


- 3.2 The Grant funds shall be disbursed to the Recipient by MTI in accordance with the payment schedule and Project Completion Date set forth in Appendix B hereto, subject to the terms and conditions of this Agreement.
- 3.3 If any portion of the Grant is to be used by Recipient to purchase equipment, machinery, fixtures, or other tangible personal property (collectively "Equipment"), then Recipient shall, at the request of MTI, and prior to disbursement of any Grant funds, grant MTI a first priority security interest in the Equipment pursuant to the terms of a written Security Agreement that is satisfactory in both form and substance to MTI (the "Equipment Security Agreement").
- 3.4 Unless otherwise agreed to by MTI, all grant award disbursements for Equipment shall be (a) made jointly payable by MTI to Recipient and Recipient's Equipment supplier, and (b) subject to satisfaction of such other conditions as MTI may require to ensure that the portion of the grant set aside for the purchase of Equipment is in fact used by, and enables, Recipient to purchase the Equipment.
- 3.5 MTI shall not disburse any Grant funds following written notice by MTI to Recipient of Suspension or Termination of Grant for Project Failure under Section 7.

4.0 TERM OF AGREEMENT

- 4.1 The term of the Agreement shall commence on the Effective Date and shall terminate on the Termination Date (hereinafter "Termination Date"), which is the date five years following the Project Completion Date. The Project Completion Date is the date selected by Recipient for completion of the Project in the Application, except when MTI establishes a revised Project Completion Date in a written notice to Recipient, in which case that revised date shall be considered the Project Completion Date.
- 4.2 The Termination Date may be accelerated by MTI or Recipient pursuant to the provisions of Section 7.

5.0 REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient makes the following representations and warranties to MTI, which shall be deemed to survive until the Termination Date:

- 5.1 The Recipient has the authority to execute and deliver this Agreement and any other documents, certificates or agreements required by MTI to be executed in connection with this Agreement, including, without limitation, the Security Agreement, and to execute the transactions contemplated thereby.
- 5.2 The Recipient is a [corporation, partnership, sole proprietorship, limited liability company or other business entity] in good standing to do business under the laws of the State of Maine, and has authority to conduct its business. 
- 5.3 Recipient shall use its best efforts to assure that all activities described in the Application are implemented, except as described in this Agreement.
- 5.4 Recipient has disclosed any relationship, direct or indirect, between Recipient, its Officers, Directors, members or employees, and MTI, and is in compliance with the conflict of interest provisions of 5 M.R.S.A. Chapter 407, Section 15307.

6.0 ADDITIONAL COVENANTS

- 6.1 Recipient will maintain a place of business, as well as good standing to do business, in the State of Maine throughout the term of this Agreement.

- 6.2 Recipient shall locate all business and manufacturing operations and supporting product development or process improvement activities resulting from any product, service or process funded by this Agreement in the State of Maine throughout the term of this Agreement, except as expressly agreed in writing by MTI, in its sole discretion.
- 6.3 Recipient will contribute all payments and services designated as Matching Funds in Recipient's Application, consistent with the payment schedule outlined in Appendix B.
- 6.4 Recipient shall undertake all work described in the Appendix A in good faith and with due diligence, and shall expend Grant funds only for the purposes and in the amounts detailed in the Application or by subsequent written approval of MTI. Recipient shall notify MTI immediately of any event which reduces or is likely to reduce the Recipient's ability to undertake all work described in Appendix A Project consistent with the Appendix B Project Completion Date.
- 6.5 If Recipient or its successor-in-interest is a partnership, association or joint venture, by the Recipient's execution of this Agreement each person comprising such partnership, association or joint venture shall be jointly and severally bound for all the obligations of Recipient under the Agreement.
- 6.6 Recipient shall maintain all records needed to document the financial and other information to be reported to MTI pursuant to this Agreement, and shall provide any additional records reasonably requested by MTI until the Termination Date of this Agreement.
- 6.7 Recipient shall submit a final report to MTI containing the information required by Appendix C promptly following Project Completion. Recipient shall promptly respond to survey or other information requests made of grant Recipients by MTI.
- 6.8 Recipient shall notify MTI of any material change in Recipient's legal status, financial status, or compliance status with federal and state laws, or of any material change in the status of the Project that would have a significant adverse effect on Recipient's ability to implement the Project as described in the Application and this Agreement.
- 6.9 Recipient shall notify MTI at least 60 days prior to any proposed sale, license, or other transfer by Recipient that would result in Recipient's non-compliance with Sections 6.1 or 6.2 of this Agreement. Recipient's notice shall include a proposal for repayment of all Grant funds disbursed under this Agreement prior to such a sale, license or transfer event if the result of that event would be non-compliance with Sections 6.1 or 6.2 of this Agreement.
- 6.10 The Recipient shall notify MTI promptly following the successful commercialization of any product ("Product"), service ("Service") or process ("Process) related to the Technology or Intellectual Property created by Recipient during the Project. This notification obligation shall continue for a period of five years following the completion of the Project set forth in Appendix B. Successful commercialization includes the introduction of any Product, Service or Process related to the Project into the commercial market either directly by Recipient or through licensing of Intellectual Property. Development of a Product, Service or Process used exclusively by Recipient within Recipient's business or affiliated companies (collectively referred to as "Business Process") shall be considered introduction into the commercial market for purposes of this Agreement.

7.0 EVENTS OF DEFAULT; REMEDIES UPON DEFAULT

- 7.1 MTI, in its sole discretion, may suspend or terminate the Grant upon the occurrence of any one or more of the following events of default by Recipient:

- a) The failure of Recipient to achieve a project endpoint within the anticipated timeframe described in Appendix B; or
- b) The failure by Recipient to maintain a place of business, as well as good standing to do business, in the State of Maine throughout the term of this Agreement;
- c) The failure by Recipient to locate all business and manufacturing operations and supporting product development or process improvement activities resulting from any product, service or process funded by this Agreement in the State of Maine throughout the term of this Agreement, except as otherwise expressly agreed in writing by MTI;
- d) Material change in Recipient's legal status, financial status, key personnel, or compliance status with federal and state laws, or a material change in the Project that would have a significant adverse effect on Recipient's ability to implement the Project as described in the Application;
- e) Recipient's expenditure of Grant funds for purposes that are not detailed in the Application or by subsequent written approval of MTI;
- f) If any portion of the Grant is used to purchase Equipment, then any Default under the Security Agreement (as the term "Default" is defined therein);
- g) Any default by Recipient under any other agreement between MTI and Recipient; or
- h) Recipient's breach of any other terms of this Agreement.

7.2 In the event of Recipient default, MTI, in its sole discretion, may elect to suspend or terminate the Grant.

a) If MTI elects to suspend the Grant, MTI immediately may withhold all undisbursed grant funds pending reinstatement of the Grant without prior notice to Recipient. MTI shall provide Recipient with written notice of MTI's decision to suspend the Grant and the reasons therefore promptly after the MTI suspension decision. The written notice of suspension shall describe the specific actions which Recipient must complete successfully to secure reinstatement of the Grant award, and the deadline for such remedial actions.

b) If MTI elects to terminate the grant, MTI shall provide Recipient with written notice of the termination decision. MTI may elect, in its sole discretion, to offer Recipient an opportunity to cure the underlying cause of the termination. MTI may provide for automatic termination in any MTI suspension decision as a remedy for Recipient failure to cure the underlying cause of the suspension.

7.3 In the event of MTI suspension or termination of the Grant, MTI, in its sole discretion, may elect to require Recipient to repay some or all of the funds disbursed by MTI under this Agreement by sending a written notice to Recipient demanding repayment. All such amounts, once demanded by MTI, shall accrue interest at the annual rate of the prime rate as published in the Wall Street Journal plus 2% until paid.

7.4 In the event of MTI suspension or termination of the Grant, Recipient shall pay on demand all MTI's costs, fees, expenses or damages of any kind incurred by or imposed upon MTI in connection with or as a consequence of Recipient's breach of this Agreement. Without limiting the foregoing, Recipient shall pay all MTI's actual costs of collection and attempted collection, including, without limitation: (1) those expenses incurred or paid to protect, preserve, collect, lease, sell, repair, improve, advertise, locate, take possession of, liquidate or otherwise deal with any collateral under the Equipment Security Agreement; (2) expenses of dealing with any person or entity in any bankruptcy proceeding; (3) all out-of-pocket expenses incurred for MTI's attorney and paralegal fees,

disbursements, and costs, all at such rates and with respect to such services as MTI in its sole discretion may elect to pay (as such rates may vary from time to time during the course of the performance of such services) including the costs of attorneys who are employees of MTI; and (4) the costs of appraisers, engineers, investment bankers, environmental consultants and other experts that may be retained by MTI in connection with such collection efforts. Such costs will be added to the unpaid balance of MTI Grant.

8.0 LIABILITY/INDEMNITY

- 8.1 Neither this Agreement, nor any act of the Parties shall be deemed to create any relationship of third-party beneficiary, or of principal and agent, or of limited or general partnership, or of joint venture.
- 8.2 Recipient agrees to indemnify, defend and hold harmless MTI, its Officers, Directors and employees, at Recipient's cost and expense, from and against any and all losses, costs, liabilities, costs, fees, expenses and damages including, without limitation, those listed in Section 7.4 of this Agreement, incurred by or imposed upon MTI in connection with or as a consequence of any claims (including, but not limited to third party claims) suits, actions, demands, or judgments arising out of or resulting from any breach of Recipient's obligations under this Agreement, or any unlawful act or omission by Recipients, its Officers, Directors, Shareholders, members, affiliates, representatives or employees.

9.0 PUBLIC ACKNOWLEDGEMENT OF MTI SUPPORT

- 9.1 Recipient's press releases and other public descriptions or discussion of this project will acknowledge MTI's participation and support.
- 9.2 Recipient shall use its best efforts to cooperate with MTI in publicizing the Project and its benefits for the people of Maine.

10.0 MISCELLANEOUS

- 10.1 This Agreement shall be construed in accordance with the laws of the State of Maine without reference to conflict of law provisions.
- 10.2 Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand or mailed by certified or registered mail, postage prepaid as follows:

If to:	If to:
_____	Maine Technology Institute
_____	8 Venture Avenue
_____	Brunswick Landing
_____	Brunswick, ME 04011



- 10.3 The Parties hereto acknowledge that this Agreement sets forth the entire agreement of the Parties as to the subject matter hereof and shall not be modified except by the execution of a written instrument signed by the Parties.
- 10.4 The provisions of this Agreement are severable, and in the event that any provision of this Agreement shall be determined to be invalid or unenforceable under any controlling and applicable body of law, such invalidity or unenforceability shall not in any way affect the validity of the enforceability of the remaining provisions hereof.

10.5 This Agreement is not assignable to any other party, without the express written consent of the other Parties to this Agreement.

- Appendix A. Seed Grant Application and Form B Budget
- Appendix B. Project Completion Date and Award Schedule
- Appendix C. Final Report Form and Certification

Additional Appendices

_____	_____
_____	_____
_____	_____

ACCEPTED AND AGREED TO:

MAINE TECHNOLOGY INSTITUTE

_____	_____
MTI Signature	Title

_____	_____
Printed Name	Date

[RECIPIENT COMPANY NAME]

_____	_____
Recipient Signature	Title

_____	_____
Printed Name	Date

APPENDIX C: FINAL REPORT FORM AND CERTIFICATION

The Recipient agrees to submit a Final Report which includes the following:

1. Appendix C: Reporting Narrative - Project narrative report addressing questions outlined within Appendix C designed to understand the results of the project and next steps to be taken toward commercialization of the technology.
 - a. Detail the specific activities and results of the completed project. Identify how they compare with the original goals of the project.
 - b. Detail the next steps relating to commercialization of the technology including the funding of those activities.
 - c. Discuss and explain any significant variances in comparison to the approved budget if necessary.
2. Appendix C: Summary of Expenses – Compare actual expenses to the approved budget for both MTI and all Match Funding.
3. Supporting Documents – Provide a log of hours and payroll verification for project personnel valued at a total greater than \$1,000 per individual.
4. Supporting Documents – Provide invoices/receipts or proof of payment for all individual non-personnel related project expenditures greater than \$1,000.
5. Additional information specific to the approved project required by MTI to include:

By signing this form, I certify that, to the best of my knowledge that: (1) activities were conducted as described in the Application (Appendix A) and Budget Summary (Appendix A – Form B), unless otherwise indicated in writing, and summarized in the above Narrative; (2) all expenses incurred as part of the Project have been documented as required by MTI, and any significant variances to the proposed budget have been reported and documented as required by MTI; and (3) the Company shall maintain all financial and technical documents pertaining to this Grant and this Final Report until the Agreement Termination Date.

Check here if you are considering applying for an MTI Seed Grant, Development Loan or SBIR/STTR.

Recipient Signature

Title

Printed Name

Date

