



## SPONSORED RESEARCH AGREEMENT

THIS AGREEMENT made in duplicate this day of , 20.

BETWEEN:

**SOUTH COAST BRITISH COLUMBIA TRANSPORTATION AUTHORITY**, doing business as TransLink, having an office at 400 – 287 Nelson’s Court, New Westminster, BC V3L 0E7

(hereinafter referred to as the “TransLink”),

OF THE FIRST PART,

- and -

**THE UNIVERSITY OF \***  
(hereinafter referred to as the "University"),

OF THE SECOND PART.

WHEREAS:

- A. \_\_\_\_\_, an academic staff member of the University in the Faculty of \_\_\_\_\_ (hereinafter referred to as the ("Principal Investigator")) has certain expertise in \_\_\_\_\_ and
- B. TransLink is interested in supporting the research and development activities of the Principal Investigator in the area of \_\_\_\_\_.

NOW THEREFORE in consideration of the premises and the mutual covenants, terms conditions and agreements contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### ARTICLE 1 - DEFINITIONS

1.1 **“Agreement”** means this Sponsored Research Agreement including all attached schedules, as the same may be supplemented, amended, restated or replaced in writing from time to time.

1.2 **“Effective Date”** means the date when this Agreement is executed by TransLink and the University

1.3 **“Financial Report”** means a full accounting of the purchases and payments made for the Project, including an itemized list of the equipment purchased for the Project.

1.4 **“FOIPP Act”** means the *Freedom of Information and Protection of Privacy Act* (British Columbia).

1.5 **"Inventions"** means all discoveries, innovations, products, processes, formulations, technologies and compounds, whether patentable or not, arising as a direct result of the Project.

1.6 **"Project"** means the research project entitled, as outlined in Schedule "A" attached hereto.

1.7 **"Research Results"** means all data, reports and information created, produced, developed or derived in the performance of the Project but does not include Inventions.

## **ARTICLE 2 - SCOPE**

2.1 The University will perform the Project, under the direction and supervision of the Principal Investigator. If for any reason the Principal Investigator cannot perform or complete the Project, the University will appoint a successor, subject to the approval of TransLink, which shall not be unreasonably withheld or denied. If the parties cannot agree on a successor, either party may terminate this Agreement in accordance with section 4.

2.2 Given the exploratory nature of the research and development activities contemplated, under this Agreement TransLink acknowledges that the University has made no representations, warranties or undertakings as to the quality or nature of the work undertaken nor that the subject of such work will be suitable or marketable for any particular purpose or uses, other than that such work will be performed in good faith and with reasonable efforts of those participating in accordance with the objects and spirit of this Agreement.

2.3 No work under this Agreement which requires regulatory or ethics approvals shall commence, until such time as the necessary approvals have been obtained.

## **ARTICLE 3 - FINANCES**

3.1 Subject to payment under subsection 3.2 below, the University will perform the Project.

3.2 TransLink shall pay to the University for the Project the amount of \$\_\_\_\_\_ ten days after the Effective Date, pursuant to the "Budget Estimate" set out in Schedule "B" attached hereto, which amount is inclusive of institutional costs (also known as overhead costs).

3.3 The Principal Investigator must submit the Financial Report to TransLink's Technical representative not less than 3 months from the end of the Term.

3.4 Any surplus funds not spent on the Project shall be returned to TransLink within 30 days of the completion of the Project or the termination of this Agreement.

## **ARTICLE 4 – TERM AND TERMINATION**

4.1 This Agreement is effective from the Effective Date for a terms of two years being the anticipated completion date of the Project (the Term") unless terminated in accordance with the terms hereof. The Term may be altered by the mutual written agreement of the parties.

4.2 The University may, at its option, earlier terminate this Agreement by written notice to such effect and avail itself of such other legal remedies as are appropriate, in the event that TransLink shall at any time become insolvent in the opinion of the University, or make an assignment for the benefit of creditors, or have a petition in bankruptcy filed for or against it; or

4.3 TransLink or University may earlier terminate this Agreement by giving sixty (60) days' written notice to the other party. The sixty (60) day notice shall not apply if the terminating party, in its sole opinion, deems that the safety of research subjects will be compromised by the delay.

4.4 Notwithstanding the above, any party may immediately terminate this Agreement by written notice of breach by another party, which breach is not rectified within thirty (30) days of written notice thereof. Breach shall be defined as a failure to comply with any provision of this Agreement and the documents incorporated herein.

4.5 In the event this Agreement is terminated, other than a breach by the University, TransLink shall pay to the University all costs, payable under Article 3, incurred to the effective date of termination, including all non-cancellable commitments, plus any additional costs mutually agreed upon in writing for relevant and documented expenses incurred by the University in connection with terminating the Project.

4.6 Articles 4.5, 4.6, 8, 9, 10, 11, and 12 and clauses 15 shall survive termination of this Agreement. The obligations of confidentiality under Article 7 shall continue for a period of five (5) years from the date of termination of this Agreement.

#### **ARTICLE 5 - PROJECT MANAGEMENT**

5.1 The University shall have sole control, supervision and direction of the Project and shall alone be responsible for the manner in which the Project is performed.

5.2 TransLink shall appoint a technical representative or such other representative as TransLink may subsequently designate in writing. The University's technical representative shall be the Principal Investigator or such other representative as is mutually agreeable.

#### **ARTICLE 6 - CONSULTATION AND REPORTS**

6.1 During the Term of this Agreement, TransLink's technical representative and other representatives may have reasonable access to consult with the University's Principal Investigator regarding the Project, personally, electronically, or by telephone.

6.2 The University, through the Principal Investigator, shall provide TransLink technical representative with the following progress reports:

- a. Every six (6) months – interim status report, including but not limited to preliminary findings and results as available; and
- b. Financial Report no later than three (3) months from the end of the Term.

6.3 On or within four (4) months following the end of the Term, the University, through the Principal Investigator, will provide TransLink with a final report of the Research Results and shall include sufficient detail or reference to other publicly available documents with detail, to

transfer new learning to TransLink staff and to support the technical approach, data, analysis and conclusions of the project if challenged by stakeholders (the “Final Report”).

6.4 As the request of TransLink, the University or the Principal Investigator shall prepare and deliver presentations on the Project during the funding period and within 6 months following the completion of the Project.

## **ARTICLE 7 - CONFIDENTIAL INFORMATION**

7.1 The University and TransLink agree to keep confidential and not disclose to others information designated as confidential and supplied by them for the purpose of the Project (“Confidential Information”). The parties agree to advise and notify the other party as to which information disclosed, if any, constitutes Confidential Information. All written materials disclosed shall have this clearly marked on them, while any oral disclosures shall be followed by a written memorandum outlining the information disclosed and its confidential nature within ten (10) days of disclosure. The receiving party may only disclose Confidential Information to persons with a “need to know” who shall be made aware of, and be required to observe and comply with the obligations contained herein and the Confidential Information shall only be used for the purpose of the Project.

7.2 The obligation of confidentiality in 7.1 shall not apply to information which:

- a) is already known to the party to which it is disclosed, as evidenced by written records;
- b) is now or shall enter the public domain other than by a breach of confidentiality obligations to the disclosing party;
- c) is lawfully obtained from third parties;
- d) either party can demonstrate was developed by it independently of the information received from the disclosing party;
- e) must necessarily be disclosed to regulatory agencies, or to clinicians or others in connection with such disclosures;
- f) must necessarily be disclosed by the University to file patent applications with respect to Inventions hereunder; or
- g) is published or presented by or through the University in learned journals or scientific forums, or as part of a thesis in accordance with Article 12.

7.3 Notwithstanding any other provision in this Agreement, disclosure of Confidential Information shall not be precluded if such disclosure is required to be disclosed by law or in response to a valid order of any governmental agency, court or other quasi-judicial or regulatory body of competent jurisdiction.

7.4 The obligation of confidentiality shall not apply to professional expertise which the Principal Investigator, co-investigators or the University has upon execution of this Agreement or which is further developed or enhanced as a result of performing work under this Agreement.

7.5 The parties warrant that they shall adhere to and comply with applicable laws and regulations regarding protection of personal and/or health information.

#### **ARTICLE 8 - OWNERSHIP/LICENSES**

8.1 The University shall retain ownership of all Research Results.

8.2 Ownership of Research Results and the Inventions shall be in accordance with Schedule "C" attached hereto.

8.3 The Parties acknowledge and accept that one or more theses may be generated from the Project. Notwithstanding any provision of this Agreement or the attached schedules, students involved in the Project shall retain copyright in respect of their theses.

8.4 The University shall retain ownership of any pre-existing materials or intellectual property identified as pre-existing property of the University and to any of its proprietary methodologies, know-how, ideas, techniques, and/or concepts that may be used by the University or provided by the University to TransLink during the course of the Project.

8.5 This Agreement has no effect on the ownership of any systems, programs, specifications and associated documentation, and any equipment, machinery or other property developed by or purchased by either Party under other agreements, contracts, purchase orders or other arrangements with third parties.

8.6 As further provided for in Schedule "C", the University agrees that TransLink, and its affiliates and service contractors as applicable, are granted a non-exclusive, royalty-free license without charge to use or exploit the Research Results and Inventions for TransLink's purposes.

#### **ARTICLE 9 – EQUIPMENT**

9.1 Unless otherwise agreed upon by the University and TransLink in writing, or specifically provided for pursuant to the terms of this Agreement, all equipment and materials purchased by or provided to the University for the purpose of carrying out the Project, shall be, and remain, the property of the University.

#### **ARTICLE 10 - LIABILITY AND INDEMNITY**

10.1 The University makes no warranty, express or implied, concerning the Research Results or any Inventions under this Agreement, which are all provided "as is". THE UNIVERSITY MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH RESULTS OR ANY INVENTIONS.

10.2 NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST SAVINGS, LOSS OF ANTICIPATED REVENUE OR ANY

EXEMPLARY, PUNITIVE, SPECIAL OR INDIRECT DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.3 TransLink agrees to hold harmless, indemnify and defend the University, its successors, assigns, officers, directors, employees and students, from all liabilities, demands, damages, claims, expenses and losses arising out of breach of the Agreement by TransLink or the use by TransLink or by any party acting on behalf of or under authorization from TransLink of the Research Results or an Invention or out of any use, sale or other disposition by TransLink, or by any party acting on behalf of or under authorization from TransLink, of products made by use of the Research Results or an Invention, except to the extent such liabilities, demands, damages, claims, expenses or losses are caused by or attributable to the negligence or willful misconduct of the University.

10.4 The University agrees to hold harmless, indemnify and defend TransLink and its successors, affiliates, assigns, officers, directors and employees from all liabilities, demands, damages, claims expenses and losses arising out of any breach of this Agreement or willful misconduct or negligent acts or omissions of the University, its officers, directors, employees and students during the performance of this Agreement, except to the extent such liabilities, demands, damages, claims, expenses or losses are caused by or attributable to the negligence or willful misconduct of TransLink.

#### **ARTICLE 11 - PUBLICITY**

11.1 The University shall acknowledge the support of TransLink in all written and oral presentations of Research Results, including scientific articles, news releases, news conferences, public lectures and media interviews. Moreover, nothing herein precludes the University and the Principal Investigator from including the name of TransLink as a funding source for purposes of internal reporting, reporting to government and governmental agencies or to obtain financial assistance.

#### **ARTICLE 12 – PUBLICATION**

12.1 The parties agree that it is part of the University's mission and policies to disseminate information and make it available for the purpose of scholarship. As such, the parties agree that the University shall have the first right to publish and/or disclose publicly, the Research Results arising from the Project.

12.2 TransLink may choose to publish the Final Report publicly through the TransLink's *Tomorrow website*.

12.3 In order to avoid loss of patent rights as a result of premature public disclosure of patentable information, the University shall provide TransLink with a copy of any proposed publication relating to the Project for review and comment at least thirty (30) days prior to planned submission for publication. TransLink shall notify the University within thirty (30) days of receipt of such material whether they describe any Inventions subject to the Parties' rights under Article 8 or if the material contains any of Confidential Information of TransLink, in which case the University will remove this confidential information from any publication of the material. The University shall have the final authority to determine the scope and content of any publication.

12.4 Notwithstanding subsection 12.3, in no event shall publication be postponed such that a graduate student thesis defense is delayed.

### **ARTICLE 13 - FORCE MAJEURE**

13.1 No liability shall be incurred by the University for delay in progress of the Project or damage suffered or non-performance by the University of its obligations as a result of "force majeure", which shall mean Acts of God, fire, floods, riots, wars, financial exigency, or other happenings or occurrences beyond the control of the University, but in no way caused by the University's default or collusion.

13.2 The University shall give TransLink prompt notice and details in writing of the cause of the force majeure.

13.3 No liability shall be incurred by the University as long as the force majeure situation is in effect.

### **ARTICLE 14 - NOTICE**

14.1 Any notice, report or other communication which any party may desire to give to the other, may be hand delivered or sent prepaid by courier or registered mail, or by facsimile or electronic transmission (PDF) to the respective addresses as set out below, or to such other address as one party hereto might subsequently advise the other:

If to TransLink:

South Coast British Columbia Transportation Authority  
400 – 287 Nelson's Court  
New Westminster, BC  
V3L 0E7

Attention:  
Phone:  
Fax:  
Email:

If to the University:

The University of \*\*

Attention:  
Phone:  
Fax:  
Email:

If to the Principal Investigator:

Attention:  
Phone:  
Fax:  
Email:

## **ARTICLE 15 - MISCELLANEOUS**

### **RELATIONSHIP OF PARTIES.**

15.1 This Agreement shall not create or be deemed to create any agency, partnership or joint venture between the parties. The Agreement shall be binding upon and enforceable against each of the parties hereto and their respective administrators, executors, successors and permitted assigns.

### **ENTIRE AGREEMENT.**

15.2 This Agreement is intended by the parties as final and complete expression of their agreement, and supersedes any and all prior and contemporaneous agreements and understandings relating to it. This Agreement may be executed in two or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

### **MODIFICATION.**

15.3 This Agreement may not be nullified and none of its terms may be waived except in writing signed by both parties. The failure of either party to enforce, or the delay by either party in enforcing, any of its rights shall not be deemed a continuing waiver or modification of this Agreement.

### **SCHEDULES.**

15.4 The attached schedules and the terms and conditions contained in the schedules are an integral part of this Agreement and are hereby incorporated into this Agreement as a part thereof. The parties may from time to time by agreement amend any of the schedules and such amended schedule when signed by both parties shall be substituted for the previous schedule effective from the date set out in such amended schedule.

### **SEVERABILITY.**

15.5 If any part of this Agreement shall be declared invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of the balance of this Agreement.

### **DISPUTES.**

15.6 If a dispute arises under this Agreement, either party may request the other party to appoint representatives to meet and attempt to resolve the dispute either by direct negotiations



or mediation. Unresolved disputes shall be settled by a single arbitrator, under the rules established by the *Arbitration Act* of British Columbia and the arbitrator's ruling shall be final.

#### **TIME.**

15.7 Time is of the essence of this Agreement.

#### **WAIVER.**

15.8 Failure to enforce a provision of this Agreement is not a waiver of that provision nor does it affect any right a party may have to enforce the provision or to consider the failure a breach of this Agreement. A waiver must be express and in writing before it has legal effect.

#### **GOVERNING LAW AND JURISDICTION.**

15.9 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of British Columbia for all purposes in connection with this Agreement.

#### **FREEDOM OF INFORMATION.**

15.10 The University acknowledges TransLink is subject to the *FOIPP Act* and this Agreement and any records provided to TransLink may be subject to public disclosure under the *FOIPP Act*.

#### **COMPLIANCE.**

15.13 The University covenants, as a material provision of this Agreement, it will comply, at its own expense, with all codes, statutes, by-laws, regulations or other laws in force in during the Term and, for the purposes of privacy protection, despite any conflicting provision of the law of any jurisdiction outside of Canada. The University will obtain, and, as required, advise and assist TransLink in obtaining, any permits, licenses or other authorizations necessary for or related to the Project. The University will further comply with policies, procedures and instructions, if any, provided by TransLink. TransLink or any of its authorized representatives may inspect and audit the University's compliance with all codes, statutes, by-laws, regulations or other laws, from time to time as TransLink sees fit.

15.14 The University will use reasonable commercial best efforts to ensure and is responsible for ensuring the safety of persons providing, or affected by the provision of Project. The University will perform the Project in accordance with the representations made in any proposal or safety plan submitted to TransLink. The University must, throughout the Term of the contract:

- (a) be registered and in good standing with the workplace safety entity that has jurisdiction over the University;
- (b) ensure persons providing the Project are covered under section 15.13 above;
- (c) upon request from TransLink, provide a statement from WorkSafeBC, or the applicable workplace safety entity, demonstrating evidence of compliance with this provision.

**FURTHER ASSISTANCE**

15.15 Each of the parties shall sign such documentation and deliver such information as may be reasonably required by the other to exercise its rights set forth in this Agreement.

**COUNTERPARTS**

15.16 This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Delivery by *facsimile* or by electronic transmission in portable document format (PDF) of an executed counterpart of this Agreement is as effective as delivery of an originally executed counterpart of this Agreement.

15.17 Schedules "A" and "B" and "C" attached hereto form part of this Agreement. The parties have executed this Agreement as of the date written at the beginning of this Agreement.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement on the day of , 20.

**SOUTH COAST BRITISH COLUMBIA TRANSPORTATION AUTHORITY**

Per: \_\_\_\_\_  
Name:  
Title:

**THE UNIVERSITY OF\***

Per: \_\_\_\_\_  
Name :  
Title:

**READ AND UNDERSTOOD:**

\_\_\_\_\_  
**PRINCIPAL INVESTIGATOR**



**SCHEDULE "A"**

**PROJECT**

SAMPLE

**SCHEDULE "B"**

**BUDGET ESTIMATE**

SAMPLE

**SCHEDULE "C"****OWNERSHIP OF INVENTIONS – University Owns with Non-exclusive License to TransLink for Non-commercial Internal Purposes**

1. All Inventions shall be owned by the University in accordance with its applicable policies and collective agreements.
2. The University grants to TransLink, and its affiliates and service contractors, a non-exclusive, perpetual and non-royalty-bearing right and license to use the Research Results or the Inventions for non-commercial, internal purposes, including the right to seek assistance from consultants and contractors to exploit the Research Results or the Inventions; provided however that TransLink shall not, at any time, sell, transfer, convey, license, sublicense or otherwise dispose of the Invention or any interest therein at any time to any third party without the prior written approval of the University.
3. In the event the University obtains a registered patent, in any jurisdiction, for the Research Results or the Inventions, the University grants to TransLink a non-exclusive, perpetual and non-royalty-bearing right and license to use the Research Results or the Inventions for non-commercial, internal purposes; provided however that TransLink shall not, at any time, sell, transfer, convey, license, sublicense or otherwise dispose of the Invention or any interest therein at any time to any third party without the prior written approval of the University.