

FUNDING AGREEMENT

THIS AGREEMENT MADE EFFECTIVE as of the ____ day of _____, 20__.

BETWEEN:

SSR INFRASTRUCTURE ASSOCIATION,
a corporation duly incorporated under the laws of Canada
(the "**Funder**")

OF THE FIRST PART

- and -

_____,
a corporation duly incorporated under the laws of _____
(the "**Applicant**")

OF THE SECOND PART

WHEREAS:

- A. The Funder is a federally incorporated not-for-profit corporation having Members representing the building design, construction, products, services and training sectors;
- B. The Funder has secured funding from Members, government agencies and other third parties (the "**Fund Sources**") to be used in furtherance of the following objectives (the "**Funding Objectives**"):
 - (1) To achieve a path to energy consumption reduction, 40% greenhouse gas emission reduction by 2030 and a regional zero carbon built environment by 2050;
 - (2) To integrate new clean technologies and/or design approaches that support energy conservation and/or enhanced building performance in actual buildings (new or retrofit);
 - (3) To model, monitor, measure and analyze data from actual building performance; and
 - (4) To upgrade professional development and/or skills in the Architecture, Engineering and Construction sector (the "**AEC Sector**") relating to clean technologies and/or design innovations,
- C. The Applicant submitted an Application for funding for the purpose of implementing the Project (as hereinafter defined) which includes design, processes or other activities in furtherance of the Funding Objectives; and

- D. The Funder agrees to provide funding for the Project on the terms and subject to the conditions described herein.

NOW THEREFORE IN CONSIDERATION of the representations, warranties, covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

1.01 Definitions

In this Agreement, the following words, phrases and expressions are used with the following meanings:

- (a) **"AEC Sector"** has the meaning ascribed in Recital B.
- (b) **"Agreement"** means this funding agreement, together with any schedules attached hereto and any written amendments, including Change Orders.
- (c) **"Application"** means the funding application submitted to the Funder by or on behalf of the Applicant and attached as Schedule "A" to this Agreement.
- (d) **"Business Day"** means any day other than a Saturday, Sunday or statutory holiday in the Province of Alberta.
- (e) **"Change"** means:
 - (i) any Change of Control of the Applicant or any of the Collaborators;
 - (ii) any change to the Collaborators of the Project; or
 - (iii) any other change affecting the scope, timing or budget of the Project or any Milestone.
- (f) **"Change of Control"** means the occurrence of any of the following events:
 - (i) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the assets of the Applicant or any of the Collaborators to any entity or group, together with any affiliates (as defined in the *Business Corporations Act*) thereof; or
 - (ii) the consummation of a sale of capital stock, merger, consolidation, reorganization or other transaction (or series of related transactions) involving the Applicant or any of the Collaborators following which the direct or indirect beneficial owners as of the date hereof do not hold, collectively, capital stock or other securities of the surviving corporation:

(A) with voting power to elect a majority of the surviving entity's board of directors or equivalent; or (B) representing a beneficial interest in the surviving entity equal to at least a majority thereof.

- (g) **"Change Order"** means an order that is signed by both the Parties, and that amends, alters, modifies, defers and/or terminates the Project or this Agreement.
- (h) **"Clean Technology"** means the new products/systems, alternate clean technology, and/or innovative design process improvement, which is described in Schedule "A" and which the Applicant will implement or cause to be implemented in the Project in furtherance of the Funding Objectives.
- (i) **"Collaborators"** means those persons who, or whose personnel, will execute the Project and who are identified in Schedule "A" as the "Project Team".
- (j) **"Effective Date"** means the date first above written.
- (k) **"Eligible Expenses"** means the Incremental Costs directly attributable to the Project and incurred by the Applicant for the following:
 - (i) labour costs (gross wages or salaries plus benefits) determined in accordance with Schedule "C" of this Agreement for those individuals who are staff of the Applicant or the Collaborators and who are specifically identified as performing the service which is directly attributable to the Project and thereby quantifiable or measurable. For clarity, general overhead costs, or any administrative or other mark-up, is not an Eligible Expense;
 - (ii) costs of materials, made at the lower of cost or fair market value, which can be specifically identified and quantified as having been incurred in the performance of the Project activities, and which are so identified and quantified consistently in the cost accounting practices of the Applicant;
 - (iii) training costs for FutureSkills training and for professional development or other training that is directly related to the development, implementation or use of the Clean Technology;
 - (iv) acquisitions of property other than land, but including capital improvements to the green-building test bed facility premises at which the Project will be executed and capital equipment to be used for the implementation or monitoring of the Clean Technology, made at the lower of cost or fair market value, that are critical to the performance of the Project will be considered on a case-by-case basis upon submission to the Funder by the Applicant;
 - (v) acquisitions of software or information databases, made at the lower of cost or fair market value, that are critical to the performance of the Project

will be considered. The cost of such technology will be pro-rated over the duration of the Project;

- (vi) additional direct operating costs (incurred at reasonable market rates), not falling within the above-described categories of labour and materials, such as costs for engaging subcontractors, vendors and vendor services, and which can be specifically identified and quantified as having been incurred, or to be incurred, in the performance of the Project activities and which are so identified and quantified consistently by the Applicant's cost accounting practices;
- (vii) travel, including mileage, low economy airfare, meals, and accommodation for the purposes of executing the Project;
- (viii) any other cost which the Funder pre-approves in writing as an Eligible Expense,

provided that In-Kind Contributions will only be recognized as Eligible Expenses when the costs incurred by the Applicant are incidental to its ordinary course of business, directly attributable to the Project and easily auditable.

- (l) **"Final Report"** has the meaning ascribed in Section 4.02.
- (m) **"Fund Sources"** has the meaning ascribed in Recital B.
- (n) **"Funding"** means the funding payments to be contributed to the Project by the Funder pursuant to this Agreement.
- (o) **"Funding Objectives"** has the meaning ascribed in Recital B.
- (p) **"FutureSkills"** has the meaning ascribed in the Guidelines.
- (q) **"Guidelines"** means the Funder's Project Funding Applicant Guide pursuant to which the Applicant submitted its Application.
- (r) **"Incremental Cost"** means the cost of the training program or the amount by which the cost of implementing the Clean Technology exceeds the cost of implementing standard industry products/systems, technology or design processes, as applicable.
- (s) **"In-Kind Contributions"** means contributions to the Project made by the Applicant or the Collaborators in the form of goods or services, as opposed to cash, and, for clarity, may include standard industry mark-up rates not recovered as an Eligible Expense and approved by the Funder.
- (t) **"Ineligible Expenses"** means any of the following:

- (i) any cost that does not qualify as an Eligible Expense;
- (ii) any cost incurred prior to formal approval by the Funder of the Project or of any Change, except where the Funder has provided written approval to include the cost as an Eligible Expense;
- (iii) transactions between related parties (as such term is defined in the *Income Tax Act* (Canada));
- (iv) provisions for contingencies, unless approved by the Funder as a part of the Funding for the Project;
- (v) allowance for interest on debt;
- (vi) losses on investments, bad debts and expenses for collection charges;
- (vii) losses on other projects or activities outside the approved Project;
- (viii) fines and penalties;
- (ix) unreasonable compensation for Project labour;
- (x) costs for professional training and development other than FutureSkills training or other training that specifically incorporates the Clean Technology;
- (xi) federal and provincial income taxes, goods and services taxes;
- (xii) costs related to land and buildings other than the building within which the Clean Technology is installed in connection with the Project (for example, acquisitions, leases and/or leasehold improvements outside the installation of the Clean Technology);
- (xiii) depreciation and amortization charges;
- (xiv) advertising costs, except reasonable advertising of an industrial or institutional character placed in trade, technical or professional journals for the dissemination of information for the industry or institution;
- (xv) costs associated with applying for government grants and programs;
- (xvi) basic professional services, fees and disbursements, such as ongoing routine accounting, tax and legal business requirements and financing fees unless directly related to the Project;
- (xvii) routine testing and maintenance; and

- (xviii) any other costs deemed ineligible by the Funder.
- (u) **“Intellectual Property”** means all information, designs, processes and inventions, including those that may be the subject of patent, copyright, trademark, industrial design or other protection and those that may be conceived, created or developed by the Applicant in performing its obligations under this Agreement.
- (v) **“Maximum Funding Amount”** means the maximum aggregate amount of Funding to be provided by the Funder for the Project as set forth in Schedule “B” of this Agreement, or such other amount as the Funder may determine from time to time.
- (w) **“Member”** means a member of the Funder as is further defined and described in the *Canada Not-For-Profit Corporations Act*.
- (x) **“Milestone”** means a major segment of the Project for the purposes of monitoring and measuring the progress of the Project and determining the applicable Milestone Payment, and **“Milestones”** means all major segments of the Project activities which comprise the entire Project.
- (y) **“Milestone Payment”** means the portion of the Funding payable by the Funder in respect of a particular Milestone, estimates of which are set forth in Schedule “B”.
- (z) **“Owner”** means, with respect to a Project that is a green-building test bed project, the owner of the lands and/or buildings for which the work related to the Project is undertaken.
- (aa) **“Parties”** means the Funder and the Applicant, and **“Party”** means any one of them.
- (bb) **“Progress Report”** has the meaning ascribed in Section 4.02.
- (cc) **“Project”** means the activities to be performed by the Applicant and the Collaborators, as described in the Application, or by any other persons approved by the Funder in accordance with the terms of this Agreement.
- (dd) **“Project Schedule”** means the Project schedule attached as Schedule “B” to this Agreement, which outlines the scope and timing of each Milestone, the approved budget for the first Milestone and the estimated budget for each subsequent Milestone;
- (ee) **“Professional Regulatory Body”** means, with respect to a profession, the body responsible under applicable legislation for the regulation of such profession (e.g. Alberta Association of Architects, Association of Professional Engineers and Geoscientists of Alberta, etc.).

(ff) "Term" has the meaning ascribed in Section 6.01.

1.02 Gender and Number

Any word herein contained importing the singular number shall include the plural and any word importing the masculine gender shall include the feminine or neuter gender and any word importing a person shall include a corporation and a partnership and any entity.

1.03 Entire Agreement

This Agreement, including the Schedules hereto, together with the agreements and other documents to be delivered pursuant hereto, constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties.

1.04 Agreement References

The expressions "herein", "hereby", "hereof", "hereto" and "hereunder" and similar expressions mean and refer to this Agreement and not to any particular article or section, unless the context otherwise clearly requires; "Article", "Section" or "Subsection" means and refers to the specified article, section or subsection of this Agreement.

1.05 Applicable Law

This Agreement shall be interpreted and enforced in accordance with the laws of the Province of Alberta and any action not subject to the dispute resolution mechanisms set forth in Article 9 shall atton to the exclusive jurisdiction of the Courts of Alberta.

1.06 Headings

The Article and Section headings contained herein are included solely for convenience, are not intended to be full or accurate descriptions of the content thereof and shall not be considered part of this Agreement.

1.07 Severability

If any provision of this Agreement is held to be unenforceable, invalid or illegal by any court of competent jurisdiction, such unenforceable, invalid or illegal provision shall not affect the remainder of this Agreement.

1.08 Schedules and Precedence

The following are the Schedules to this Agreement, which Schedules are incorporated into and form an integral part of this Agreement:

Schedule "A" - Application and Guidelines
Schedule "B" - Project Timeline, Milestone and Milestone Payment Schedule

Schedule "C" - Staff Salary Reimbursement Rate Guide

The Applicant acknowledges the terms of the Guidelines and that they are also incorporated by reference into this Agreement except to the extent amended or replaced by this Agreement. In the event of any conflict between any of the provisions of the Schedules, Guidelines and terms of this Agreement, the provisions of this Agreement shall prevail.

1.09 Currency

Unless otherwise indicated, all dollar amounts referred to in this Agreement are in Canadian funds.

ARTICLE 2 - THE PROJECT

2.01 Applicant Undertaking

The Applicant agrees to undertake the Project in accordance with the terms of this Agreement.

2.02 Execution of the Project

The Applicant acknowledges and agrees that the Project activities shall be performed only by the Applicant and the Collaborators and not by any other person or persons without the prior written consent of the Funder.

2.03 Minimum Requirements

- (a) The Applicant shall be, and shall ensure that each of the Collaborators is, a Member of the Funder in good standing for the duration of the Term.
- (b) The Applicant shall ensure that, for the duration of the Term, their personnel, and the personnel of each of the Collaborators, have the appropriate professional certifications or licensing and are in good standing with the applicable Professional Regulatory Body.
- (c) Upon request by the Funder, the Applicant shall promptly provide the Funder with proof of compliance with this Section.

2.04 Relationship with Collaborators and Owner

- (a) The Applicant shall preserve and protect the rights of the Parties under this Agreement with respect to the Project.
- (b) If the Project is a green-building test bed project, the Applicant has obtained and shall maintain the Owner's support to execute the Project and implement the Clean Technology, as evidenced by the Letter of Owner Support included in the Application attached as Schedule "A" to this Agreement.

- (c) Any agreements between the Applicant and the Collaborators with respect to the Project shall incorporate the terms and conditions of this Agreement, as applicable. Upon request by the Funder, the Applicant shall promptly provide the Funder with proof of compliance with this Subsection.
- (d) Nothing in this Agreement shall create any contractual relationship between the Funder and any of the Collaborators or their agents, employees, or any other person performing any portion of the Project.

2.05 Control of the Project

The Applicant shall have total control of the Project and the implementation of any Clean Technology, shall be responsible for directing and supervising the Project and the implementation of the Clean Technology, and shall be solely responsible for the construction design, means, methods, techniques, sequences and procedures with respect to the Project.

2.06 Changes

- (a) This Agreement shall not be modified or amended except by an instrument in writing duly executed by the Parties or their respective successors or assigns.
- (b) When a Change is proposed or required, the Applicant shall provide a written description to the Funder of the proposed Change, in a form acceptable to the Funder.
- (c) No Change shall be effective until a Change Order has been executed and delivered by each Party to the other Party.

ARTICLE 3 - FUNDING

3.01 Agreement to Fund

- (a) Subject to the terms and conditions of this Agreement, the Funder agrees to provide the Applicant with Funding for Eligible Expenses in accordance with Schedule "B" to this Agreement.
- (b) Notwithstanding any other provision herein, the aggregate amount of Funding shall not exceed the Maximum Funding Amount.

3.02 Amount of Milestone Payment

The amount of any Milestone Payment to be reimbursed to the Applicant shall be determined by the Funder in consultation with the Applicant, based on the actual Eligible Expenses, supported by receipts and invoices, which the Applicant incurred for the Project with respect to the particular Milestone. For clarity, only those amounts characterized by the Funder as Eligible Expenses are recoverable.

3.03 When Payable

Each Milestone Payment shall be payable by the Funder to the Applicant within thirty (30) days after submission by the Applicant of the applicable Progress Report, in a form acceptable to the Funder and in accordance with terms of this Agreement. Notwithstanding the foregoing, the Funder reserves the right to set off against a Milestone Payment any unpaid debts or other amounts owed by the Applicant to the Funder under this Agreement.

3.04 Manner of Payment

Unless otherwise expressly agreed between the Parties in writing, the Milestone Payments shall be payable to the Applicant at the address provided by the Applicant for notice pursuant to Section 10.03.

ARTICLE 4 - RECORDS, REPORTING, AND AUDIT RIGHTS

4.01 Records, Audit and Inspection

The Applicant shall keep and cause each Collaborator to keep records for a period of Seven (7) years showing the Eligible Expenses incurred in sufficient detail to enable the Funding payable hereunder by the Funder to be determined. The Applicant further agrees to permit its books and records, and to cause each Collaborator to permit their books and records, to be examined by the Funder or the Funder's agent from time to time upon reasonable notice to the extent necessary to verify reports required under Section 4.02. Such examination is to be made by the Funder or the Funder's agent, at the expense of the Funder, except in the event that the results of the audit reveal a breach of this Agreement by the Applicant or a failure by the Applicant to maintain proper records as required by this Section, in which case all audit fees shall be paid by the Applicant.

4.02 Reporting

- (a) Commencing after the conclusion of the first Milestone following the Effective Date, Applicant shall prepare and deliver to the Funder a written progress report (each a "**Progress Report**") as of the end of the immediately preceding Milestone, certified correct by an authorized officer of the Applicant, showing in reasonable detail and in such form as the Funder may require, the amount of Eligible Expenses payable to the Applicant in respect of such preceding Milestone and the basis for such calculation, supported by receipts and invoices.

- (b) Within fifteen (15) days following the earlier of the date of completion of the Project or the expiration or earlier termination of this Agreement, the Applicant shall prepare and deliver to the Funder a final written report (the “**Final Report**”) summarizing the outcome of the Project, in such form as the Funder may require, and including at least the following:
 - (i) Project Overview: A summary of the Project activities undertaken and a description of and explanation for any variances from the activities described in Schedule “A”;
 - (ii) Expenditure Reconciliation: An accounting for all actual costs incurred for each expense budgeted for in Schedule “B”, together with an explanation for any variance from the budgeted amount;
 - (iii) Results: Comparison of the outcomes and performance of the Project with the Funding Objectives and the desired outcomes specified in the Application, together with an explanation for any variances from the desired outcomes;
 - (iv) Lessons: A description of the lessons learned by the Applicant through the collaboration process; and
 - (v) Other: Such further and other information required by the Funder, acting reasonably.
- (c) Notwithstanding the foregoing, the Funder reserves the right to require the Applicant to provide such further and other information and documentation, from time to time, as it deems necessary in order to comply with its obligations to the Fund Source, reporting or otherwise.
- (d) The Funder reserves the right to request additional information relating to ongoing building performance following completion of the Final Report. The Funder would work with the Applicant and/or the Owner to gather and compile such information at no cost to the Applicant.

ARTICLE 5 - REPRESENTATIONS AND WARRANTIES

5.01 Applicant’s Representations and Warranties

The Applicant represents and warrants as follows and acknowledges that the Funder is relying upon such representations and warranties:

- (a) *Accuracy and Completeness* – All information contained in the Application, together with any other documentation provided to the Funder in relation to the Project is accurate and complete in all material respects as of the Effective Date and for the duration of the Term.

- (b) *Disclosure* – The Applicant has made full, true and plain disclosure of all facts relevant to the Project and its commitments under this Agreement and the Applicant shall maintain such level of disclosure for the duration of the Term.
- (c) *Power and Authority* – The Applicant has all necessary power and authority to execute, deliver and perform its obligations under this Agreement, and all necessary action has been taken by the Applicant to approve this Agreement and the transactions contemplated hereby.
- (d) *No Breach* – The entering into and performance of this Agreement by the Applicant does not violate or breach any other agreement to which the Applicant is a party or the Applicant's constating documents.

5.02 Funder's Representations and Warranties

The Funder represents and warrants as follows and acknowledges that the Applicant is relying upon such representations and warranties:

- (a) *Power and Authority* – The Funder has all necessary power and authority to execute, deliver and perform its obligations under this Agreement, and all necessary action has been taken by the Funder to approve this Agreement and the transactions contemplated hereby.
- (b) *No Breach* – The entering into and performance of this Agreement by the Funder does not violate or breach any other agreement to which the Funder is a party or the Funder's constating documents.

ARTICLE 6 - TERM AND TERMINATION

6.01 Term

The term of this Agreement shall commence on the Effective Date and shall expire on the Project completion date set out in the Project Schedule, not to be later than February 15, 2022, unless earlier completed or terminated in accordance with the terms hereof (the "**Term**").

6.02 Termination for Convenience

The Funder may terminate this Agreement immediately:

- (a) For any reason upon written notice being provided to the Applicant, or
- (b) If the Funding from any Fund Sources is lost, terminated or otherwise ceases to be available, in which case, the Funder shall notify the Applicant of such termination as soon as is reasonably practicable,

provided that the Applicant shall be paid Funding for all Eligible Expenses properly incurred prior to the date of termination.

6.03 Default

The Funder may terminate this Agreement immediately and without notice in the event that the Applicant commits any of the following acts of default:

- (a) fails to fulfill its obligations under this Agreement, including without limitation, failure at any time to meet the minimum Funding requirements in Section 2.03, the Application or the Guidelines, and fails to remedy such failure within a period of ten (10) days following notice of such default or if such default is a material default which is not capable of being remedied or rectified;
- (b) in the opinion of the Funder, fails to execute the Project or any portion thereof within the time set for the completion thereof;
- (c) in the opinion of the Funder, causes or permits the occurrence of a material Change to the Project;
- (d) if the Project is a green-building test bed project, the support of the Owner for the execution of the Project or the implementation of the Clean Technology is at any time withdrawn;
- (e) becomes insolvent or commits an act of bankruptcy;
- (f) abandons the Project;
- (g) assigns this Agreement without written consent of the Funder; or
- (h) has any conflict of interest which may, in the opinion of the Funder, have an adverse effect on the Funder.

6.04 Repayment

The Applicant shall, upon demand by the Funder, repay any portions of the Funding paid to the Applicant, together with interest thereon from the date of demand at the Alberta Treasury Branches current prime rate on the date of demand, plus three (3%) percent, in the following circumstances:

- (a) The Applicant fails to comply with any of the reporting requirements set out in this Agreement;
- (b) The Project is terminated by the Applicant prior to completion; or
- (c) The Applicant commits an act of default, as set out in Section 6.03,

excepting circumstances where a Milestone could not be completed, or the Funding Objectives or other desired outcomes were not achieved, despite the best efforts of the Applicant.

ARTICLE 7 - INSURANCE, RESPONSIBILITY AND INDEMNITY

7.01 Insurance

The Applicant shall obtain and maintain, at all times during the currency of this Agreement at the Applicant's expense, insurance coverage in such amounts and upon such terms as is customary in the Applicant's industry for activities similar in nature to the Project activities. The Applicant shall provide the Funder with proof of insurance coverage forthwith upon execution of this Agreement, upon each renewal and otherwise upon request by the Funder. The Applicant shall provide no less than thirty (30) days' written notice to the Funder of any material change in insurance coverage or policy cancellation.

7.02 Responsibility

The Applicant acknowledges that the Funder, its affiliates and each of their respective directors, shareholders, officers, employees, agents and representatives, as applicable, shall not be responsible or liable for: i) any aspects of the Project, including, without limitation, any administration, performance, designs, processes or construction relating the Project; ii) any delays in the Project or the Funding provided hereunder; iii) any performance under or pursuant to this Agreement; iv) any actions, claims, losses, liabilities, deficiencies, penalties, costs, demands, fines or damages of any kind incurred by or claims made against the Applicant, the Owner or any of the Collaborators which arises out of or is in any way related to the Project or the Funding ("**Claims**" or a "**Claim**"), including, any person claiming through or under the Applicant, the Owner or any of the Collaborators; v) for any special, indirect, incidental or consequential damages arising out of or in connection with the Project, this Agreement or the Funding being provided hereunder even if the Funder shall have the knowledge or have been advised of the possibility of such Claims, including without limiting the generality of the foregoing lost profits, loss of business, loss of use or loss of or data.

7.03 Indemnity

The Applicant shall indemnify and defend the Funder, its affiliates and each of their respective directors, officers, shareholders, employees, agents and representatives, as applicable, and hold each of them harmless, from and against any and all Claims, including legal fees on a solicitor and own client (full indemnity) basis, and damages of every kind and character (including, without limitation, any injury to and death of any person and loss of property by whomever owned and without regard to the cause or causes thereof or the negligence or strict liability of any person or party) arising out of or connected with the Project, the Funding or any act contemplated by this Agreement, including without limitation those Claims brought about or occasioned by any act or omission of the Funder, its affiliates or by any director, officer, employee, agent, representative, subcontractor or contractor.

7.04 Notice of Claims

In the event that the Applicant becomes aware of any Claims in respect of which it has agreed to indemnify the Funder pursuant to Section 7.03, the Applicant shall promptly give

written notice thereof to the Funder. Such notice shall specify whether the Claim arises as a result of a Claim by a person against the Applicant, the Funder or any Collaborator or whether the Claim does not so arise, the Applicant shall also specify with reasonable particularity (to the extent that the information is available) the factual basis for the Claim and the amount of the Claim, if known. The Applicant shall keep the Funder apprised of the status of any Claims, including those that the Applicant has a duty to defend the Applicant under Section 7.03.

ARTICLE 8 - INTELLECTUAL PROPERTY, PUBLICATION AND PUBLICITY

8.01 Ownership of Intellectual Property

Subject to the rights of the Funder set out herein, the Funder acknowledges and agrees that the Intellectual Property developed as a result of the Funding or the Project and any technology embodied therein are the property of the Applicant or others and are proprietary to the Applicant or others. The Funder shall keep confidential and utilize its best efforts to prevent and protect the contents of the Intellectual Property and any technology embodied therein or any part thereof, from unauthorized disclosure and will not divulge nor permit any of its employees, agents or representatives to divulge any data or information with respect to the Intellectual Property or the technology embodied therein, or any other documentation related thereto, other than as permitted by this Agreement.

8.02 Publication and Publicity

- (a) Notwithstanding Section 8.01 of this Agreement, the Parties acknowledge and agree that the outcome of the Project is of general interest to the Fund Sources, the Members and the construction industry generally and, in particular, the AEC Sector. Accordingly, the Applicant agrees to the publication and/or public disclosure of the Project results to the industry, including the extent to which the Funding Objectives were developed or furthered.
- (b) The Funder shall not disclose any information which is confidential or proprietary in nature and which the Applicant has identified in any Progress Report or Final Report as information that is confidential or proprietary.
- (c) All publications, presentations and public messages concerning the Funding or the Project must acknowledge the contribution of the Funder and the Fund Sources and be provided to the Funder in draft form for approval, such approval to be received within thirty (30) days from the date of the request. Use of the full legal name or approved logo of the Funder and the Fund Sources is required, rather than any acronyms of same. Such approval shall not be unreasonably withheld. The Applicant shall provide the Funder with at least thirty (30) days' written notice of the date, time and location of any presentations respecting the Project.
- (d) The Applicant acknowledges and agrees that the provision of the Funding in no way constitutes an endorsement of the Project or the Applicant, and any suggestion or statement that the Funder or the Fund Source endorses or

approves of a Project or a party participating therein is strictly prohibited and may result in termination of this Agreement by the Funder.

- (e) The Applicant acknowledges and agrees that the primary Fund Sources are public bodies and are required to report on and promote the success of innovation initiatives within the Province of Alberta or the Country of Canada. Accordingly, the Applicant acknowledges that the Fund Sources may be required to disclose to the public information delivered pursuant to this Agreement.

ARTICLE 9 - DISPUTE RESOLUTION

9.01 Senior Management

In the event of a dispute arising between the Parties in respect to any matter relating to this Agreement and upon delivery by a Party or their agent of a written notice of the dispute to the other Party, such dispute shall be promptly referred to two members of senior management of each of the Parties, who shall attempt to resolve the dispute. If such members of senior management are unable to resolve the dispute within ten (10) Business Days after referral to them, or such further time as the Parties may agree in writing, then the Parties shall resolve the dispute in accordance with the remaining provisions of this Article 9.

9.02 Arbitration

Should the members of the Parties' senior management fail to resolve any dispute pursuant to Section 9.01 and the Parties agree to resolve the dispute by arbitration, then the dispute shall be submitted for arbitration before a single arbitrator and shall be conducted in accordance with the rules of arbitration of the *Arbitration Act* (Alberta), as amended or replaced. The following provisions shall apply to the arbitration, and if there is a conflict between these provisions and the provisions of the *Arbitration Act* (Alberta), then these provisions shall apply:

- (a) the Parties shall endeavour to agree upon the appointment of a mutually acceptable arbitrator within ten (10) days of either Party submitting the dispute to arbitration pursuant to this Section 9.02. If the Parties cannot agree on the appointment of an arbitrator in such period, then either party may immediately apply for the appointment of an arbitrator to the ADR Institute of Canada, Inc., or, in the event that such institute no longer exists, to the Court of Queen's Bench of Alberta pursuant to the *Arbitration Act* (Alberta); the arbitrator selected by the parties, or appointed pursuant to this Section must be qualified by education and training and have such technical expertise, if any, as may be necessary or appropriate having regard to the matter in dispute;
- (b) the Parties consent to the arbitration being conducted in Edmonton, Alberta;
- (c) the arbitrator shall be mandated to conduct the arbitration in a cost effective manner and on an expedited basis, so far as the subject matter of the dispute and a proper hearing and resolution will permit;

- (d) each Party shall be responsible for its own costs incurred in conducting the arbitration, with the costs associated with the arbitrator and other costs of the arbitration shared equally between the Parties. Notwithstanding the foregoing, the arbitrator shall have the discretion to allocate all or any of the foregoing costs in a different manner;
- (e) any decision by the arbitrator shall be final and binding upon the Parties, may be filed in any court of competent jurisdiction, and may be enforced by either Party as a final judgment of such court as permitted by law in the jurisdiction in which enforcement is sought;
- (f) the arbitration proceedings, evidence at the arbitration proceedings, and the decision of the arbitrator shall be treated as confidential and the Parties shall jointly instruct the arbitrator to maintain the confidentiality of the proceedings, evidence and his or her decision; and
- (g) if a dispute subject to arbitration under this Section 9.02 arises and is pending concurrently with a related dispute which is subject to arbitration, the Parties consent to the consolidation of such arbitration proceedings before one arbitrator if such consolidation of proceedings is feasible.

ARTICLE 10 - GENERAL TERMS

10.01 Relationship Between Parties

The Applicant acknowledges and agrees that, in the conduct or execution of the Project, the Applicant is at all times acting as an independent contractor and no agency, partnership, joint venture or employer-employee relationship is created between the Applicant, the Funder, the Fund Sources or any of the Collaborators or their respective employees. No rights, privileges or compensation other than is expressly set out in this Agreement shall enure to the Applicant and the Applicant, expressly, has no authority or right to bind the Funder. The Applicant is solely responsible, without limitation, for the Applicant's Worker's Compensation Board ("WCB") compliance and all statutory remissions for income tax and goods and services taxes ("GST") collected or received pursuant to this Agreement. The Applicant agrees to indemnify and save harmless the Funder from any and all claims which may be made against the Funder by any party whatsoever as a result of the Applicant failing to properly remit required statutory remissions or obtain and maintain required WCB coverage.

10.02 Assignment

The Applicant shall not assign or transfer any part of the rights or obligations hereunder without the prior written consent of the Funder.

10.03 Notice

All notices to be given or made under this Agreement shall be deemed to be effective if served personally, by email (receipt to be acknowledged) or by registered mail to the following

addresses:

The Funder:

c/o Stantec
400, 10220 103 Street NW
Edmonton, Alberta T5J 0K4
Email: tanya.doran@stantec.com
Attention: Tanya Doran

The Applicant:

Email:
Attention:

or such address as may otherwise be designated by notice as provided above. Any demand, notice or other communication, if sent by personal delivery, courier or email (receipt to be acknowledged), shall be deemed to have been received by the recipient when actually received, and if sent by registered mail, shall be deemed to have been received by the recipient five (5) days after the date of mailing.

10.04 Waiver

Failure by any Party hereto to insist in any one or more instances upon the strict performance of any one of the covenants contained herein shall not be construed as a waiver or relinquishment of such covenant. No waiver by any Party hereto of any such covenant shall be deemed to have been made unless expressed in writing and signed by the waiving Party.

10.05 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and, except as hereinbefore provided, the successors and assigns thereof.

10.06 Time of the Essence

Time shall be of the essence of this Agreement.

10.07 Continuing Terms

Terms, provisions, covenants and conditions contained in this Agreement which, by their nature or the terms thereof, require their performance by the Parties after the expiration or sooner termination of the Term shall continue in full force and effect following such expiry or sooner termination.

10.08 Execution

This Agreement may be executed and delivered in counterpart, including execution and

delivery by facsimile or in PDF format by e-mail, each of which when so executed and delivered shall be deemed to be an original, and such counterparts shall constitute one and the same Agreement and shall be deemed to be and constitute a properly executed and delivered document and further, notwithstanding the date of execution of such counterparts, shall be deemed to bear the date as of the document so executed.

[SIGNATURE PAGE TO FOLLOW]

SAMPLE

IN WITNESS WHEREOF the parties have executed this Agreement as of the Effective Date.

Per: _____
Name: _____
Title: _____

**SSR INFRASTRUCTURE
ASSOCIATION**

Per: _____
Name: _____
Title: _____

SAMPLE

SCHEDULE "A"
APPLICATION

[Behind This Page]

SCHEDULE "B"

PROJECT TIMELINE, MILESTONES AND MILESTONE PAYMENT SCHEDULE

[DESCRIBE MILESTONES AND ESTIMATED MILESTONE PAYMENTS]

[NTD: ***Re-iterate in this Schedule that only the first Milestone budget/funding request has been approved. All others are estimates.]**

SCHEDULE "C"
STAFF SALARY REIMBURSEMENT RATE GUIDE

[Behind This Page]