

**FUNDING AGREEMENT  
ACCELERATING MANUFACTURING SCALE-UP GRANT**

This Agreement made and entered into as of {\_Date\_} day of {\_Month\_} 2021 is by and between:

PricewaterhouseCoopers LLP (the “**Administrator**”)  
#700 – 250 Howe Street, Vancouver, British Columbia, V6C 3S7  
Attention: Daniel O’Brien, Partner

-and-

Business Name: {\_OrganizationName\_} (the “**Recipient**”)  
Business Address: {\_ContactAddress\_}, {\_City\_}, British Columbia, {\_PostalCode\_}  
Business Contact and Email: {\_PrincipalContactName\_}, {\_ContactEmail\_}

The parties agree as follows:

**1. PAYMENT OF FINANCIAL CONTRIBUTION.**

**1.1 Financial Contribution.** The Administrator agrees to provide the Recipient with the financial contribution (the “**Financial Contribution**”) in amount up to the maximum amount described in the funding approval letter provided by the Administrator to the Recipient attached as Schedule “A” (the “**Approval Agreement Letter**”) in connection for Eligible Costs incurred by the Recipient in connection with the Project (the “**Project**”) during the term of the Project (the “**Term**”), each as described in the approved project plan, as evidenced by the posting of such approval by the Administrator on the Accelerating Manufacturing Scale-Up Grant website, located at: <https://amg.outcome-plus.com> (the “**Project Plan**”). Notwithstanding any other provision of this Agreement, the payment of the Financial Contribution by the Administrator to the Recipient pursuant to this Agreement is subject to receiving sufficient funds from Her Majesty the Queen in the Right of the Province of British Columbia, represented by the Ministry of Jobs, Economic Recovery and Innovation (the “**Province**”) pursuant to the shared cost agreement dated February 3, 2021. “**Eligible Costs**” means the actual and reasonable costs and expenses properly incurred by the Recipient in carrying out the Project which are eligible for reimbursement according to the Accelerating Manufacturing Scale-Up Grant Guidelines, as they exist from time to time (the “**Program Guidelines**”), which are located on the following websites: <https://bcmanufacturinggrant.ca>, <https://amg.outcome-plus.com/>.

**1.2 Payment.** Payment of the Financial Contribution will be made following approval of completion of the milestone described in the Project Plan following the submission of a claim for reimbursement in a form acceptable to the Administrator, invoices and proof of payment, a copy of any deliverables and reported outputs as specified in Schedule “A”,

and/or a final report produced and any additional documentation required by the Administrator.

**1.3 Other Funding.** If the Recipient receives funding from any person, firm, corporation or other government or governmental body for or in respect of activities in connection with the Project for which the Financial Contribution also related (“**Third Party Funding**”), the Recipient must immediately provide the Administrator with full and complete details thereof, who then has the right to require the Recipient to return a portion of the Financial Contribution in an amount up to the amount of the Third Party Funding.

**1.4 GST.** The Recipient must:

- (a) apply for, and use commercially reasonable efforts to obtain, any available Refund, credit, rebate or remission of federal, provincial or other tax or duty imposed on the Recipient as a result of this Agreement that the Administrator has paid or reimbursed to the Recipient or agreed to pay or reimburse to the Recipient under this Agreement; and
- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a), remit that amount to the Administrator, or deduct that amount from the next request for payment under this Agreement

**2. REPRESENTATIONS AND WARRANTIES.**

**2.1 Representations and Warranties.** The Recipient represents and warrants to the Administrator with the intent that the Administrator rely on it in entering this agreement that:

- (a) all information, statements, documents and reports furnished or submitted by it to the Administrator in connection with this Agreement are true and correct;
- (b) it has no knowledge of any fact that materially adversely affect, its properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement; and
- (c) it is not in breach of, or in default under, any law applicable to or binding on it or its operations.

**2.2 Ancillary Documents.** All statements contained in any certificate, application, proposal or other document delivered by or on behalf of the Recipient to the Administrator under this Agreement or in connection with any of the transactions contemplated by it are representations and warranties by the Recipient under this Agreement.

**2.3 Continuing.** All representations, warranties, covenants and agreements made in this Agreement and all certificates, applications or other documents delivered by or on behalf of the Recipient are material, have been relied upon by the Administrator, and continue in effect during the continuation of this Agreement.

### 3. RECIPIENT OBLIGATIONS.

#### 3.1 Covenants. The Recipient must:

- (a) carry out the Project in accordance with the terms stated in Schedule "A";
- (b) comply with the payment requirements in Schedule "A", including all requirements concerning the use, application and expenditure of the Financial Contribution provided under this Agreement;
- (c) comply with all applicable laws;
- (d) hire and retain only qualified staff;
- (e) unless agreed otherwise supply, at its own cost, all labour, materials and approvals necessary to carry out the Project;
- (f) co-operate with the Administrator in making public announcements regarding the Project and the details of this Agreement as the Administrator requests;
- (g) not provide any media releases, promotional materials or communications in a public forum with respect to the Program except if approved in advance by the Administrator;
- (h) acknowledge the Financial Contribution on any signage, posters, exhibits, pamphlets, brochures, advertising, websites, forms or other materials or publications produced by Recipient and related to the

Program, in terms satisfactory to and with prior approval of the Administrator, including displaying the logos and key messages requested by the Administrator.

#### 3.2 Records. The Recipient must:

- (a) establish and maintain accounting and administrative records in form and content satisfactory of the Administrator, to be used as the basis for calculation of the Financial Contribution;
- (b) establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the Administrator; and
- (c) permit the Administrator at any time or times during normal business hours, to copy or audit, or both, any or all of the Recipient Material (as defined below at subsection 8.1), Administrator Material (as defined below at subsection 8.2) in its possession and the books of account and records, including original supporting documents, referred to in this Section 3.2; and
- (d) provide financial statements for the Recipient's last two fiscal years, prepared by a certified accountant or a recognized accounting firm.

The Recipient must not, without the express written consent of the Administrator, dispose of any time records, books of account, invoices, receipts or vouchers relevant to this Agreement.

**3.3 Overpayment and Improper Payments.** In the event any portion of the Financial Contribution received by the Recipient is determined by the Administrator, through an audit or otherwise, to have been ineligible for funding or not expended by the Recipient in connection with the Project then such portion of the Financial Contribution must be returned by the Recipient to the Administrator.

#### 3.4 Reports. Upon the Administrator's request, the Recipient must:

- (a) in a timely manner, fully inform the Administrator of the work completed and remaining to be done by the Recipient under this Agreement;
- (b) provide to the Administrator a statement documenting the expenditure of the Financial Contribution under this Agreement in form and content satisfactory to the Administrator; and
- (c) provide to the Administrator reports and any other information as the Administrator reasonably requests in a format and within a timeframe specified by the Administrator from time to time, including to permit the Administrator to comply with the reporting requirements to which it is subject.

**3.5 Conflict of Interest.** The Recipient must not, during the Term, perform a service for or provide advice to any person of the performance of that service or the provision of the advice may, in the reasonable opinion of the Administrator, give rise to a conflict of interest between the obligations of the Recipient to the Administrator under this Agreement and the obligations of the Recipient to the other Person.

**3.6 Confidentiality.** The Recipient must treat as confidential all information or material supplied to or obtained by the Recipient as a result of this Agreement and not generally known by the public, including, without limitation, the Administrator Material and any information belonging to the Province licensed for use by the Administrator, and must not, without the prior written consent of the Administrator, permit its disclosure, except as required by applicable law, or make use of such information except to the extent necessary to enable the Recipient to fulfill its obligations under this Agreement.

**3.7 Sensitive Information.** The Recipient acknowledges that information provided by the Recipient to the Administrator is commercially sensitive and its disclosure may be harmful to the business interests of the Recipient as contemplated by Section 21 of the including the *Freedom of Information and Protection of Privacy Act* (the "FOI"). The Recipient will identify and segregate all information pertaining to the Program so as to be able to readily identify it and to preserve all exemptions from disclosure as may be properly available under the FOI. The Recipient will promptly notify the Administrator of any and all FOI requests for disclosure which it may receive. The Administrator shall have sole conduct of and responsibility for replying to the FOI requests but the Recipient will assist the Administrator, as requested, in the meeting of all requests made under the FOI.

**3.8 Personal Information.** In addition to the confidentiality obligations set forth in Section 3.6, the Recipient shall comply with all laws and regulations relating to the protection and privacy of personal information, including obligations as they exist or will exist under the *Personal Information Protection Act*.

#### 4. DEFAULT AND TERMINATION.

**4.1 Default.** Any of the following events constitute an Event of Default:

- (a) the Recipient fails to comply with any provision of this Agreement;
- (b) any representation or warranty made by Recipient in accepting this Agreement is untrue or incorrect;
- (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the Recipient pursuant to or as a result of this Agreement is untrue or incorrect;
- (d) the Recipient ceases, in the opinion of the Administrator, to operate;

- (e) a change occurs with respect to any one or more, including all, of the properties, assets, condition (financial or otherwise), business or operations of the Recipient which, in the opinion of the Administrator, materially adversely affects the ability of the Recipient to fulfill its obligations under this Agreement;
- (f) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Recipient;
- (g) the Recipient becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- (h) a bankruptcy petition is filed or presented against, or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by, the Recipient;
- (i) a receiver or receiver-manager of any property of the Recipient is appointed;
- (j) the Recipient permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof; or
- (k) the Recipient fails to either commence, make satisfactory progress, or substantially complete the Project within the times required under the terms and conditions of this Agreement.

**4.2 Remedies on Default.** Upon the occurrence of any Event of Default and at any time after the Administrator, at its option, may elect to do one or more of the following:

- (a) terminate this Agreement immediately;
- (b) require the Event of Default to be remedied at Recipient's own expense within a reasonable time period specified by the Administrator;
- (c) suspend any installment of the Financial Contribution or any amount that is due to the Recipient while the Event of Default continues;
- (d) require repayment of all or a portion of the Financial Contribution, subject to Section 4.3;
- (e) waive the Event of Default; or
- (f) pursue any other remedy available at law or equity.

**4.3 Consequences of Termination.** If this Agreement is terminated before 100% completion of the Project, the Administrator will pay to the Recipient that portion of the Financial Contribution which is equal to the portion of the Project completed to the satisfaction of the Administrator prior to termination.

## 5. INSURANCE.

**1.1 Insurance.** During the Term of this Agreement, the Recipient must provide, maintain and pay for Commercial General Liability insurance in an amount not less than \$2,000,000 inclusive per occurrence against bodily injury, personal injury and property damage at its own expense with insurers located in British Columbia, and such additional insurance as outlined in the application documents or that may be requested by the Administrator from time to time. All insurance will be primary and not requiring sharing of any loss by any insurer of the Administrator.

**5.1** The fact that the Recipient has obtained, or not obtained, the insurance required pursuant to subsections 1 and 2 of Schedule B, shall, in no manner whatsoever lessen nor otherwise affect the Recipient's obligations, liabilities, including without limitation, indemnity obligations, set forth in subsection 6.1 below and throughout this Agreement.

**5.2 Legislation governing employment relationships.** The Recipient will:

- (a) be responsible for ensuring the health and safety of all workers, including Subcontractors and other individuals employed or engaged in carrying out the Project, in accordance with all legislation governing any aspects of the employment relationship;
- (b) ensure that the required WorkSafe BC coverage is provided for itself and all workers and other individuals employed by it in carrying out the Project and ensure that all Subcontracts pertaining to the Project contain similar obligations of the Subcontractor;

**5.3** For the purposes of the Workers Compensation Act, the Recipient will be the "Principal Contractor" for the Project, as described in the regulations to the Act, and will carry out the duties described therein, or will cause its Sub-contractors to be the "Principal Contractor" for the scope of their respective sub-contracts pursuant to such obligations under the Act.

## 6. INDEMNITY.

**6.1 Indemnity.** The Recipient must indemnify and save harmless the Administrator, its directors, officers, partners, employees, agents or representatives, from and against all losses, claims, damages, actions, causes of action, costs and expenses that the Administrator may sustain, incur, suffer or put to at any time either before or after the expiration or termination of this Agreement, if the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the Recipient, or of any agent, employee, officer, director or subcontractor of the Recipient pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Administrator. The indemnification obligations under this 6.1 survive the termination or expiration of this Agreement.

## 7. LIMITATION OF LIABILITY.

**7.1 LIMITATION OF LIABILITY.** IN NO EVENT SHALL THE ADMINISTRATOR OR ANY OF ITS DIRECTORS, OFFICERS, PARTNERS, EMPLOYEES, AGENTS OR REPRESENTATIVES BE LIABLE TO THE RECIPIENT, ANY OF ITS AFFILIATES, OR ANY OTHER THIRD PARTY FOR (I) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, EVEN IF NOTIFIED IN ADVANCE OF SUCH POSSIBILITY, ARISING OUT OF OR PERTAINING TO THE SUBJECT MATTER OF THIS AGREEMENT WHETHER UNDER CONTRACT, STATUTE, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OR (II) DAMAGES UNDER THIS AGREEMENT IN EXCESS OF THE FINANCIAL CONTRIBUTION AMOUNT.

## 8. OWNERSHIP.

**8.1 Recipient Material.** The Recipient is the owner of all intellectual property rights, including copyright, in the Recipient Material. "Recipient Material" includes without limitation all findings, data, information, specifications, reports, proposals, analyses, documents, drawings (whether in hard copy or electronic form), software and other material or intellectual property whether complete or not, created, produced, received or acquired by the Recipient or its employees, agents or representatives under this Agreement.

**8.2 Administrator Material.** The Administrator exclusively owns all property and intellectual property rights, including copyright, in the Administrator Materials, except where such material is owned by the Province and licensed to the Administrator for its use by the Province. "Administrator Material" includes without limitation all findings, data, information, specifications, reports, proposals, analyses, documents, drawings or working papers (whether in hard copy or electronic form), software and other material or intellectual property whether complete or not, created, produced, received or acquired by Administrator or delivered by Administrator to the Recipient under this Agreement.

**8.3 Delivery of Material.** Any Administrator Material held by or under the control of the Recipient employees, agents or representatives will be delivered (including all copies and excerpts therefrom) by the Recipient to the Administrator promptly after the Administrator requests delivery in writing or this Agreement is terminated for any reason.

## 9. GENERAL PROVISIONS.

**9.1 Dispute Resolution.** The Province is the primary source of funds for any Project and determines the criteria by which eligibility is determined in this Program. The parties herein will, in good faith, seek to resolve all disputes amongst themselves arising out this Agreement. In the event that a dispute is not resolved between the parties after 20 days of receiving notice of the same, said dispute must be referred to and finally resolved by arbitration pursuant to the *Commercial*

*Arbitration Act* and may include the participation of the Province.

**9.2 Assignment and Subcontracting.** The Recipient may not, without the prior written consent of the Administrator assign, either directly or indirectly, this Agreement or any right of the Recipient under this Agreement or subcontract any obligation of the Recipient under this Agreement. No subcontract entered into by the Recipient relieves the Recipient from any of its obligations under this Agreement or imposes on the Administrator any obligation or liability from the subcontract. The Recipient must award contracts using a fair and competitive or otherwise justifiable and generally accepted sound business process that results in competent and qualified contractors working on the Project. This Agreement binds the Administrator and its assigns and the Recipient, the Recipient's successors and permitted assigns.

**9.3 Relationship.** No partnership, joint venture, agency or other legal entity is created by the Agreement or any actions of the parties pursuant to this Agreement. The Recipient is an independent contractor and not the servant, employee or agent of the Administrator.

**9.4 Notice.** Any written communication from one party to the other party must be mailed or emailed to the address of such party provided on the first page of this Agreement. Any written communication from either party is deemed to have been received by the other party on the 5<sup>th</sup> business day after mailing in British Columbia; on the date of email receipt if emailed; or on the date of transmission if faxed. Either party may, from time to time, notify the other party in writing of a change of address and, following the receipt of the notice, the new address, for the purposes of this Section 9.4, is deemed to be the mailing address of the party giving notice.

**9.5 Non-Waiver.** No term of this Agreement and no breach by the Recipient of a term is waived unless the waiver is in writing and signed by the Administrator and the Recipient. A written waiver by the Administrator of any breach by the Recipient of any provision of this Agreement is not a waiver of any other provision or any subsequent breach of the same or any other provision of this Agreement.

**9.6 Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement.

**9.7 Survival.** Upon termination of this Agreement, Sections 1.3, 3.1(g), 3.1(h), 3.2, 3.3, 3.6, 3.7, 3.8, 5, 6, 7, 8 and 9, all other provisions of this Agreement concerning the

ongoing interests of the parties which are intended by their nature to extend beyond the termination of this Agreement and all of the rights and remedies of the Administrator, either at law or in equity, shall continue and survive in full force and effect.

**9.8 Force Majeure.** For the purpose of this Section 9.8, an "Event of Force Majeure" includes, but is not limited to, acts of God, changes in the laws of Canada, governmental restrictions or controls on imports, exports or foreign exchange, wars (declared or undeclared), fires, floods, storms, strikes (including illegal work stoppages or slowdowns), lockouts, labour shortages, freight embargoes and power failures or other cause beyond the reasonable control of a part. Lack of money, financing or credit is not an "Event of Force Majeure". Neither party is liable to the other for any delay, interruption or failure in the performance of their respective obligations if caused by an Event of Force Majeure, in which case the time period for the performance or completion of the obligation is automatically extended for the duration of the Event of Force Majeure. If an Event of Force Majeure occurs or is likely to occur, then the party directly affected must notify the other party forthwith, and must use its reasonable efforts to remove, curtail or contain the cause of the delay, interruption or failure and to resume with the least possible delay compliance with its obligations under this Agreement.

**9.9 Governing Law.** This Agreement is to be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable therein.

**9.10 Schedules.** The Schedules to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement.

**9.11 Amendment.** No amendment or modification to this Agreement is effective unless it is in writing and duly executed by the parties.

**9.12 Severance.** If any provision of this Agreement or the application to any person or circumstance is invalid or unenforceable to any extent, the remainder of the Agreement and the application of that provision to any other person or circumstance is not affected or impaired and is enforceable to the extent permitted by law.

**9.13 Counterparts.** This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered is an original, and all counterparts may be delivered by facsimile transmission is considered an original

The parties have executed this Agreement the day and year set out above.

**PRICEWATERHOUSECOOPERS LLP**

**BUSINESS NAME:**\_\_ {\_OrganizationName\_}\_\_\_\_\_

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: Daniel O'Brien

Print name: \_\_\_\_\_

Title: Partner PwC,  
Authorized representative of PwC LLP

Title/Position: \_\_\_\_\_

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**SCHEDULE "A"**  
**RECIPIENT FUNDING APPROVAL LETTER**

See attached

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