

## SCHEDULE 'A'

### AGREEMENT

THIS AGREEMENT (the "Agreement") made as of the \_\_\_\_ day of \_\_\_\_\_, 2015

#### BETWEEN:

THE CORPORATION OF THE CITY OF LONDON  
(the "City")

and

LONDON MEDICAL INNOVATION & COMMERCIALIZATION  
NETWORK  
(the "Network")

#### WHEREAS:

A. The Network is a not-for-profit corporation incorporated under the *Canada Not-for-profit Corporations Act*, for the purposes of supporting and fostering the initiation and commercialization of medical research and discoveries into healthcare solutions in London, Ontario and is intended to generate economic development in the City of London (including employment and investment materially advancing innovation and industry in London's healthcare sector).

B. The strategic plan for the Network developed by the collaborators behind its formation (namely, Western University, Lawson Health Research Institute, London Health Sciences Centre and St. Joseph's Health Care, London) (the "**Strategic Plan**") identifies potential economic benefits (the "**Economic Benefits**") of the Network to the City that include:

1. the creation of an estimated 550 full-time, sustainable jobs;
2. the creation of an estimated annual economic impact of approximately \$56.0 million in the City's economy associated with these new jobs;
3. the development of clinical research hubs through the enhancement of recognized clinical research programs and the creation of medical research infrastructure in order to position the City as a significant location for the commercialization of medical technologies; and
4. the development of business and management expertise for medical research, which will support commercial and business needs, enhancing the development of new business in the health sector.

The Strategic Plan also identifies benefits to residents of the City, including increasing the level of healthcare and improving patient care.

C. The City is given powers by the *Municipal Act, 2001* for the purpose of providing good government and, as part of good government, the City has jurisdiction to promote economic development. Under section 107(1) of the *Municipal Act, 2001*, and subject to section 106 of the *Municipal Act, 2001*, the City may make a grant for any purpose that it considers to be in the

interests of the City, provided such purpose is consistent with its mandate to provide good government.

D. By resolution of Council of the City made July 30, 2013, Council resolved to support, in principle, the purposes of the Network by way of the grant of the sum of \$10,000,000 from the City's Economic Development Reserve Fund for the Network (the "**Grant**"). The support was subject to the preparation of a governance structure for the Network, which structure would include the structure to control financial activity and transactions associated with the Network, including the disbursement of any grant from the City.

E. The City subsequently determined that the Grant did not constitute a prohibited provision of assistance, either directly or indirectly, to any manufacturing business or other industrial or commercial enterprise, contrary to section 106 of the *Municipal Act, 2001* and that the Grant did not involve a municipal capital facility within the meaning of section 110 of the *Municipal Act, 2001*.

F. The City entered into an agreement made as of September 30, 2014 (the "**City-Foundations Agreement**") with London Health Sciences Foundation and St. Joseph's Health Care Foundation (collectively, the "**Foundations**" and each individually, a "**Foundation**"), pursuant to which the Foundations agreed to hold the Grant, in trust, to be released only upon receipt of the consent in writing of the City Treasurer and Chief Financial Officer (the "**City CFO**"), or such other person as may be designated, in writing, by the City CFO for that specific purpose ("Designate").

G. By resolution of Council of the City made October 22, 2013, Council endorsed terms of reference for the Network and directed City administration to undertake administrative acts to formalize the terms of reference and develop applications for additional project funding.

H. The Grant was transferred to the Foundations, in trust, pursuant to the City-Foundations Agreement and is currently held by the Foundations, in trust.

I. The structure and governance of the Network has been settled and established such that the Network is properly and professionally administered and accountable, maintains a bank account in the City at a Canadian chartered bank in compliance with all applicable regulation and there are clearly accountable persons or entities responsible for the receipt, management and disbursements of all funds and assets of the Network (collectively, the "**Governance**").

J. The Network is in a position, by virtue of the Governance, to supply the information to the City to assess the achieving of the Economic Benefits Metrics.

K. There are adequate financial controls in place within the Network, pursuant to the Governance, to ensure the accuracy, completeness and auditability of the use of the Grant such that it can be established that the Grant was used for the purposes contemplated by this Agreement.

L. The Grant is to be transferred out of trust by the Foundations to the Network for use by the Network subject to and in accordance with the terms and conditions set out in this Agreement.

M. The Grant:

1. shall be applied to capital and equipment costs associated with projects endorsed and supported by the Network;

2. will permit the Network to secure the commitment of Western University for \$10 million in funding to match the Grant and Western University shall commit to provide an additional \$10.0 million over 10 years (collectively, the "**Western Funding Commitment**"), for the purposes of:
  - (a) assisting in the attraction and/or retention of recognized research leaders and high quality research personnel who will be responsible for meeting the job creation, commercialization and other objectives outlined in the Strategic Plan. Such leaders and personnel may be designated as Chairs for recruitment and fundraising purposes; and
  - (b) providing such leaders and personnel, on a timely basis, with the financial and human capital necessary to deliver their respective Strategic Plan objectives.

N. The Network has made and will continue to make application to the Federal and Provincial Government to assist in the creation of the physical and business infrastructure contemplated by Phase I of the Strategic Plan (the "**Infrastructure funding**"). It is anticipated that the Grant will assist the securing of the Infrastructure funding.

O. The City intends to assess the economic benefits of the Grant through assessment of various indicators (the "**Economic Benefits Metrics**"), including:

1. the number of full-time, sustainable jobs created by the implementation of the Strategic Plan by the Network;
2. the amount of additional investment in the Network, including government, institutional, fundraising and private sector investment;
3. the number of new businesses that are established in the Discovery Park and/or London as a result of the access to the Network and the physical and human resources created or attracted by the Network;
4. increases in assessment in the City for non-institutional properties created or fostered by the Network; and
5. increases in building permit activity in the City created or fostered by the Network.

**THIS AGREEMENT WITNESSES THAT** in consideration of the mutual covenants contained herein, and other good and valuable consideration, the parties hereto agree as follows:

1. Each of the parties represents and warrants to the other that the recitals to this Agreement are true and correct to the best of their respective beliefs as of the date of the making of this Agreement and agree that the recitals form an integral part of this Agreement.
2. The City will be given, upon written request, any additional documents and information requested by the City to satisfy the City that proper Governance of the Network has been established and maintained.
3. The City will, upon execution of this Agreement, pursuant to the City-Foundations Agreement, consent to the disbursement of the entire Grant to the Network, including any accrued interest, subject to the provisions of the City-Foundations Agreement relating to accrued interest on the Grant.

4. Prior to disbursement by the Network of any part of the Grant, including any accrued interest, (a "**Disbursement**"), the following conditions must be satisfied by the Network:
  - a. the City will be provided with a current budget of the Network, which may be amended from time to time, outlining the anticipated funding requirements of the Network and the anticipated sources by which those funding requirements will be met (the "**Budget**");
  - b. the Disbursement must be consistent with the Budget;
  - c. at least 10 calendar days in advance of any Disbursement, in order to demonstrate that the proposed Disbursement is consistent with the objects of this Agreement, the Network shall transmit to the City CFO or any Designate, a completed Economic Benefits Evaluation Form (the "Form"), executed by two persons, the first person being any one of the then current Directors of the Network and the second person being the then current chief operating officer of the Network. A copy of the standard Form, which sets out the information required by the City, is attached as Appendix 1. The Form shall be transmitted to the City by the method described in the Form. By notice to the Network, the City may, in its sole discretion, amend the Form prior to any Disbursement to alter the transmission method for the Form or to require additional information from the Network, provided such additional information is consistent with the objects of this Agreement;
  - d. the City has received confirmation, in a form satisfactory to the City, that Western University has made the Western Funding Commitment and that there is a commitment for the Infrastructure funding;
  - e. the Disbursement is consistent with the Strategic Plan and with utilizing the Disbursement to achieve the Economic Benefits Metrics;
  - f. the Disbursement is to be made for the purpose of acquisition, improvement or construction of capital property or equipment, or expenses or costs ancillary to such purpose;
  - g. the Disbursement is only made for a valid municipal purpose and will not constitute assistance, directly or indirectly, for any manufacturing business or other industrial or commercial enterprise prohibited by the *Municipal Act, 2001*;
  - h. the Network has procured such insurance coverage as may be reasonably required, given the scope of its activities.
5. The Network shall repay the Grant to the City in the event that the Grant, or any portion of it, is not disbursed, as permitted by this Agreement, within five (5) years of the date of this Agreement. Any repayment will include any accrued interest not otherwise disbursed as permitted by this Agreement.
6. If the Network is in default of any provision of this Agreement, the City shall be entitled to give the Network notice of the default, in writing. If the Network has not cured the default within 30 days of receipt of the notice, the City shall be entitled to terminate this Agreement. Upon receipt of notice of termination, the Network shall pay the Grant, or such portion of it that remains undisbursed, together with any accrued interest, to the City immediately.

7. If the Network becomes insolvent, or any proceeding is taken to dissolve the Network, or if the Network take steps to transfer substantially all of its assets to another person or entity, this Agreement shall be terminated and the Network shall pay the Grant, or such portion of it that remains undisbursed, together with any accrued interest, to the City immediately.
8. The Network shall hold the Grant in an interest-bearing account at a Canadian chartered Bank located in the City of London until disbursement.
9. The Network agrees to provide to the City the following information (the "Information"):
  - a. an annual report, in writing, to the City CFO, or Designate, for at least five (5) years after the full Disbursement of the Grant, outlining its success in the achieving of the Economic Benefits Metrics;
  - b. within 30 days of the Disbursement, a written report to the City CFO or Designate describing the acquisition, improvement or construction of capital property, or equipment, for which the Disbursement was utilized;
  - c. independent of the annual report referred to in subsection (a) above, such information in its possession as the City may reasonably request of the Network to assist the City to assess the achieving of the Economic Benefits Metrics. It is understood that such requests will be made periodically by the City for maximum period of up to 10 years from the date of this Agreement; and
  - d. within 90 days after the Network's first fiscal year-end, annual financial and other reporting, in writing, describing the progress of the Network in achieving the objects of the Strategic Plan.
10. For the purpose of ensuring compliance with the terms of this Agreement, the City or its authorized agents may, on reasonable advance written notice and during regular business hours, inspect the accounts, records, books and data of the Network related to the Disbursement of Grant.
11. The Network shall provide to the City, at any time, upon request in writing made by the City CFO, an accounting, with full supporting documentation, for the Grant and any Disbursement of the Grant or any part of it.
12. The Network shall require that any third party, including Western University, London Health Sciences Centre and St. Joseph's Health Care London, that receives or acquires any rights, title or interest in the capital property, or improvements to it, or equipment, any of which were received or acquired in whole or in part with any portion of the Grant, agree to provide the Information to the City.
13. The Network shall indemnify and save harmless the City from all costs, claims, actions, demands and damages arising from the operations of the Network, except to the extent such costs, claims, actions, demands and damages are caused or contributed to by the actions, omissions or negligence of the City, its employees, servants, agents or those persons for whom the City is responsible in law. For the purposes hereof, matters arising from the operation of the Network shall extend to any matter, directly or indirectly relating to the Network, including, without limitation, injuries suffered by any person while using the facilities of the Network, if any. This indemnity shall survive termination of this Agreement for a period of five (5) years.

14. No partnership is created by this Agreement. Nothing contained in this Agreement shall be deemed to constitute the parties partners or agents or any other relationship whereby either could be held liable for any act or omission of the other. Neither of the parties shall have any authority to act for the other, except as specifically set out above, or incur any obligation or responsibility on behalf of the other.
15. This Agreement contains the entire agreement and understanding between the parties and supersedes all prior and contemporaneous oral or written agreements and representations. Any amendments shall be in writing and signed by both parties.
16. Any waiver of any provision of this Agreement will be effective only if it is in writing and signed by the Party to be bound thereby, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of either party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right. No single or partial exercise of any such right will preclude any further or other exercise of such right.
17. This Agreement shall not be assigned, in whole or in part, by the Network without the prior written consent of the City, which consent shall be in its sole and absolute discretion.
18. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
19. Any notice, direction or other communication required or contemplated by any provision of this Agreement (a "**Notice**") will be in writing and given by personal delivery, by registered mail, by overnight courier or by facsimile and addressed as follows:

To the City:

City Clerk  
300 Dufferin Ave.  
P.O. Box 5035, London, Ontario, N6A 4L9

Facsimile: 519-661-4892

To the Network:

Executive Director  
London Medical Innovation & Commercialization Network  
999 Collip Circle, Suite 101  
London, Ontario, N6G 0J3

Facsimile: 519-858-5197

20. Any party may change its address for service, its fax number, the name of the officer to the attention of whom a Notice is to be sent or the person to whom a copy of the Notice is to be sent, by written notice given to the other Parties in accordance with the foregoing.

**IN WITNESS WHEREOF** the parties have executed this Agreement by their duly authorized signing officers, as of the above date.

**THE CORPORATION OF THE CITY OF LONDON**

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

Per: \_\_\_\_\_  
Name:  
Title: City Clerk  
I/We have the authority to bind the corporation

**LONDON MEDICAL INNOVATION & COMMERCIALIZATION NETWORK**

Per: \_\_\_\_\_  
Name:  
Title:  
I have the authority to bind the corporation.

**Economic Benefits Evaluation Form – LMICN Investment**

Project Name:	Name of applicant and reference number	
Description:		
Amount of Disbursement	Requested	Recommended
<b>LMICN REVIEW</b>		
Scientific Advisory Review	Rating and Comments	Date
Business Advisory Review	Rating and Comments	Date
Governing Council Review	Rating and Comments	Date

<b>1. Compliance</b>	
1. Does the Business Plan comply with all of Section 4 of the City of London/LMICN Grant Agreement?	Yes or No
2. In particular, per Section 4 (f), is the proposed disbursement to be made for the purpose of acquisition, improvement or construction of capital property or equipment, or expenses or costs ancillary to such purpose?	Yes or No
3. Is the applicant sufficiently qualified and capable to successfully deliver the business proposal?	Yes or No
4. Is there a clear work plan & timeline to achieve the objectives of the business plan?	Yes or No
5. Does the applicant have sufficient financial strength either individually or in combination with other partners to deliver the business plan?	Yes or No

<b>2. Economic Outcomes</b>		
	Estimate	Timing
1. The projected number of full-time, sustainable jobs created by business proposal		
2. The projected number of temporary jobs created by the business proposal		
3. The amount of additional investment leveraged in the LMICN, including government, institutional, fundraising and private sector investment?		
4. Estimated future investment(s) by the business resulting from the commercialization and establishment of the business?		

**The LMICN Board confirms that they have undertaken full due diligence with respect to this business plan. The Board confirms they are confident the objectives of the business plan will be achieved and the above information is reasonable and likely to be achieved. This business plan is approved and recommended by the LMICN Board**

Signature of LMICN Governing Council Chair	Date