

PARTICIPATION AGREEMENT

between the Bank of Canada (the “**Bank**”), and the participating entity set out in the signature block below (the “**Participant**”).

The Bank has created a program known as Partnerships in Innovation and Technology (PIVOT) (the “**Program**”), with *the goal of collaborating with external partners to conduct experiments to explore how innovative solutions and technologies can be used to improve processes, streamline activities and create efficiency gains.*

By signing below the Participant agrees that the terms and conditions of this Participation Agreement shall govern its participation in the Program, including its work on the Project (as further described below).

1. Project

The Bank and the Participant will collaborate on a specific project (the “**Project**”), as further described in a written project statement (the “**Project Statement**”) agreed and approved by both parties. The Project Statement will include:

- (a) a description of the Project,
- (b) a description of the tasks or contributions to be provided by the Bank and the Participant in furtherance of the Project, including the Software and any other Background Intellectual Property, Services and deliverables as described below,
- (c) a description of any proprietary software (the “**Software**”) to be licensed by the Participant for use in the Project,
- (d) a description of any professional services (the “**Services**”) which may be provided by the Participant, including with respect to installation of and assistance with use of the Software,
- (e) a description of any deliverables which are to be produced by the Participant pursuant to the Services, including documents and reports, and including any deliverables which are to be owned by the Bank (if applicable, which shall be specifically enumerated in the Project Statement as “**Assigned Deliverables**”),
- (f) the Project timeline and milestones, and
- (g) other relevant information as required.

2. Costs and Expenses

The Bank may contribute on an “in kind” basis to the Project, through the provision of resources for information sharing, mentorship, research tools, reporting of Project results, etc., the details of which will be described in the Project Statement. There will otherwise be no payment of fees or financial compensation paid by the Bank to the Participant for its participation in the Project. Each party will be responsible for its own costs and expenses incurred in connection with the Project and participation in the Program.

3. Compliance

- 3.1 Each party will comply, and will ensure that its employees and agents comply, with all applicable laws and regulations in the course of its participation in the Program. The Participant is only responsible for complying with laws and regulations that apply to its Software and Services. The Participant does not assume any compliance obligation that properly resides with the Bank.
- 3.2 In the event that the Participant will be on-site at the Bank in the course of its participation in the Program, the Participant represents that it will comply, and will ensure that its employees and agents comply, with applicable Bank policies and procedures, as provided by the Bank to the Participant. As a condition of a particular Project, the Bank may require the Participant and the Participant’s employees and agents engaged in the Project, to obtain a security clearance through the Bank in accordance with the Bank’s normal procedures.

4. Confidentiality and Data Protection

- 4.1 Each party (the “receiving party”) acknowledges that all information which it receives from the other party (the “disclosing party”) in the course of or in connection with the Project and

participation in the Program is to be considered as confidential in nature for the purposes of this Agreement (collectively "**Confidential Information**"). However, information is not to be considered as "Confidential Information" if it is:

- (a) generally available to the public or becomes so available through no fault of the receiving party;
- (b) already known to, in the possession of, or developed by the receiving party, as documented by reasonably convincing written records possessed by the receiving party prior to the disclosure by the disclosing party;
- (c) received by the receiving party in good faith and on a non-confidential basis from a third party who lawfully obtained and disclosed such information to the receiving party; or
- (d) expressly authorized for disclosure as set out in Section 10 of this Agreement, or with the express written consent of the disclosing party.

4.2 The receiving party shall keep the Confidential Information strictly confidential. The receiving party shall not use the Confidential Information for any purpose except to permit the receiving party to fulfil its obligations under this Agreement. The receiving party shall not provide or otherwise make available the Confidential Information, in whole or in part, to any person other than those of the receiving party's employees, agents, subcontractors, and consultants, if any, who have a need to know it in order to permit the receiving party to fulfil the obligations under this Agreement.

4.3 Notwithstanding anything to the contrary contained herein, the receiving party may disclose the Confidential Information pursuant to a request or order made pursuant to applicable law, regulation or legal process, provided that:

- (a) the receiving party gives the disclosing party prompt written notice of such request or order so that the disclosing party has an opportunity to seek a protective order, confidential treatment, or other appropriate remedy to such request or order;
- (b) the receiving party provides the disclosing party with all reasonable assistance, at the disclosing party's expense, in opposing such required disclosure or seeking a protective order or confidential treatment for all or part of such Confidential Information; and
- (c) the receiving party discloses only such portion of the Confidential Information as is either permitted by the disclosing party or required by the court, tribunal, governmental agency or other authority, subject to any protective order or confidential treatment obtained by the disclosing party.

4.4 The receiving party acknowledges that improper disclosure or use of the Confidential Information may cause irreparable harm which may not be adequately compensated by damages. The receiving party agrees that in addition to all other remedies that the disclosing party may have, the disclosing party may seek from any court of competent jurisdiction injunctive relief in respect of any actual or threatened use or disclosure contrary to the provisions of this Agreement.

4.5 In addition to and without limitation of the obligations under this Section 4, the parties agree and acknowledge that the Bank's Confidential Information may include data that is stored in, integrated with, or imported into the Software by the Bank or data which results from the Bank's use of the Software (the "**Bank Data**"). The Participant will comply with any particular data handling requirements as set out in the Project Statement.

5. **Property Rights**

5.1 **Definitions.** For purposes of this Agreement:

"**Background Intellectual Property**" means Intellectual Property of a Party that is being contributed for use in the Project (as contemplated in the Project Statement) and which is proprietary to that Party and was conceived, created, or developed prior to, or independent of, any research performed pursuant to the Project hereunder. For greater certainty, the

Software (together with any adaptations, modifications or derivative works thereof) is the Background Intellectual Property of the Participant; and the Bank Data is the Background Intellectual Property of the Bank.

“Intellectual Property” means all intellectual property or similar proprietary rights, whether registered or unregistered, including patents, utility models, rights to inventions, copyright, trademarks and service marks, trade names and domain names, rights in designs, rights in computer software, database rights, rights to preserve confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted) renewals and extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

- 5.2 The Background Intellectual Property of each party shall remain the exclusive property of such party. The owner of such Background Intellectual Property hereby grants to the other party, for the term of this Agreement, a royalty free, non-exclusive, non-transferable right to use the Background Intellectual Property solely for research and development purposes in connection with the Project, and not for any commercial or production use. No other rights or licenses are granted by a party to the other party in Background Intellectual Property.
- 5.3 The Bank shall maintain and reproduce any copyright or other notices that appear in or on the Software. The Bank shall not: (i) make copies of the Software (except as reasonably necessary for use of the Software in conjunction with the Project); or (ii) adapt, reverse engineer, decompile, disassemble or modify the Software in whole or in part.
- 5.4 If any new Intellectual Property Rights are created by the Participant in the provision of the Software or as an output of the Services (excluding the Assigned Deliverables), then all such Intellectual Property Rights shall vest in the Participant.
- 5.5 All Intellectual Property Rights in the Assigned Deliverables shall vest in the Bank. The Participant will waive and cause its personnel to waive their respective moral rights in and to any works in the Assigned Deliverables. The Participant shall, at the request of the Bank and at the Bank’s cost, execute all such documents and do all such further acts as reasonably requested by the Bank to confirm and perfect such ownership rights in the Assigned Deliverables. In no event will the Software or its associated user documentation be considered an Assigned Deliverable.
- 5.6 If the Bank, at its option, provides suggestions, comments or other feedback about its experience with the Software (“**Feedback**”), the Bank grants to the Participant a royalty-free, fully paid, sub-licensable, transferable, non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import and otherwise exploit such Feedback (including by incorporation of such feedback into the Software), without restriction. Feedback is provided “as is” without any warranty or condition of any kind, whether express or implied.
- 5.7 Upon the completion of the Project or sooner termination of this Agreement by either party for any reason:
 - (a) the Participant shall return to the Bank, promptly on request by the Bank, all Bank Data, information and other material supplied to the Participant by the Bank and all Assigned Deliverables and any other all material prepared by the Participant in the performance of the Services hereunder; and
 - (b) the Bank shall return to the Participant, promptly on request by the Participant, all information and other material supplied to the Bank by the Participant, and shall cease use of the Software and destroy all copies of Software in its possession.

6. Representations and Warranties.

- 6.1 The Participant represents and warrants that:
- (a) the Participant is legally and professionally qualified and competent to perform the Services; and will perform the Services conscientiously, without delay, to the best of its ability,
 - (b) if the Participant is a non-resident, the Participant will comply with Canadian immigration requirements applicable to non-residents entering Canada to work temporarily in fulfillment of the Agreement. The Participant will be responsible for compliance with all Canadian immigration requirements and for all costs of compliance and all costs incurred as a result of any non-compliance with immigration requirements,
 - (c) the Participant will have at all material times the right to assign and transfer (or license, as applicable) the rights as required by the Property Rights section of this Agreement, failing which the Participant shall, as the Bank's sole remedy, indemnify the Bank pursuant to Section 7 of this Agreement,
 - (d) the Software and the media on which the Software is delivered will be free from viruses and other malicious code, and
 - (e) use of the Software as authorized under this Agreement with the Bank's own technology and software will not cause such Bank technology or software to be subject to any open source license that could be interpreted to impose a requirement that as a condition of use, modification or distribution, such software be (1) disclosed or distributed in source code form, (2) licensed for the purpose of making derivative works, or (3) redistributable at no charge.
- 6.2 The warranties contained in this Agreement are in lieu of all other warranties or guarantees, express or implied, including any implied warranties arising under law or statute or from a use for a particular purpose or usage of trade. The Participant does not warrant that the Software, Services or deliverables provided hereunder shall operate without interruptions or be error free.

7. Intellectual Property Indemnity

- 7.1 Provided the Bank uses the Software, Services and deliverables consistent with the terms and conditions of the Agreement and complies with this Section 7, the Participant undertakes to defend the Bank from and against any claim or action that the Software, Services or deliverables (or any part thereof) infringes the Intellectual Property Rights of a third party (a "**Claim**") and shall fully indemnify and hold harmless the Bank from and against any losses, damages, costs (including reasonable legal fees) and expenses incurred by or awarded against the Bank as a result of, or in connection with, any such Claim.
- 7.2 If any third party makes a Claim, or notifies the Bank of its intention to make a Claim, the Bank shall:
- (a) as soon as reasonably practicable, given written notice of the Claim to the Participant, specifying the nature of the Claim in reasonable detail;
 - (b) not make any admission of liability, agreement, settlement or compromise in relation to the Claim without the prior written consent of the Participant (such consent not to be unreasonably withheld or delayed); and
 - (c) reasonably co-operate (at the Participant's expense to the extent that costs are incurred at the Participant's direction) in the defence of the Claim.
- 7.3 If such claim is made or, in the Participant's opinion, is likely to be made, then the Participant, at its option, may: (1) modify the Software, Services or deliverables; (2) obtain rights for the Bank to continue using the Software, Services or deliverables; or (3) terminate this Agreement, including the license to use the Software, but in no event shall termination relieve the Participant from its

obligation to defend and indemnify the Bank as set forth herein.

- 7.4 This indemnification obligation does not apply to the extent a claim is based on the Bank's combination of the Software, Services or deliverables with other technology, or modification to the Software, Services or deliverables if such claim would not have been made but for the Bank's combination or modification.

8. **Limitation on Liability**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (A) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE PROGRAM OR THE PROJECT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) IN NO EVENT WILL A PARTY'S LIABILITY EXCEED AN AMOUNT EQUAL TO \$1000. THE FOREGOING LIMITATIONS ON LIABILITY SHALL NOT APPLY TO CLAIMS ARISING FROM: (I) BREACH OF THE OBLIGATIONS UNDER SECTION 4 WITH RESPECT TO CONFIDENTIAL INFORMATION AND BANK DATA; (II) A PARTY'S MISUSE OR MISAPPROPRIATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; (III) THE INTELLECTUAL PROPERTY INDEMNITY OBLIGATIONS UNDER SECTION 7 AND/OR (IV) THE GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF EITHER PARTY.

9. **Term and Termination**

- 9.1 The term of this Agreement will begin on the date of signature by the Bank below (the "**Effective Date**"), and will continue for up to six (6) months, as agreed by the parties.
- 9.2 Either party may terminate this Agreement without cause on at least ten (10) business days' written notice to the other party.
- 9.3 Those obligations of the parties which by their nature are intended to survive, including those relating to indemnity, property rights, confidentiality, and compliance with applicable law, shall continue beyond the termination or expiration of this Agreement.

10. **Project Results and Disclosure**

- 10.1 The Participant may disclose the fact that it is participating in the PIVOT Program with the Bank of Canada, provided that in doing so it follows any trade-mark usage guidelines provided by the Bank with respect to the Bank's name and logo.
- 10.2 Upon the completion of a Project, the parties may decide to jointly prepare a post-Project report (the "**Project Report**"). The Participant shall be entitled to share the Project Report with third parties, including for marketing and promotional purposes.
- 10.3 The Participant shall not issue any press release or make any other public statement, or communicate with the media, concerning the Project and its participation in the Program, except as expressly permitted above. The Bank may revoke the permissions granted in this Section 10 at any time, upon written notice to the Participant. Upon receipt of such notice, the Participant shall immediately stop any publication or distribution to third parties of the materials containing the Bank's name, logo or trade-mark, including the Project Report.

11. **Insurance**

- 11.1 The Participant shall, if applicable and required by law:
- (a) purchase, or otherwise arrange at its own expense for, Workplace Safety and Insurance coverage and keep it in force at all times during the performance of the Project; and
 - (b) make all payments or deductions required by applicable provincial or federal law in respect

of Workplace Safety and Insurance coverage, Canada Pension Plan, Quebec Pension Plan, and employment insurance and all other applicable social benefit programs.

12. General

- 12.1 The Bank is subject to both the Privacy Act and the Access to Information Act. In accordance with both Acts, the Bank must respond to requests for information, complaints, investigations or audits made under these Acts in the legislated time frame as applicable. In circumstances where the Bank is required to disclose information pursuant to either of these Acts, the Participant shall provide (or cause to be provided) to the Bank all relevant records, excluding any records that may be withheld pursuant to the terms of the governing legislation, to allow and permit the Bank to respond to such requests, within the legislated time frame. The Bank shall provide notice to the Participant as soon as possible of any such request and disclosure obligation.
- 12.2 This Agreement, together with the Project Statement, embodies the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement supersedes and replaces any and all written or oral arrangements, correspondence, conversations and documents made or exchanged between the parties with respect to the subject matter of this Agreement prior to the date of this Agreement. No amendment of this agreement will be effective unless it is in writing and signed by the parties.
- 12.3 The Participant shall not subcontract this Agreement or any part of this Agreement, or any of its obligations under this Agreement without the prior written consent of the Bank..
- 12.4 The Participant's relationship to the Bank is that of independent contractor and not that of an agent or employee of the Bank.
- 12.5 The Participant acknowledges that its participation in the Program does not obligate the Bank to purchase any goods and service, or otherwise enter into any further business relationship, with the Participant. Any subsequent purchase or license for commercial purposes shall be the subject of a separate agreement and may have different terms and conditions than those contained herein.
- 12.6 In the event that one or more terms of this Agreement becomes or is declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, each such term will be null and void and will be deemed deleted from this Agreement. All remaining terms of this Agreement will remain in full force and effect.
- 12.7 This Agreement will be governed by and is to be construed in accordance with the laws applicable in the Province of Ontario. The Courts of the Province of Ontario will have exclusive jurisdiction over any claims arising under this Agreement.

Acknowledging agreement with the above the parties have executed this Agreement.

BANK OF CANADA
234 Wellington Street
Ottawa, ON K1A 0G9

[PARTICIPANT NAME]

Address: _____

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date: