

COLLABORATIVE RESEARCH AGREEMENT

This collaborative research agreement (the “Agreement”) is made effective as of the 7th of January 2019 (The “Effective Date”).

BETWEEN

THE UNIVERSITY OF NEW BRUNSWICK having its administrative offices at 3 Bailey Drive, Room 215, Fredericton, NB, E3B 5A3 (“UNB”);

AND

CITY OF SAINT JOHN having its principal place of business at 15 Market Square, Saint John NB, E2L 4L1 (the “Partner”).

(Collectively referred to as the “Parties” and individually as a “Party”)

WHEREAS UNB, under the direction of Dr. Ali Ghorbani, has formed the Canadian Institute for Cybersecurity (the “CIC”);

WHEREAS UNB is offering various levels of memberships to the CIC, including strategic memberships;

WHEREAS the CIC membership levels include a membership to companies with an ongoing cyber presence, continuously dealing with cybersecurity challenges and facing potential cybersecurity threats; and

WHEREAS the Partner is interested in pursuing a Strategic Membership to the CIC at UNB.

NOW THEREFORE IN CONSIDERATION of their respective obligations set out below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties to this Agreement agree as follows:

1. OBLIGATIONS OF THE PARTIES

- 1.1 The Parties will collaborate to carry out their duties under this Agreement, complete such duties on or before the Completion Date stated within this Agreement and fulfill all of their other obligations hereunder in a diligent and professional manner using qualified personnel.

2. DEFINITIONS

- 2.1 In addition to all other terms defined elsewhere in this Agreement, the following terms shall have the meanings set forth below:

- (a) **“Academic Publication”** means the publication of an abstract, article or paper in a journal or an electronic repository, or its presentation at a conference or seminar, or in the presentation or publication of a thesis, PhD dissertation, or final report; and in sections 6 and 7 "to publish" and "publication" are to be construed as references to Academic Publication.
- (b) **“Academic and Research Purposes”** means participation or involvement in university seminars, tutorials, lectures, projects related to an official academic program including a thesis, PhD dissertation, or final report or Academic Publications;
- (c) **“Background Intellectual Property”** means any and all Intellectual Property that was created, conceived or developed prior to, or independent of, any research performed pursuant to or related to this Agreement. Background Intellectual Property that is known as of the Effective Date to be necessary for the creation of the Foreground Intellectual Property or Work Product is identified in Schedule 2, which can be amended from time to time as agreed to by the Parties.
- (d) **“Completion Date”** means five (5) years after the Effective Date, or such other date as may be agreed upon in writing between the Parties.
- (e) **“Confidential Information”** shall mean data, documents, reports, analyses, tests, specification, charts, plans, drawings, models, ideas, schemes, correspondence, communications, lists, manuals, computer programs, software, technology, techniques, methods, processes, services, routines, systems, procedures, practices, operations, modes of operation, apparatus, equipment, business opportunities, customer and supplier lists and other customer information, sales data, financial data, know-how and trade or other secrets whether verbal, written or existing, stored or communicated in any other form or medium, together with all copies thereof, however or whenever made, where such information is either marked as “Confidential” or otherwise identified as confidential at the time of its disclosure.
- (f) **“Disclosing Party”** means any Party disclosing Confidential Information and any Party receiving Confidential Information is hereinafter referred to as **“Recipient.”**
- (g) **“Field”** means the field of cybersecurity.
- (h) **“Foreground Intellectual Property”** means any Intellectual Property created, conceived or developed by a Representative of a Party in the performance of this Agreement and during the term of this Agreement
- (i) **“Intellectual Property”** includes, but is not limited to, substances, processes, formulations, technical information, reports, photographs, drawings, plans, specifications, models, prototype, inventions, patterns, samples, or designs, whether patentable or not. It shall also mean any and all patents, trade-marks, trade names, copyright, software (including without limitation, source code and object code), domain names, industrial designs, design patents, mask works, and integrated circuit topographies acquired under any statute law or act in any country and shall also include all registrations and applications (including without limitation,

continuation, continuation-in-part, divisional, reissue and renewal applications and registrations) for the foregoing, trade secrets, knowledge, techniques, methods, know-how and show-how, and any and all other related property rights and goodwill, and including all registrations and applications for improvements which exist or may in future come into existence.

- (j) “**Representative**” means a Party’s directors, officers, employees, contractors, agents, assigns or in the case of UNB, UNB’s employees, contractors, agents, assigns, faculty or students.
- (k) “**Strategic Membership**” means a membership level that is designed to provide companies with resources and consulting services towards resolving some important cybersecurity issues. It is available to companies that are involved in the development of various cybersecurity solutions.
- (l) “**Termination Date**” means the earlier of the Completion Date or a date that this Agreement is terminated according to the provisions in section 10.

3. THE STRATEGIC MEMBERSHIP

- 3.1 The CIC is under the direction of Dr. Ali Ghorbani of UNB’s Faculty of Computer Science (the “**Director**”).
- 3.2 The Strategic Membership will begin on the Effective Date and will continue until the Termination Date.
- 3.3 Each of the Parties will carry out the Work allotted to it in Schedule 1 (the “**Work**”) of this Agreement, as amended from time to time, and CIC will deliver the output resulting from the Work, (the “**Work Product**”) to the Partner in accordance with same.
- 3.4 Each of the Parties will ensure that its Representatives (if any) involved in the Work: observe the conditions attaching to any regulatory and ethical licenses, consents and approvals; keep complete and accurate records of all research, development and other activity carried out in connection with the Strategic Membership and of all Foreground Intellectual Property and observations.
- 3.5 Although the Parties will use reasonable endeavours to carry out the Work in accordance with Schedule 1 of this Agreement, the Parties do not represent or warrant that any technical support will lead to any particular result, nor do they guarantee a successful outcome.

4. STRATEGIC MEMBERSHIP FEE

- 4.1 In consideration of the CIC carrying out the Work, the Partner will pay the CIC Strategic Membership Fee (the “**Strategic Membership Fee**”) of \$40,000.00 CAD annually to UNB.

- 4.2 The Partner will pay the Strategic Membership Fee under section 4.1 by way of electronic funds transfer to the University of New Brunswick within thirty (30) days of receipt of the invoice for same by the Partner.
- 4.3 In consideration of the Strategic Membership Fee, the Partner will receive an average of fifteen (15) hours per month of technical support with the following benefits:
- i. Hands-on, Partner-specific, technical support;
 - ii. Assistance in maintaining a robust cyberspace presence;
 - iii. Consultation and expert opinion to advise on prevention of potential attacks and information loss; and
 - iv. Access to a cybersecurity expert.

UNB will provide quarterly reporting to the Partner on the actual hours of support provided by UNB.

- 4.4 If the Partner fails to make any payment due to UNB under this Agreement, without prejudice to any other right or remedy available to UNB, UNB may charge interest (both before and after any judgement) on the amount outstanding, at the annual rate of twelve percent (12 %) applied on a monthly basis. That interest will be calculated from the date or last date for payment to the actual date of payment, both dates inclusive, and will be compounded quarterly. The Partner will pay that interest to UNB on demand.
- 4.5 UNB will own any equipment or material purchased or constructed by it or for it under the Strategic Membership. Except for any equipment or material that was an in-kind donation, any equipment or material provided by the Partner to UNB for use during the Strategic Membership shall remain the property of the Partner and shall be returned by UNB to the Partner upon completion or termination of the Strategic Membership.

5. USE AND EXPLOITATION OF INTELLECTUAL PROPERTY

- 5.1 This Agreement does not affect the ownership of any Background Intellectual Property or in any other Intellectual Property of a Party that is not Foreground Intellectual Property. No license to use or any other right in any Background Intellectual Property is granted or implied by this Agreement except the rights expressly granted by this Agreement.

5.2 Background Intellectual Property Licenses.

- (a) Subject to the confidentiality obligations in section 7, Partner grants UNB a worldwide, non-exclusive, royalty-free license to internally use Partner's Background Intellectual Property that is necessary for the creation of the Foreground Intellectual Property. This license is limited to the purposes of: (i) carrying out the Work; and (ii) non-commercial Academic and Research Purposes, but for no other purposes.
- (b) Subject to the confidentiality obligations in section 7, UNB grants Partner a worldwide, non-exclusive, royalty-free license to internally use UNB's

Background Intellectual Property that is necessary for the creation of the Foreground Intellectual Property. This license is limited to the purpose of carrying out the Work, but for no other purpose.

- (c) Subject to the confidentiality obligations in section 7, Partner grants UNB a worldwide, non-exclusive, royalty-free, copyright license to reproduce, prepare derivative works, distribute copies, publicly perform and execute Partner's Background Intellectual Property that is necessary for the creation of the Foreground Intellectual Property. This license is limited to the purposes of: (i) carrying out the Work, and (ii) non-commercial Academic and Research Purposes, but for no other purposes.
 - (d) Subject to the confidentiality obligations in section 7, UNB grants Partner a worldwide, non-exclusive, royalty-free, copyright license to reproduce, prepare derivative works, distribute copies, publicly perform and execute UNB's Background Intellectual Property that is necessary for the creation of the Foreground Intellectual Property. This license is limited to the purpose of carrying out the Work, but for no other purpose.
 - (e) For the licenses in this section 5.2, neither Party may grant any sublicenses to use the other's Background Intellectual Property, and such Background Intellectual Property licenses shall automatically terminate upon the Termination Date.
- 5.3 The Parties acknowledge and agree that all right, title and interest in and to any Foreground Intellectual Property conceived, produced, developed or reduced to practice solely by the Representatives of the Partner shall belong exclusively to the Partner. Subject to the confidentiality obligations in section 7, Partner grants UNB a worldwide, non-exclusive, royalty-free, license to internally use Partner's Foreground Intellectual Property: (i) that is necessary to carry out the Work, and (ii) for non-commercial Academic and Research Purposes, but for no other purposes.
- 5.4 The Parties acknowledge and agree that all right, title and interest in and to any Foreground Intellectual Property conceived, produced, developed or reduced to practice solely by a Representative of UNB shall belong exclusively to UNB according to its institutional policies and collective agreements.
- 5.5 The Parties acknowledge and agree that all right, title and interest in and to any Foreground Intellectual Property conceived, produced, developed or reduced to practice by Representatives of more than one Party which is incorporated into or necessary to use the Work Product, ("**Joint Intellectual Property**") shall belong jointly to the Parties in accordance with the institutional policies and collective agreements of the inventing Parties.
- 5.6 Upon payment of the Strategic Membership Fee for an applicable annual period, UNB grants Partner an exclusive, royalty-free, license in the Field to use the Work Product, UNB's Foreground Intellectual Property, and UNB's portion of Joint Intellectual Property created during said applicable annual period for internal, non-commercial purposes, subject to the royalty-free, perpetual right of UNB to use the same for Academic and Research Purposes.

- 5.7 UNB hereby grants to the Partner an option to obtain a royalty-bearing, exclusive license in the Field to commercially exploit the Work Product, UNB's Foreground Intellectual Property, and UNB's portion of Joint Intellectual Property, subject to a royalty-free, perpetual right of UNB to use the same for Academic and Research Purposes. The option shall exist for a period of six (6) months after the Strategic Membership Completion Date, and may be exercised within this period by the Partner delivering written notice of exercise to UNB.
- 5.8 Upon exercise of the option from section 5.7, the Partner and UNB shall negotiate in good faith to determine the specific terms and conditions of the exclusive license referred to in section 5.7, including a royalty rate. The obligation to negotiate in good faith shall exist for a period of six (6) months from the date of exercise of the option by the Partner.
- 5.9 Notwithstanding section 5.2, and provided that the Partner is not in default of any of its obligations under this Agreement, to the extent UNB Background Intellectual Property is incorporated into the Work Product, UNB's Foreground Intellectual Property, and UNB's portion of Joint Intellectual Property, UNB hereby grants to Partner a non-exclusive, worldwide, royalty free license in the Field to make, use, reproduce, prepare derivative works, distribute copies, publicly perform and execute said UNB Background Intellectual Property for the Partner's internal use only.
- 5.10 UNB will notify the Partner promptly after identifying any Foreground Intellectual Property that UNB believes is patentable, and will supply the Partner with copies of that Foreground Intellectual Property, provided always that the Partner is not in default of any of its obligations under this Agreement.

6. ACADEMIC PUBLICATION

- 6.1 Any Representative of UNB (whether or not involved in the Work) may, provided a Confidentiality Notice under section 6.2 has not been given:
- (a) discuss Work undertaken as part of the Strategic Membership in university seminars, tutorials and lectures; and
 - (b) publish original works of authorship related to the Work of this Agreement or any of the Foreground Intellectual Property, as long as that authorship does not contain Partner's Confidential Information.
- 6.2 UNB will submit to the Partner, in writing, details of any Academic Publication or Work undertaken as part of the Strategic Membership or Joint Foreground Intellectual Property that any Representative of UNB intends to publish or present at least sixty (60) days before the date of the proposed submission for publication or disclosure. The Partner may, acting reasonably, request alterations to the proposed publication or disclosure including the reasons therefore, with respect to the removal of any of the information that is Partner Confidential Information or that could be identified as being potentially patentable. If the Partner objects to any portion of the publication or disclosure, the Partner must provide written notice to UNB (the "Confidentiality Notice") within thirty (30)

days after the Partner receives the details of the proposed publication or disclosure. Within ten (10) days of receipt of the Confidentiality Notice, UNB shall advise the Partner in writing whether it intends to revise the proposed publication or disclosure as set out in the Confidentiality Notice.

- 6.3 Where, in the Partner's reasonable opinion, a delay is necessary to seek patent or other protection for any of the Foreground Intellectual Property that are to be published or discussed, the Partner may require UNB to delay the proposed publication or disclosure for a maximum of six (6) months after receipt of the Confidentiality Notice.
- 6.4 If UNB does not receive a Confidentiality Notice within the specified period of time, its Representative may proceed with the proposed publication or disclosure, provided that, whether or not a Confidentiality Notice has been given, any of the Partner's Confidential Information may not be published.
- 6.5 Where UNB faculty or a graduate student is employed in the performance of the Work under the Strategic Membership, the faculty or graduate student will own the copyright to the Academic Publication (including thesis, dissertation, or final reports). The faculty or graduate student will not own any existing copyright in the Partner's Background Intellectual Property, Partner's Foreground Intellectual Property, or Partner's Confidential Information. Graduate students will not be delayed in any way by the requirements of this Agreement in writing, presenting, defending, and publishing his or her Academic Publication to meet the usual academic requirements for graduation.

7. CONFIDENTIALITY

- 7.1 Subject to section 6 and 7.2, neither Party will disclose to any third party, nor use for any purpose except as expressly permitted by this Agreement, any of the other Party's Confidential Information.
- 7.2 Notwithstanding section 7.1, neither Party will be in breach of any obligation to keep any Confidential Information or not to disclose it to any third party to the extent that it:
 - (a) is in the Recipient's possession before its receipt from the Disclosing Party as shown by the Recipient's files and records immediately prior to the time of disclosure, and which is not already subject to any obligation of confidentiality to the Disclosing Party;
 - (b) before or after it has been disclosed to Recipient, becomes part of the public knowledge or literature, not as a result of any action or inaction of Recipient;
 - (c) is approved for release by written authorization of the Disclosing Party;
 - (d) is disclosed to Recipient by a third party not in violation of any obligation of confidentiality;
 - (e) is independently developed by Recipient without reference to Confidential Information; or

- (f) is disclosed pursuant to the requirement of any law or regulation (provided in the case of a disclosure pursuant to the *Right to Information and Protection of Privacy Act*, S.N.B. 2009, c. R-10.6 (The “Act”) none of the exceptions in that Act apply to the information disclosed) or the order of any Court of competent jurisdiction, and the Party required to make that disclosure has informed the other, within a reasonable time after being required to make the disclosure, of the requirement to disclose and the information required to be disclosed.
- 7.3 Recipient agrees to permit access to the Confidential Information only to such officers, directors, and Representatives as are necessary to fulfill the terms set within this Agreement. Recipient agrees that prior to disclosing any Confidential Information, such persons will be advised of the confidential nature of such Confidential Information and of the existence and importance of this Agreement. Recipient will take all reasonable actions as may be necessary to prevent its officers, directors, or Representatives from violating the terms of this Agreement. Recipient will be deemed to have satisfied its obligations under this Agreement by protecting the confidentiality of the Confidential Information in the same manner that a reasonable person would protect its own Confidential Information of like kind.
- 7.4 Except as may be required in furtherance of this Agreement, Recipient will not copy, alter, modify, disassemble, reverse engineer or decompile any document or material containing any Confidential Information without the prior written permission of the Disclosing Party. Upon termination of this Agreement or if requested by the Disclosing Party at any time, Recipient will return or destroy any and all documents or materials provided by the Disclosing Party including any copies thereto.
- 7.5 Recipient will not directly nor indirectly use any Confidential Information in any manner other than to assist the other Party in connection with this Agreement. Recipient shall not use the Confidential Information for purposes of unfair or improper competition. In the event a subpoena or other validly issued administrative or judicial process requesting the Confidential Information is received by either Party, prompt notice will be given to the other Party of such receipt prior to complying with such subpoena or other process.
- 7.6 Neither Party shall communicate any information to the other in violation of the proprietary rights of any third party. The Confidential Information shall remain the sole property of the Disclosing Party. Except as provided in section 5, no license is granted to Recipient under any patents, copyrights, mask work rights or other proprietary rights by the disclosure of any information hereunder, nor is any warranty made as to such information. Recipient acknowledges and agrees that the Confidential Information may be deemed to be material, non-public information and that the purchase or sale of any security of the Disclosing Party (or any Party mentioned in the Confidential Information) upon or after receipt of the Confidential Information may be restricted under the securities laws of Canada and/or other jurisdictions.
- 7.7 If UNB receives a request under the *Right to Information and Protection of Privacy Act*, to disclose any information that, under this Agreement, is the Partner’s Confidential Information, it will notify the Partner and will consult with the Partner promptly and before making any disclosure under the Act. The Partner will respond to UNB within fifteen (15) days after receiving UNB’s notice if that notice requests the Partner to provide

information to assist UNB to determine whether or not an exemption to the Act applies to the information requested under the Act.

- 7.8 Neither UNB nor the Partner will use the other's name or logo in any press release or product advertising, or for any other promotional purpose, without first obtaining the other's written consent.
- 7.9 Recipient understands and agrees that the Disclosing Party is providing the Confidential Information to Recipient in reliance upon this Agreement. Recipient acknowledges and agrees that a breach of any of its promises or agreements contained herein may result in irreparable injury to the Disclosing Party for which there may be no adequate remedy at law. The Disclosing Party, in addition to the return of the Confidential Information from the Recipient, shall be entitled to seek equitable relief in the nature of an injunction against Parties violating this Agreement and any Parties improperly using or disseminating Confidential Information.
- 7.10 The Recipient may use in its business activities, in the Field, the ideas, concepts and know-how ("**Residual IP**") contained in the Disclosing Party's Confidential Information which are retained in the unaided memories of Recipient's Representatives who have had access to the Confidential Information under this Agreement. For the avoidance of doubt, no patent or copyright license to Residual IP is granted to either Party.

8. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

- 8.1 The Partner represents and warrants that it is duly incorporated and validly existing and in good standing and has the power and authority to carry on its business, to hold property and to enter into this Agreement and undertakes to take all necessary action to maintain itself in good standing and to preserve its legal capacity.
- 8.2 Each Party represents and warrants that the signatories to the Agreement have been duly authorized to execute and deliver the Agreement.
- 8.3 Each Party represents and warrants that the execution, delivery and performance of the Agreement have been duly and validly authorized and that when executed and delivered, the Agreement will constitute a legal, valid and binding obligation enforceable in accordance with its terms.
- 8.4 Each Party represents and warrants that it is the owner of its respective Background Intellectual Property and has the right and authority to use and to grant the rights in the Background Intellectual Property as contemplated in this Agreement.
- 8.5 The Partner warrants that it is under no obligation or prohibition, nor is it subject to or threatened by any actions, suits or proceedings, which could or would prevent compliance with the Agreement. The Partner will advise UNB forthwith of any such occurrence during the term of the Agreement. Notification of any such occurrence by the Partner will not relieve the Partner of any of its obligations under this Agreement.
- 8.6 The Partner shall comply with, in relation to the Strategic Membership, the requirements of all applicable laws, regulations, orders and decrees and regulatory bodies having jurisdiction over the Partner or the Strategic Membership.

8.7 The Partner represents and warrants that it has not entered, and undertakes not to enter, without UNB's written consent, into any agreement that would prevent the full implementation of the Agreement by the Partner.

9. INDEMNIFICATION AND LIMITATION OF LIABILITY

9.1 Each Party hereby indemnifies, holds harmless and defends the other Party, including each of the Board of Governors, directors, officers, invitees, and Representatives of the other Parties, against any and all claims (including all legal fees and disbursements incurred in association therewith) arising out of its receipt or use of the other Party's Background Intellectual Property, any research results, information, Work Product, Foreground Intellectual Property, technology, and other tangible and intangible material arising from the Strategic Membership including, without limiting the generality of the foregoing, any direct damages or losses, arising from or out of same, howsoever the same may arise.

9.2 Partner's total liability and UNB's total liability, whether under the express or implied terms of this Agreement, in tort (including negligence) or at common law, for any loss or damage suffered by UNB or the Partner respectively, whether direct, indirect, or special, or any other similar damage that may arise or does arise from any breaches of this Agreement by UNB or Partner, its Board of Governors, officers, or Representatives, is limited to the Strategic Membership Fee under section 4.1.

9.3 The Partner acknowledges and agrees that UNB will not be liable for consequential or incidental damages arising from any breach or breaches of this Agreement. UNB makes no representations, conditions, or warranties, either express or implied, with respect to the performance of the Work or the Intellectual Property. Without limiting the generality of the foregoing, UNB specifically disclaims any implied warranty, condition, or representation that the Foreground Intellectual Property: shall correspond with a particular description; is of merchantable quality; is fit for a particular purpose; or is durable for a reasonable period of time. Nothing in this Agreement shall be construed as a warranty or representation by UNB as to title to the Foreground Intellectual Property or that it will be free from infringement of intellectual property rights. UNB shall not be liable for any loss, whether direct, consequential, incidental, or special which the Partner suffers arising from any defect, error, fault, or failure to perform with respect to the Foreground Intellectual Property, even if UNB has been advised of the possibility of such defect, error, fault, or failure. The Partner acknowledges that it has been advised by UNB to undertake its own due diligence with respect to the Foreground Intellectual Property.

9.4 UNB acknowledges and agrees that the Partner will not be liable for consequential or incidental damages arising from any breach or breaches of this Agreement. The Partner makes no representations, conditions, or warranties, either express or implied, with respect to the performance of the Work or the Foreground Intellectual Property. Without limiting the generality of the foregoing, the Partner specifically disclaims any implied warranty, condition, or representation that the Foreground Intellectual Property: shall correspond with a particular description; is of merchantable quality; is fit for a particular purpose; or is durable for a reasonable period of time. Nothing in this Agreement shall be construed as a warranty or representation by the Partner as to title to the Foreground Intellectual Property or that it will be free from infringement intellectual property rights.

The Partner shall not be liable for any loss, whether direct, consequential, incidental, or special which UNB suffers arising from any defect, error, fault, or failure to perform with respect to the Foreground Intellectual Property, even if the Partner has been advised of the possibility of such defect, error, fault, or failure. UNB acknowledges that it has been advised by the Partner to undertake its own due diligence with respect to the Work Product and Foreground Intellectual Property.

10. TERMINATION

- 10.1 Either Party may terminate this Agreement with immediate effect by giving notice to the other Party if the other Party is in breach of any provision of this Agreement and (if it is capable of remedy) the breach has not been remedied within sixty (60) days after receipt of written notice specifying the breach and requiring its remedy.
- 10.2 Either Party may terminate this Agreement upon three (3) months written notice to the other Party.
- 10.3 UNB may terminate this Agreement if the Partner is, in UNB's opinion:
- (a) insolvent, adjudged or declared bankrupt or if it goes into receivership or takes the benefit of any statute from time to time in force relating to bankrupt or insolvent debtors; or
 - (b) in default under any other agreement with UNB or any Representative of UNB.
- 10.4 Sections 2, 5, 6, 7, 8, 9, 10.4 and 12 will survive the termination of this Agreement for any reason and will continue indefinitely.

11. DISPUTE RESOLUTION PROCEDURE

- 11.1 The Parties shall attempt to resolve any dispute arising out of or pursuant to this Agreement by recourse to the dispute resolution methods identified in the following sequence, although steps may be by-passed by mutual consent:
- (a) negotiations, or
 - (b) binding arbitration.
- 11.2 If the Parties cannot agree on any of the foregoing dispute resolution mechanisms, either Party may, at any time, elect to have such dispute resolved by litigation in the proper judicial forum.
- 11.3 Any Party may within fifteen (15) days take the dispute to the next step if the Parties fail to agree on the appointment or procedure referred to in this section.
- 11.4 If the Parties decide to submit a dispute to arbitration, it shall be carried out pursuant to the Commercial Arbitration Act of Canada. The arbitral award shall be in terms of money only, and shall not include punitive damages, costs or interim measures. The Parties shall attempt to appoint jointly one impartial expert arbitrator. If the Parties cannot agree within thirty (30) days on the choice of an arbitrator, each Party shall appoint, at its own

cost, one impartial expert arbitrator and those two arbitrators shall appoint an expert third arbitrator as chairperson of an arbitral tribunal.

- 11.5 When step 11.1(b) is selected to resolve a dispute, the Parties shall jointly enter into a contract with the required arbitrator to pay the costs for the desired services and to bear their own costs of participating in the process involved.
- 11.6 This section 11 shall not apply to prevent a Party from invoking its rights pursuant to Sections 4, 5 or 10 of this Agreement.

12. NOTICES

- 12.1 Any notice, demand, request or other communication (a "**Notice**") required or permitted to be given to either Party under this Agreement shall be in writing and shall be satisfactorily given by personal delivery, registered mail or by electronic means of communication, addressed to the recipient as follows;

- (a) If to UNB, at:

The University of New Brunswick
Office of Research Services
PO Box 4400
3 Bailey Drive, Room 215, Sir Howard Douglas Hall
Fredericton, NB E3B 5A3
Phone: (506) 453-4674
Fax: (506) 458-7600
Email: ors@unb.ca
Attention: Executive Director

- (b) If to the Partner, at:

City of Saint John
15 Market Square
Saint John, New Brunswick E2L 4L1
Phone: (506) 649-6047
Email: information.technology@saintjohn.ca
Attention: Chief Information Officer

- (c) Any notice, demand, request or other communication of a technical nature from the Partner shall be delivered to UNB as set out in (a), above, with a copy delivered to the Director, at:

Dr. Ali Ghorbani
Faculty of Computer Science
University of New Brunswick
PO Box 4400
3 Bailey Drive, Room 215, Fredericton, NB E3B 5A3
Phone: (506) 458 7266
Email: Ghorbani@unb.ca

13. GENERAL

- 13.1 **Headings:** The headings in this Agreement are for ease of reference only; they do not affect its construction or interpretation.
- 13.2 **Assignment:** Neither Party may assign or transfer this Agreement as a whole, or any of its rights or obligations under it, without first obtaining the written consent of the other Party. That consent may not be unreasonably withheld or delayed.
- 13.3 **Severability:** If any section or part of a section contained in this Agreement shall be judicially held invalid or unenforceable, the remainder of this Agreement shall be interpreted as if such section or part of a section had not been included.
- 13.4 This Agreement shall not prevent either Party from entering into similar agreements with other companies, universities, governmental or other non-profit organizations.
- 13.5 **Waiver of rights:** If a Party fails to enforce, or delays in enforcing, an obligation of the other Party, or fails to exercise, or delays in exercising, a right under this Agreement, that failure or delay will not affect its right to enforce that obligation or constitute a waiver of that right. Any waiver of any provision of this Agreement will not, unless expressly stated to the contrary, constitute a waiver of that provision on a future occasion.
- 13.6 **No agency:** Nothing in this Agreement creates, implies or evidences any partnership or joint venture between the Parties, or the relationship between them of principal and agent. Neither Party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.
- 13.7 **Entire agreement:** This Agreement constitutes the entire agreement between the Parties relating to its subject matter and supersedes all other documents or agreements, whether written or verbal, in respect of the subject matter. Each Party acknowledges that it has not entered into this Agreement on the basis of any warranty, representation, statement, agreement or undertaking except those expressly set out in this Agreement.
- 13.8 **Formalities:** Each Party will take any action and execute any document reasonably required by the other Party to give effect to any of its rights under this Agreement, or to enable their registration in any relevant territory provided the requesting Party pays the other Party's reasonable expenses.
- 13.9 **Amendments:** No variation or amendment of this Agreement will be effective unless it is made in writing and signed by each Party's representative.
- 13.10 **Applicable law:** This contract shall be governed by and construed in accordance with the laws in force in the Province of New Brunswick and the applicable laws of Canada. The Parties attorn to the jurisdiction and venue of the courts of New Brunswick in respect of any matter relating to this Agreement.
- 13.11 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create

a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

13.12 **Force Majeure:** Neither Party to this Agreement shall be liable to the other for any failure or delay in performance by circumstances beyond its control, including but not limited to, acts of God, fire, labour difficulties, or governmental action.

13.13 **Successors and Assigns:** This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted transferees and assignees.

IN WITNESS WHEREOF the duly authorized representatives of the Parties hereto have executed this Agreement as of the Effective Date.

[signature page follows]

THE UNIVERSITY OF NEW BRUNSWICK

CITY OF SAINT JOHN

Per: _____

Per: _____

Date: _____

Date: _____

Acknowledgement of Director:

I, Ali Ghorbani, the Director, having read and understood this Agreement, hereby agree to act in accordance with all the terms and conditions herein, and further to agree to ensure that all UNB personnel involved in the Work are informed of their obligations under this Agreement and agree to act in accordance with such terms and conditions.

Ali Ghorbani, Date
Director Canadian Cybersecurity Institute

Schedule 1 (the “Work”)

Responsibilities of the Canadian Institute of Cybersecurity (CIC)

- Work with the City to assess and evaluate the security measures and identify vulnerabilities and risks to the security of information along with the recommended mitigation's. Areas to be assessed include but are not limited to:
 - Firewalls
 - Routers and Switches
 - Remote Access (VPNs)
 - WAN/LAN/WiFi Infrastructure
 - Endpoint security controls (such as Desktop, Laptop, Tablet, and Smart Phones)
 - Antivirus, Spyware and Malicious code detection
 - Incident and Response Reporting
 - IT Policies and Procedures
- Support the City in prioritizing actions required to improve security considering risk and cost
- Document the results of the Risk Assessment and Vulnerability Analysis
- Provide on-going consultation on the implementation of the prioritized actions over 2019 within the hours allotted through the Agreement
- Track all hours to ensure the services outlined in the agreement are met

Responsibilities of the City of Saint John (CSJ)

- Provide access and cooperation in all respects related to the above mentioned work, as appropriate
- With a mutual understanding of requirements to complete the above noted work, work through the appropriate purchasing and approval processes to secure any technology or equipment needed
- Act as the liaison between any of the City's vendors that may need to be included and/or contacted for the purposes of completing the above noted work

Schedule 2: Background IP

Partner's Background IP

- None as of effective date.

UNB's Background IP

- None as of effective date.