained in this Section A6;
- b. It is either the sole owner of the Project Outputs licensed under this Section A6 or has obtained the necessary consents to allow the Centre to disseminate the Project Outputs as outlined in this Memorandum;
- c. There are no claims or legal proceedings pending or threatened, the outcome of which could adversely affect the Centre’s rights given under Section A6;
- d. There are no agreements of any nature in favour of anyone that could interfere with the rights granted under Section A6 to the Centre; and
- e. Neither the Project Outputs, nor the use of the Project Outputs by the Centre under Section A6 will violate or infringe upon the intellectual property or privacy rights of anyone, nor will they defame anyone.

**A7. Intellectual Property Rights**

The Recipient shall respect Intellectual Property rights and shall ensure that its employees and its Subcontractors respect Intellectual Property rights.

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**A7.1. Project Inventions, Intellectual Property and Computer Programs**

**A7.1.1. Notice Obligations**

The Recipient shall promptly notify the Centre of:

- a) any and all Project Inventions; and
- b) computer software, its documentation, or other related material (“Computer Programs”) it, its employees or Subcontractors intend to develop or adapt in the course of the Project, with full information as to content and authorship, where possible.

**A7.1.2. Limitations**

The Recipient shall ensure that the rights in the Project Inventions are neither licensed, nor assigned by the Recipient, its employees or Subcontractors without the express written consent of the Centre, which consent may be conditional on specific terms, as deemed appropriate by the Centre.

The Recipient shall ensure that no patent application in relation to the Project Inventions is filed without the Centre's express written consent, which consent may be conditional on specific terms, as deemed appropriate by the Centre.

**A7.1.3. Open Source Software**

The Recipient shall make the Computer Programs it develops in the course of the Project available open source, on terms and conditions to be agreed upon between the parties, acting reasonably. The Recipient shall ensure that Computer Programs are not otherwise assigned or licensed without the express written consent of the Centre.

**A7.1.4. Memorandum of Understanding**

When it is deemed likely that a Project Invention may be created, the Recipient shall be required to conclude a Memorandum of Understanding with the Centre in relation to the intellectual property right considerations that might flow from the creation of such Project Inventions, the timing for which shall be set out in Attachment B – Schedule of Milestones. Such Memorandum of Understanding shall be incorporated by reference herein and appended as an amendment to this Memorandum.

**A7.2. Availability of Germplasm**

Subject only to relevant quarantine regulations, the Recipient shall make available to the Centre or any institution conducting research in the same area of research as that described in the Project which so requests it any improved germplasm that has been developed in whole or in part as a result of the Project.

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**A8. IDRC Logos**

The Centre authorizes the Recipient to use solely for the Project purposes all IDRC logos on a non-exclusive basis for the Grant Duration, subject to the Recipient complying with the Centre's policies governing such logos' permitted use as outlined in at:  
[http://www.idrc.ca/en/ev-42828-201-1-DO\\_TOPIC.html](http://www.idrc.ca/en/ev-42828-201-1-DO_TOPIC.html).

**A9. Disclaimers**

The Recipient shall ensure that appropriate disclaimers protecting the Centre and the Recipient are included in any website and other related platforms the Recipient creates in pursuit of the Project Objectives. The parties will jointly identify the required disclaimers and agree on the wording of such disclaimers.

**A10. Indemnification**

The Recipient shall indemnify and hold the Centre harmless against any claims, actions, losses, damages arising out of a violation, breach of warranty under this Memorandum or an infringement of intellectual property rights committed in the course of or in relation to the Project, to the extent of its liability or that of its employees and Subcontractors.

**A11. Project Budget**

Centre Funds shall be used exclusively for the budgetary purposes set forth in Attachment C (Project Budget). Unless specifically indicated in this Memorandum, all budget line items shall be considered as upper-limit estimates against which actual and reasonable costs are reported (see Section A13 on matters related to reporting).

The Recipient shall contact the Centre and obtain its written consent before making any substantial changes in budgetary allocation. The budget will be reviewed **annually** during the Grant Duration; through the provision of annual disbursement forecasts (see Section A13.2).

**A12. Grant Administration**

The Centre will make payments to the Recipient according to the schedule set forth in Attachment B (Schedule of Milestones), which forms an integral part of this Memorandum. The Recipient agrees that the payment of any Centre Funds under this Memorandum is subject to its compliance with the conditions set out in this Memorandum, including all attachments, as may be amended from time to time by the parties.

**A12.1. Interest Earnings**

Any interest earned while Centre Funds are in deposit at the Recipient's bank (see Section 2), whether in a separate Project account or in a general account, shall be fully credited by the Recipient to the Project and reported as earnings on Project financial reports (Sections A13.2 and A13.6).

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Such Project earnings shall be applied to the Project. Where they are not applied to the Project, the Project Budget (per Attachment C) will be reduced by an amount equivalent to the earnings.

**A12.2. Working Currency**

The working currency of the Recipient is the currency of the Project Budget in Attachment C. Notwithstanding the working currency of the Recipient, the Centre limits its liability to the Canadian currency value stated in this Memorandum.

**A13. Payments and Financial Reports**

**A13.1. Requests for Payment**

All payments to the Recipient, except the final payment, shall be considered advances until the Project Milestones, as set forth in Attachment B, are satisfactorily achieved and a financial report of actual expenses incurred against the payment is accepted by the Centre.

The submission of a financial report (including the financial forecast, as per A13.2) will implicitly serve as a request.

**A13.2. Submission and Format of Interim Financial Reports**

Financial reports shall be prepared in a format similar to that of the Project Budget (Attachment C). Financial reports shall also be duly signed by the Project Leader of the Recipient institution and a duly authorized financial officer of the same institution. The report will include:

- a) a certification, in the working currency of the Recipient, of the amount of Centre Funds expended and accrued on the Project to the report date;
- b) a certification of the amount received in the working currency after the actual bank conversion of the Centre payment;
- c) a certification of the amount of interest earned as per Section A12.1, in the working currency;
- d) other amounts received and against which the Centre has imposed per Attachments C; and
- e) a forecast of expenditures, in the working currency, for the following payment period.

The Recipient shall submit its reports to the Centre contact designated in Section 4.1 in accordance with the Schedule of Project Milestones (Attachment B).

**A13.3. Review and Acceptance**

Within 20 calendar days of receipt of a report, the Centre shall notify the Recipient, in writing, of any errors, omissions or clarification required in the report, in which case any outstanding payment will be withheld until the report is deemed acceptable.

Notwithstanding the Schedule of Project Milestones (Attachment B), the financial forecast submitted by the Recipient will serve as basis for establishing the cash flow needs for the

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period or Milestones covered by the next payment and, consequently, the amount of the payment itself. Thus, the actual timing and amount of payments in annual or bi-annual instalments will be dependent on receipt and acceptance of the required reports or Milestones.

**A13.4. Payment**

**A13.4.1. Dependency on Milestone or Technical Report**

Release of any payments is contingent upon the acceptance by the Centre's contact (see Section 4.1) of the Project Milestones (Attachment B) achieved as at the date of the financial report.

The Centre reserves the right to increase or decrease the number and frequency of payments.

**A13.4.2. Canadian Recipients**

Payment to Canadian Recipients will be made by cheque and sent to such Recipient at the address indicated in Section 4.2 of this Memorandum.

**A13.4.3. Recipients outside Canada**

Payment to Recipients who are located outside Canada will be made by bank transfer according to information provided by the Recipient in the Banking Information Form (Attachment D).

**A13.5. Holdback and Final Payment**

The Centre will retain a certain percentage of the available Centre Funds until the receipt of the final technical report and final financial report described respectively in Attachment B and in Section A13.6. The actual amount of the final payment will take into account the total actual expenditures of the Project.

Additional specific conditions attached to the release of the final payment may be present in Attachments B and C.

**A13.6. Submission and Format of Final Financial Report**

The final financial report shall be prepared and submitted in the same manner as the interim financial reports (see Section A13.2) with the exception of the forecast of expenditures (A13.2.e).

**A14. Allowable Expenses**

No Project-related expenses will be paid if these expenses were incurred outside of the period of availability of the Centre Funds (see Section 5 of this Memorandum). Failure to submit the required reports on time (see Attachment B) will result in the Centre requesting a refund of the portion of the grant for which there has been a failure to account.

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The following sections describe restrictions which are placed upon the payment for the items, goods, or services set forth in the Project Budget (Attachment C).

**A14.1. Air Travel**

Any air tickets purchased by the Recipient with Centre Funds, directly or indirectly, must be in excursion class or at lower fares. The applicable fare shall be purchased for the most direct and economical routing. The Recipient may reroute or upgrade at the Recipient's own expense.

**A14.2. Per Diems for Subsistence**

Per diems paid with Centre Funds to researchers and other Project participants while on travel shall not exceed the schedule of maximum per diems in force at the Centre.

Further information on the applicable rates is available from the Centre contact designated in Section 4.1 of this Memorandum.

**A14.3. Taxes**

As stipulated elsewhere in this Memorandum (Section A5.2), Centre Funds shall not be used to pay for custom, import, or other duties or taxes levied with respect to importation. Outside of Canada, Centre Funds shall not be used to pay any other form of direct or indirect taxation except where:

- a) consumption-based taxes are embedded in the cost of small goods (supplies, stationary, gas, fuel, petrol, etc.) and services (restaurant and hotel meals, consultants, printing and reproduction, etc.) which are locally procured by the Recipient;
- b) it is more economical to purchase local goods and equipment with the embedded duty and custom taxes than to purchase goods abroad and in addition pay for shipping, insurance, duty and taxes (this provision is not meant to be invoked to circumvent the work involved in getting the tax or duty exemption, where either the Centre or the Recipient is entitled to one and it would cost less to do so);
- c) local taxes cover the cost of utilities (water, sewage, garbage pick-up and other essential municipal services); and
- d) taxes are part of the cost of employment and payable over and above basic salaries (e.g. payroll taxes; employer's contributions to public health care, social security, public pension schemes, etc.).

The Centre will reimburse the Recipient for any applicable Canadian federal or provincial taxes on expenses paid with Centre Funds only if the Recipient has already claimed from the authorities a reimbursement of its input taxes. The Centre will only pay for the net tax.

After the last financial report has been submitted by the Recipient and settled by the Centre, all Canadian and other taxes due are the responsibility of the Recipient, and the Recipient will be liable for any tax owing.

Reimbursable taxes are deemed to be budgeted in the line items to which they apply and need not be separated. The Recipient must ensure that it does remain auditable.

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**A14.4. Project Indirect Costs**

The Centre does not allow the recovery of overhead on its grants. It does however allow the recovery of indirect expenses incurred in the conduct of the Research Work and in the administration of the Centre Funds. Indirect expenses can only include:

- a) salaries and benefits of personnel which support and administer the Project, such as secretaries, clerks, accountants, etc.;
- b) stationery and other office supplies;
- c) telecommunication cost (unless the nature of the Research Work has warranted a specific budget line item for that purpose — see Attachment C); and
- d) computer equipment used for the administration or accounting of the Centre Fund disbursements.

The Recipient shall keep track of its indirect cost charges in order to satisfy the requirements of any possible audit (see Section A15). Where the Recipient has a policy of recovering its indirect costs through the application of a percentage, it shall be able to satisfy the Centre or its designated auditors that the levy is fair and reasonable.

Under no circumstances will the Centre consider indirect costs over 13% of the recipient-administered grant value excluding the amount awarded toward the procurement of Property, which will be vested in the Recipient, and excluding the amount of the indirect costs themselves.

In the event total actual expenditures are less than originally budgeted, the indirect costs shall be reduced to ensure that indirect costs not exceed 13%.

**A15. Centre Review**

**A15.1. Where the Recipient is a Government Ministry, Department or Institution, or an International Organization**

Where the Recipient is a government ministry, department or institution, or an International Organization, such recipient agrees that, if the Centre so requests, financial reports will be supported by original (or certified copies of) invoices or other documents verifying the transaction.

Such recipient agrees, if the Centre so requests, to give the Centre reasonable access to all Project records (excluding information regarding *Subjects of Research*) including pertinent financial records relating to the Project. Such recipient shall maintain such records for a period of two years after the Contract Completion Date.

**A15.2. All Other Recipients**

Where the Recipient is not a government ministry, department or institution, or an International Organization, such recipient will institute financial and administrative procedures acceptable to the Centre with respect to the Project and will, at the request of the

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Centre, periodically review such procedures and the progress of the Project with the representatives of the Centre.

In addition, such recipient agrees that, if the Centre so requests, the final financial report (Section A13.6) shall be certified by external auditors and the cost of such audit shall be borne by the Centre.

Such recipient further agrees, if the Centre so requests, to give the Centre, or its designated auditor(s), reasonable access to all Project records (excluding information regarding *Subjects of Research*), including financial records relating to the Project to permit the Centre to verify all pertinent financial records and compliance with the terms and conditions of this Memorandum in the use of Centre Funds. Such recipient shall maintain financial records for a period of two years after the Contract Completion Date.

## **A16. Environment**

### **A16.1. Sustainable Development**

The Recipient shall plan and implement the Project in a manner that promotes sustainable development and the protection of the environment.

### **A16.2. Environmental Assessment**

Under the *Canadian Environmental Assessment Act* ("CEAA"), the Centre is required to ensure that an environmental assessment of certain projects (as the word "project" is defined in the CEAA) is conducted before providing financial assistance to carry out such projects in whole or in part. Should such an assessment be required, the Recipient shall conduct an environmental assessment and prepare a screening report in accordance with CEAA and forward it to the Centre.

The Centre reserves the right to take any action necessary to ensure compliance with the requirements of the CEAA or to ensure environmental protection more generally, including but without being limited to, the termination of the Agreement or the imposition of any mitigation or follow-up measures necessary to reduce, eliminate or control any adverse environmental effects of the Project. Without restricting the generality of the foregoing, this right shall apply in situations where the environmental assessment screening report is deemed by the Centre to be inadequate to ensure compliance with the requirements of the CEAA.

### **A16.3. Centre Authorization to Proceed**

If an environmental assessment is required, the Centre shall determine whether the Project is likely to cause significant adverse environmental effects on receipt of the environmental assessment screening report provided by the Recipient and any other information that the Centre deems to be relevant.

The Recipient shall provide the Centre with any additional information requested by the Centre in order to enable the Centre to meet the requirements of the CEAA. The Recipient shall not in any way implement or carry out the Project until the environmental assessment

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screening report, if required, has been submitted to the Centre and the Centre has provided its authorization to proceed in writing.

**A17. Compliance with Anti-Terrorism Principles**

The Recipient acknowledges that the Centre is bound by Canada's *Anti-Terrorism Act* 2001, c.41 (hereinafter "ATA"), including the provisions of the *Criminal Code of Canada* R.S.C. 1985, c. C-46 (hereinafter "Code") brought into effect by the ATA, namely Part II.1 of the Code (see: <http://laws.justice.gc.ca/en/C-46/index.html>), which Code provisions create offences related to the participation in, financing, facilitation and carrying out of terrorism and support for entities affiliated with terrorism. The Centre is committed to adhering to the provisions and principles of the ATA in all work it undertakes and supports.

During and after the term of this Memorandum, with regards to the Project and all Property provided by the Centre to the Recipient pursuant to this Memorandum, the Recipient shall ensure that the Property is not used in any manner that would constitute a breach of the Code.

The Recipient further agrees to comply with any other instructions regarding compliance with the terms and conditions of this Section A17, which the Centre may be required to issue during the term of this Memorandum in response to changes to Canadian law.

**A18. Anti-Corruption**

The Recipient declares and guarantees that no offer, gift or payment, consideration or benefit of any kind, which constitutes an illegal 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 this Memorandum. Any such practice is grounds for terminating the Agreement or taking any other corrective action as required.

The Recipient shall declare in writing to the Centre if the Recipient, its officers or employees included in the Project:

- a) were convicted during a period of three years prior to the submission of the Project proposal, by a court of law in Canada or in any other jurisdiction for an offence involving bribery or corruption or;
- b) are under sanction, for an offence involving bribery or corruption, imposed by a government, a governmental organization or a development organization providing development assistance.

The Recipient shall require its Subcontractors to declare to the Recipient in writing if they or any of their officers or employees involved in the Project:

- a) were convicted during a period of three years prior to the submission of the Project proposal, by a court of law in Canada or in any other jurisdiction for an offence involving bribery or corruption or;
- b) are under sanction, for an offence involving bribery or corruption, imposed by a government, a governmental organization or a development organization providing development assistance.

The Recipient shall make such declarations it receives from its Subcontractors known to the Centre by providing the Centre with a copy of such declarations.

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The Centre may terminate this Memorandum forthwith for default where it is found that the Recipient has made a false declaration.

**A19. Return of Centre Funds**

Within 60 calendar days after the Research Work Completion Date but no later than the Contract Completion Date, whichever is sooner, the Recipient shall return to the Centre any Centre Funds not used for the Project.

**A20. Visits to Project**

The Recipient, at the request of the Centre, will permit officers or representatives of the Centre to visit the Project site(s) at times convenient to the parties concerned and will facilitate the discussion of the results and progress of the Project between Centre representatives and Project personnel.

**A21. Calls for Proposals**

Subject to any restrictions imposed by the Centre, the Recipient shall in the course of administering one or more calls for proposals pursuant to the Project, comply with its internal procedures and practices governing calls for proposal. In addition, the Recipient, shall exercise due diligence, act fairly and in good faith in the evaluation and selection of the proposals submitted.

**A22. Transmission of Medical or Other Confidential Information**

The Recipient shall take all reasonable measures to ensure protection against unauthorized access or intrusion to the confidential information contained in the personal digital assistants or being transmitted on a network.

**A23. Wild Plants**

Uncommonly used wild plants must be proven safe for general consumption prior to or during the support of work which would lead to promoting their human consumption. Prior to any promotion for human consumption, uncommonly used wild plants must be proven safe for general human consumption in a nutritionally well-balanced diet by consumers generally, without regard to their age or gender.

**A24. Compliance with National Laws**

In carrying out this Project, the Recipient shall, subject to its privileges and immunities, be responsible for complying with all applicable laws and regulations of the countries in which the Research Work will be carried out and to which Project personnel may have to travel to as part of the Project.

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**A25. Governing Law and Arbitration**

This Memorandum shall be governed and construed in accordance with the laws of the Province of Ontario or Canada, as applicable. Any dispute or disagreement arising from the interpretation or application of this Memorandum shall be settled by arbitration as follows:

- a) Both parties will first endeavour to settle any difference amicably by direct dealings;
- b) If no agreement is reached within sixty days, the matter shall be referred to the arbitration of a single arbitrator, if the parties agree on one, or failing agreement, as appointed in accordance with the Rules of the United Nations Commission on International Trade Law (UNCITRAL).

The UNCITRAL Rules will apply to any arbitration proceedings between the parties. The arbitration will take place in Ottawa, Canada or such other location the parties mutually agree. The official language of the proceedings will be in either of Canada's official languages as determined by the parties, failing agreement, as determined by the arbitrator. The award and determination of the arbitrator shall be binding upon the parties and their respective heirs, executors and assigns. Each of the parties will bear its own expense with respect to any arbitration proceedings. Notwithstanding anything to the contrary in this Memorandum or the UNCITRAL Rules, the parties hereto will bear jointly the expenses of the arbitrator and associated rental costs for the purposes of arbitration on an equal basis.

**A26. Sub-contractors**

Subject to any restrictions imposed by the Centre, the Recipient may enter into any sub-contract in pursuit of the Project objectives **provided** the Recipient ensures that any and all resulting contracts with Subcontractors are consistent with **ALL** of the Recipient's obligations contained in this Memorandum.

**A27. Non-Assignment**

Subject to the parties' agreement to the contrary, this Memorandum and any rights or obligations arising therefrom may not be assigned by the Recipient without the Centre's prior written consent.

**A28. Notices**

Any notice that is delivered shall be deemed to have been received on delivery; any notice sent by electronic mail or telecopier shall be deemed to have been received one working day after being sent; any notice given by letter shall be deemed to have been received 15 calendar days after the date of mailing.

**A29. Non-Compliance**

Any non-compliance by the Recipient with the terms and conditions of this Memorandum shall be considered to be a breach such that it may be immediately terminated at the sole discretion of the Centre, without notice or any further obligation. In the event of such termination the Recipient shall:

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- a) be liable to reimburse the Centre for the value of all Property granted to the Recipient by the Centre under this Memorandum to the date of termination which has been improperly disposed of; and
- b) return to the Centre any funds and advances not yet spent or irrevocably committed.

The Recipient will notify the Centre contact immediately at such time as it becomes aware of any actual, possible or foreseeable breach of this Memorandum.

In the event that the Recipient fails to comply with any of the terms and conditions outlined in this Memorandum, the Centre may refuse to release new payments and the Recipient shall, upon request, return any unspent Centre Funds.

**A30. Termination**

This Memorandum shall immediately terminate without notice if the Recipient (i) ceases to carry on business; (ii) commits an act of bankruptcy within the meaning of Canada's *Bankruptcy and Insolvency Act*, R.S. 1985, c.B-3, as amended, or is deemed insolvent within the meaning of Canada's *Winding Up and Restructuring Act*, R.S. 1985, c. W-11, as amended, or makes an assignment, against whom a receiving order has been made under comparable bankruptcy legislation or in respect of whom a receiver, monitor, receiver-manager or the like is appointed; or (iii) becomes insolvent or makes an application to a court for relief under Canada's *Companies' Creditors Arrangement Act*, R.S. c. C-25, as amended, the *Bankruptcy and Insolvency Act*, the *Winding Up and Restructuring Act* or comparable local legislation (collectively or severally referred to as "Act of Insolvency").

In the event of termination arising out of an Act of Insolvency, the Recipient's ownership rights in any intellectual property and other Project Outputs funded by Centre Funds and developed in pursuit of the Project Objectives shall be deemed to have automatically transferred to the Centre the date immediately preceding the actual Act of Insolvency.

**A31. Non-Waiver**

No waiver of any provision of this Memorandum shall be deemed to constitute a waiver of any other provisions (whether or not similar); nor shall such waiver be binding unless executed in writing by the party to be bound by waiver.

No failure on the part of any Party to exercise and no delay in exercising any right under this Memorandum shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

**A32. Language**

The parties have requested that this Memorandum and all notices or other communications relating thereto be drawn up in English. Les parties ont exigé que ce contrat ainsi que tous les avis et toutes autres communications qui lui sont relatifs soient rédigés en anglais.

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**A33. Counterparts**

This Memorandum may be executed by the parties in separate counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute one (1) and the same agreement. This Memorandum will be considered fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart. This Memorandum and those contemplated herein may be executed and delivered by facsimile signatures and shall be binding on all parties hereto as if executed by original signature and delivered personally.

**A34. Survival**

All representations, warranties, disclaimers, indemnifications and reporting obligations contained in this Memorandum shall survive the Contract Completion Date.

**A35. Special Conditions (delete if not applicable or insert special clauses as required)**