

Note:

This model agreement has been made publicly available for the sole purpose of helping to draft acceptable IIS agreements. In all cases, the student or the academic research advisor must check with the university to ensure that the actual IIS agreement complies with the university's applicable rules.

Model Co-operation Agreement for the Joint NSERC-FQRNT Industrial Innovation Scholarships (IIS) Program

BETWEEN: **Host Organization's name**, a legally constituted corporation with its headquarters at **address**, here represented by **responsible person's name** and **title**, duly authorized as stated

(hereinafter known as the "**Host Organization**");

AND: **University's name**, a legally constituted corporation and institution of research and higher education with its headquarters at **address**, here represented by **responsible person's name** and **title**, duly authorized as stated

(hereinafter known as the "**University**").

WHEREAS the University is a university institution participating in the joint NSERC-FQRNT Industrial Innovation Scholarships (IIS) program (hereinafter the "**University**");

AND WHEREAS the Student named in Annex A (hereinafter the "**Student**") is enrolled as a full-time student in a graduate studies program at the University and is a successful candidate for the Industrial Innovation Scholarships (IIS) program;

AND WHEREAS the Host Organization agrees to sponsor the Student through the Industrial Innovation Scholarships (IIS) program to carry out the Project (as defined in paragraph 1.8);

AND WHEREAS the Parties wish their co-operation on the Project to be governed by this co-operation agreement (hereinafter the "**Agreement**");

AND WHEREAS the Student's advanced training will help the Host Organization to innovate and to create innovative products, technologies and services which will have benefits for the economies of Quebec and Canada.

THE PARTIES THEREFORE AGREE AS FOLLOWS.

1. DEFINITIONS

1.1. “**effective date**” has the meaning given to this expression in paragraph 11.1.

1.2. “**Research Director**” refers to the professor at the University who is the Project's institutional head and the Student's university supervisor.

1.3. “**Discloser**” has the meaning given to this expression in paragraph 1.4.

1.4. “**confidential information**” refers to any commercial, technical or scientific information or outcome concerning the Project that an Organization acting reasonably views as confidential, as well as any secret or confidential information concerning an Organization (the “**Discloser**”) or its activities, including, but not limited to, technical or technological information or data (including trade secrets, research and development projects and their results, non-patented inventions, etc.); product manufacture and marketing or service delivery (including marketing programs, plans and strategies, as well as current and future products and services, etc.); finance (including information about investors and financial institutions, costs, income, profits, results, sales and profit margins, etc.); and clients (including client base and market information, client lists and contracts with this Party, etc.) of any kind or form or recorded in any medium. However, information shall not be considered to be “**Confidential information**” for the purposes of this agreement:

1.4.1. that is or becomes a matter of general public knowledge through no fault of the Party/Parties to which this information was disclosed (a “**Recipient party**”);

1.4.2. that was known to a Recipient party before being disclosed (as shown by the written records of the Recipient party);

1.4.3. that a third party not bound by confidentiality with regard to the Discloser or another third party discloses to the Recipient party; or

1.4.4. the disclosure of which is required by a judicial proceeding.

1.5. “**Organization**” refers to the Host Organization or University individually; “**Organizations**” refers to the Host Organization and University collectively.

1.6. “**Party**” refers to the Host Organization or University individually; “**Parties**” refers to the Host Organization and University collectively.

1.7. “**Recipient party**” has the meaning given to this expression in subparagraph 1.4.1.

1.8. “**Project**” refers to the research project that forms the subject of this Agreement. A detailed description of the Project is attached as Annex A.

1.9. “**Host Organization’s Project**” has the meaning given to this expression in subparagraph 2.2.1.

1.10. “**University Project**” has the meaning given to this expression in subparagraph 2.2.2.

1.11. “**intellectual property**” refers to the following intangible assets:

1.11.1. documents, texts, symbols, designs, emblems, pictograms, slogans, signs, plaques, forms, computer programs or any other work protected by the *Copyright Act*;

1.11.2. trademarks as defined in the *Trade-marks Act*, registered or not;

1.11.3. industrial designs protected by the *Industrial Design Act*;

1.11.4. inventions, processes, methods and techniques, patented or not, in compliance with the *Patent Act*; and

1.11.5. trade secrets and know-how used to design, produce and market products and services.

1.12. “**former intellectual property**” refers to any intellectual property that belonged to one of the Organizations prior to the effective date.

1.13. “**trade secrets**” refers to information, including specifications, formulations, recipes, compositions, methods, devices, equipment, know-how, techniques and processes concerned with the products, services and business of a Party that: (i) have current or potential economic value inasmuch as they are unknown by individuals or businesses that might otherwise derive advantage or realize the economic value of their knowledge or access to knowledge and (ii) are subject to efforts by this Party to keep them secret.

1.14. “**supervisor**” refers to the member of the Host Organization with industrial responsibility for the Project.

1.15. “**end date**” has the meaning given to this expression in paragraph 11.1.

2. PROJECT

2.1. The Parties agree that their relationship for purposes of the completion of the Project is subject to the terms and conditions of this Agreement.

2.2. The Parties acknowledge that:

2.2.1. a Project may be proposed by the Host Organization and associated with one of its research or development programs (hereinafter a “Host Organization Project”);

2.2.2. a Project may be proposed by the University and associated with one of its research programs (hereinafter a “University Project”).

2.3. Notwithstanding paragraph 2.2, the Parties agree that they may together decide to describe any Project as a University or Host Organization Project for any reason.

2.4. The Parties agree to complete Annex A to this Agreement, which shall include:

2.4.1. the names of the Student, Research Director and Supervisor;

2.4.2. a detailed description of the Project, including its relation to the Student’s graduating academic project, as applicable;

2.4.3. the Project’s description by the Parties as either a Host Organization Project or University Project;

2.4.4. a description of the Student’s tasks under the Project;

2.4.5. a description of the skills to be acquired by the Student in carrying out the Project;

2.4.6. a schedule and description of deliverables and the resources to be provided for the Student by the Host Organization to complete the deliverables;

2.4.7. a description of the Host Organization’s former intellectual property;

2.4.8. a description of the University’s former intellectual property.

2.5. The Parties agree that the provisions of Annex B, entitled “Intervention,” will be duly observed.

3. THE UNIVERSITY’S OBLIGATIONS

3.1. The University undertakes to inform the Supervisor in writing of the Student's study program, including academic rules and requirements.

3.2. The University undertakes to supervise the Student's research work on the Project and provide the resources needed (premises, equipment, services, technical and support staff, etc.) for the part to be carried out at the University.

4. **THE HOST ORGANIZATION'S OBLIGATIONS**

4.1 The Host Organization undertakes to pay the University a total scholarship amount of [Amount] dollars (\$), which will be paid to the student at a rate of [Amount] dollars (\$) per year, according to the following terms and conditions:

4.1.1. \$ upon signing of the parties;

4.1.2. \$ on [Date(s)].

4.2. The Host Organization undertakes to provide the University and the Student with any information, supervision and assistance that are reasonably needed to carry out the Project.

4.3. The Host Organization will advise the Student of all rules for his/her work spaces, regulations, policies and procedures, including health and safety practices, to be used when the Student is working on the Host Organization's premises.

4.4. To the extent that the University has complied with the conditions in paragraph 3.1, the Host Organization undertakes to comply with the academic rules and requirements of the Student's study program and ensure that the Student's activities in the Host Organization fall within the ambit of the Project.

4.5. The Host Organization undertakes to provide the Student with the resources needed (premises, equipment, service, technical and support staff, etc.) for the part of the Project to be carried out in the Host Organization.

4.6. The Host Organization shall not require the Student to work for the Host Organization during his/her studies, or once they are completed, and shall not require the Student to sign other agreements that would have the effect of controlling, delaying, limiting or even preventing the Student from accepting a job with another organization or another business during his/her studies or once they are completed.

5. CO-OPERATION

The Research Director and Supervisor must co-operate to identify the skills to be acquired by the Student during the Project, as stated in Annex A and conveyed to the Student. Thereafter, the Research Director and Supervisor shall supervise the Student's work and review his/her progress reports and final report described in Annex B. The Research Director and Supervisor shall also ensure that the Student acquires the skills listed in Annex A.

6. CONFIDENTIALITY

6.1. Each Organization may share confidential information with the other Parties in connection with the performance of work related to the Project.

6.2. Each Recipient party acknowledges that confidential information is the property of the Discloser, and each Recipient party undertakes to make all commercially reasonable efforts to maintain the confidentiality of such information and not disclose it to third parties unless specifically authorized in writing by the Discloser. Moreover, each Recipient party undertakes to use confidential information only in the context of carrying out work related to the Project and for no other purpose.

7. DISCLOSURE AND PUBLICATION

7.1. The Parties acknowledge that disclosure of information for university teaching and research purposes is part of the University's role. However, they agree that premature disclosure of certain outcomes may compromise their commercial value. Disclosure includes theses, dissertations, scientific articles, seminars and other oral or written presentations.

7.2. The Student's graduation shall not be delayed by the confidentiality of Project results. Subject to the provisions in paragraph 7.3, the University reserves the right to authorize the Student to write his/her thesis on the results of the Project and, as appropriate, ask outside experts to form a jury to evaluate these dissertations and theses.

7.3. Subject to the confidentiality undertakings stipulated in section 6, any disclosure of Project results must have prior written authorization from the Research Director and Supervisor under the following conditions:

- 7.3.1. the University submits to the Supervisor any plan to disclose Project information at least forty-five (45) days before its presentation or publication;

- 7.3.2. if the Supervisor does not object in writing to this disclosure within fifteen (15) days of receiving the disclosure plan, the Host Organization will be presumed to have given approval and the University can disclose the information;
- 7.3.3. if the Supervisor objects in writing to the disclosure plan within this time, the Parties will have to negotiate an acceptable form of the disclosure, including the date of disclosure as appropriate, within forty five (45) days as provided in subparagraph 7.3.1, though the Parties agree that the Host Organization may ask that any confidential information belonging to the Host Organization or held jointly by the Host Organization and the University be removed from the disclosure plan;
- 7.3.4. the Supervisor may also refuse approval if the planned publication may compromise the protection of intellectual property. If the disclosure includes patentable intellectual property, the Organizations agree to take reasonable measures to protect the said intellectual property by patent with all due speed. The disclosure will thus be authorized as soon as the patent application has been filed. However, this delay must not exceed six (6) months from the date that the Supervisor receives the plan to disclose Project information.

8. INTELLECTUAL PROPERTY

8.1. This section is concerned only with intellectual property developed or created as part of the Project (“new intellectual property”). It is agreed that all former intellectual property provided by either Organization to allow the Project to proceed remains the property of the Organization that provided it. Despite the foregoing, each Organization hereby transfers to the other Organization, where applicable, a non-exclusive license, valid for the life of the Agreement, free of charges and limited to activities related to the Project, for the use of its former intellectual property when specifically needed to carry out the Project.

8.2. The copyright on the Student’s thesis remains the property of the Student.

8.3. Any new intellectual property developed or created as part of the Project by the Host Organization, where the University has not contributed intellectually to the creation of this new intellectual property or the development of its essential components, shall belong to the Host Organization, and the Host Organization shall have sole responsibility, at its own cost, for taking any action to protect this new intellectual property, to include filing and monitoring patent applications and maintaining patents (“**protective action**”). Should the Host Organization not be interested in taking, or fail to take, protective action, the University may require the Host Organization to proceed, subject to payment of associated expenses by the University, with the latter in such case deciding the scope and substance of the protective action after consulting with the Host Organization.

8.4. Any new intellectual property developed or created as part of the Project by the University, where the Host Organization has not contributed intellectually to the creation of this new intellectual property or the development of its essential components, shall belong to the University, and the University shall have sole responsibility, at its own cost, for taking any action to protect this new intellectual property. Should the University not be interested in taking or fail to take protective action, the Host Organization may require the University to proceed, subject to payment of associated expenses by the Host Organization, with the latter in such case deciding the scope and substance of the protective action after consulting with the University.

8.5. Insofar as, under the policies in force at the University, the new intellectual property mentioned in paragraph 8.4 belongs to the Student, the Student shall then have sole responsibility, at his/her own cost, for taking any protective action. Should the Student not be interested in taking or fail to take protective action, the Host Organization may require the Student to proceed, subject to payment of associated expenses by the Host Organization, with the latter in such case deciding the scope and substance of the protective action after consulting with the Student.

8.6. Insofar as each Organization shall have contributed intellectually to the creation of the new intellectual property or the development of its essential components, this new intellectual property shall be the joint property of:

8.6.1. the Host Organization, on the one hand; and, on the other,

8.6.2. the University or the Student, according to the applicable policies of the University.

8.7. The shares in the new joint intellectual property of the Host Organization on the one hand and the University or the Student on the other shall reflect their respective intellectual contributions to this new intellectual property. The Host Organization shall have sole responsibility, at its own cost, for taking any protective action for this new joint intellectual property after consulting with the University or, as the case may be, the Student. Should the Host Organization not be interested in taking or fail to take protective action, the University or, as the case may be, the Student may require the Host Organization to proceed, subject to payment of associated expenses by the University or the Student, with the University or the Student in such case deciding the scope and substance of the protective action after consulting with the Host Organization.

8.8. When the Parties have to decide which of them developed or created the new intellectual property, including, as the case may be, the intellectual contribution of each Party, the presumptions set out in paragraphs 8.9 and 8.10 shall apply.

8.9. For any Host Organization Project, the Student will be presumed to be:

8.9.1. acting as a Host Organization employee required to transfer his/her rights in the new intellectual property to the Organization on completing his/her tasks connected with the Project on the premises and with the equipment of the Host Organization;

8.9.2. acting as a student at the University bound by the policies regarding intellectual property in force at the University on completing his/her tasks connected with the Project on the premises and with the equipment of the University.

8.10. For any University Project, the Student will always be presumed to be acting as a student at the University and bound by the policies regarding intellectual property in force at the University on completing his/her tasks connected with the Project, regardless whether these tasks are performed on the premises and with the equipment of the Host Organization or the University.

8.11. Each Party must report any new intellectual property that it has developed or created as part of the Project to the other Parties with all due speed before disclosing any part thereof in any way.

8.12. Should the Host Organization be interested in developing the new intellectual property of the University or the Student or the new joint intellectual property on a commercial basis, the Host Organization shall accordingly advise the University or, as the case may be, the Student, which shall give preference to the Host Organization in granting development rights for this new intellectual property under conditions to be negotiated in good faith that shall reflect the respective intellectual contributions of the Parties.

8.13. The University reserves the irrevocable, non-exclusive and gratuitous right to the perpetual use and exploitation, for academic teaching and research purposes, of any component of the new intellectual property belonging to the University or any component of the new joint intellectual property.

9. **ADVERTISING**

Each Party undertakes not to use the name of another Party or, as applicable, the name of one of its members, for advertising purposes without written authorization from the Party concerned.

10. **GUARANTEES AND COMPENSATION**

10.1. The University and the Student offer no implicit or explicit guarantee and, in the circumstances, the Host Organization waives any legal guarantee regarding the results of

the Project or any intellectual property that might result from the Project. The University and the Student offer no guarantee that such results or intellectual property are free of error or meet the requirements of the Host Organization. All guarantees related to commercial value or meeting a specific need are expressly excluded and rejected.

10.2. The University and the Student offer no implicit or explicit guarantee or representation that the completion of the Project under the terms of this Agreement shall not result in infringement of any existing or potential intellectual property of a third party.

10.3. The Host Organization shall compensate the University and the Student for any proceedings, expenses or claims arising from the Project or the use by the Host Organization, its clients or licensees of part or all of the University's intellectual property, whether developed as part of the Project or not.

11. END DATE AND TERMINATION

11.1. Unless there is prior termination in accordance with the provisions of this section, this Agreement comes into force on **[Date]** (the "effective date") and remains in force until the Project ends, on **[Date]**, though in no case beyond **[Date]** (the "end date").

11.2. This Agreement can be terminated in any of the following circumstances:

11.2.1. If the Student abandons his/her study program, one of the other Parties can terminate this Agreement by giving written notice to that effect. If intermediate progress reports are available, they will be sent to the Host Organization within thirty (30) days after the date of abandonment. As well, the University undertakes to notify the Host Organization and the FQRNT within ten (10) days of the date of the Student's abandonment.

11.2.2. The University or Host Organization may terminate this Agreement on reasonable grounds by giving thirty (30) days' notice.

11.2.3. If the Host Organization declares bankruptcy or becomes insolvent, receives a sequestration order in favour of its creditors or an order is issued or resolution passed to liquidate its assets or dissolve the organization, or it seeks the protection of an act for bankrupt or insolvent debtors, this Agreement can be terminated immediately by any of the Parties.

11.2.4. When one of the Parties is in default under the terms of this Agreement, another Party can terminate this Agreement if, within fifteen (15) days of receipt of a written notice by the Party in default, the latter has not acted as necessary to correct the lapses charged; this Agreement will then be

terminated by a notice of termination on expiry of the abovementioned fifteen (15) days.

11.3. Should this Agreement be terminated on one of the grounds set out in subparagraphs 11.2.2, 11.2.3 or 11.2.4 (unless the fault can be attributed to the Student), the Student will be entitled to receive the amounts provided in Annex A from the Host Organization until the effective termination date. Unless this Agreement is terminated under subparagraph 11.2.1, the University and Host Organization agree to make reasonable efforts to allow the Student to complete his/her study program despite the termination of this Agreement insofar as the Student meets the requirements.

11.4. Sections 6, 7, 8, 9 and 10 survive the expiry or early termination of this Agreement.

12. **DISPUTE**

Any disagreement or dispute arising from the interpretation or execution of this Agreement shall be subject to friendly negotiation. Should the disagreement persist, the Parties shall submit their dispute to arbitration under the provisions of the *Code of Civil Procedure* of Québec, excluding any court proceeding. As applicable, a single arbitrator shall be designated by the Parties and this cost shall be borne by the losing Party.

13. **GENERAL CONDITIONS**

13.1. Any notice shall be given in writing and sent by registered mail to the above addresses or such other address as one of the Parties shall convey to the others in writing.

13.2. No Party is bound to meet its obligations in the event of force majeure or any other circumstance beyond its control, as long as it takes all reasonable measures to mitigate the resulting default.

13.3. This Agreement shall be interpreted and governed by the laws in force in the Province of Quebec, Canada.

13.4. The rights and obligations arising from this Agreement cannot be transferred to a third party by any of the Parties without the written authorization of the other Parties.

13.5. The Parties shall do everything and sign any document to make the provisions of this Agreement fully effective.

13.6. Where one Party waives legal action against another Party for violating any provision herein, that waiver shall not constitute a waiver of legal action in respect of any subsequent violation of that provision or any other provision. No provision herein shall

be waived or amended by a Party unless that Party has formulated the waiver in writing or unless the amendment is contained in a written instrument signed by all of the Parties.

13.7. This Agreement constitutes the full agreement among the Parties and replaces any prior contract, agreement, proposal, representation, negotiation or oral or written accord among the Parties dealing with this subject matter.

13.8. Every provision of this Agreement shall be interpreted separately and the nullity of one provision shall not invalidate the other provisions of this Agreement.

IN WITNESS WHEREOF THE PARTIES TO THESE PRESENTS HAVE SIGNED THIS CONTRACT ON THE DATES SHOWN:

[Name of Host Organization]

[Name of University]

By:

By:

Date:

Date:

ANNEX A

Description of the Research Project

Note to professor and student: The Project will be described here in the limited terms of a research project as the purpose of the scholarship and not in the general terms of a research project leading to a master's dissertation or PhD thesis.

Name of Student:

Name of Research Director:

Name of Supervisor:

Project Description:

Project type (Host Organization Project or University Project):

Description of Student's tasks:

Description of the skills to be acquired by the Student:

Schedule and description of deliverables:

Resources made available to the Student:

Description of the Host Organization's former intellectual property:

Description of the University's former intellectual property:

ANNEX B

Intervention

1. The Student acknowledges having read the Agreement and declares himself/herself bound by sections, paragraphs or subparagraphs 3.2, 4, 5, 6, 7, 8, 10 and 11 of this Agreement.
2. The Student undertakes to make a reasonable effort to carry out the Project. To this end, the Student shall conduct most of his/her research work in the Host Organization.
3. The Student undertakes to comply with the University regulations for his/her study program.
4. The Student undertakes to provide the Organizations with progress reports and a final report that describe the research completed and time spent in the Host Organization. The frequency, form and substance of these reports will be agreed upon by the Parties.
5. The Student undertakes to comply with all working and practical conditions of the Host Organization while conducting his/her work on the Host Organization's premises.
6. The Student acknowledges having read this Agreement and accepts all the terms and conditions.
7. The Student undertakes to sign any document the Host Organization or University may produce from time to time to secure their rights in any new intellectual property belonging to either or waive his/her moral rights in such intellectual property.
8. The Research Director acknowledges having read the Agreement and declares himself/herself bound by sections, paragraphs or subparagraphs 5, 6, 7 and 8 of this Agreement.
9. The Supervisor acknowledges having read the Agreement and declares himself/herself bound by sections, paragraphs or subparagraphs 5, 6, 7 and 8 of this Agreement.

IN WITNESS WHEREOF THE STUDENT, RESEARCH DIRECTOR AND SUPERVISOR HAVE SIGNED THIS INTERVENTION ON THE DATES SHOWN:

Student

Research Director

Name:

Date:

Name:

Date:

Supervisor

Name:

Date: