

BROCK UNIVERSITY (“BROCK”)
TERMS FORMITACS ACCELERATE INTERNSHIPS AND
MITACS ELEVATE POSTDOCTORAL FELLOWSHIPS

Sponsoring Organizations must complete a Mitacs Project Term Sheet available through Brock University’s Office of Research Services. For those internships requiring a Non-Disclosure Agreement, please contact the office of the Office of Research Services.

Email: piipa-ors@brocku.ca

TERMS FOR GRADUATE STUDENT & POST DOCTORAL EDUCATIONAL PROJECTS AT BROCK UNIVERSITY (“BROCK”) FUNDED THROUGH THE MITACS-ACCELERATE INTERNSHIP PROGRAM (“MITACS ACCELERATE”) & THE MITACS-ELEVATE FELLOWSHIP PROGRAM (“MITACS ELEVATE”) AS ADMISTERED BY MITACS (the “Terms”)

1. Mitacs Program Summary

Mitacs Accelerate: The Mitacs Accelerate Internship Program connects Canadian businesses with university researchers in all disciplines who have advanced levels of expertise in areas that address vital research opportunities. It partners student interns and postdoctoral fellow interns (“Interns”) and their supervising researchers (“Academic Supervisors”) with industry, hospitals, municipalities, and not-for-profit organizations (“Sponsoring Organization”). These connections will allow partners to utilize new tools, technologies and methodologies to develop solutions for issues that are vital to an organization’s success. Sponsoring Organizations benefit by gaining access to advanced research and resources while Interns and Academic Supervisors benefit from new research opportunities.

Mitacs Elevate: The Mitacs Elevate is a unique Postdoctoral Fellowship program supports post-doctoral fellow (“PDFs”) to work on applied research projects. PDFs lead the collaboration and spend about half of their time at the university and half at the relevant Sponsoring Organizations. Mitacs supports PDFs with business skills training so they are well positioned to take on R&D leadership roles at the end of the program. PDFs also work with their Academic Supervisors.

2. Mitacs Accelerate and Elevate Objectives

The objective of the Mitacs Accelerate and Elevate programs is to initiate and develop relationships between Sponsoring Organizations operating require advanced university-based research resources and skills to tackle applied research projects. Brock University facilitates Mitacs Accelerate and Elevate to accomplish its objectives by collaborating with industry partners on research projects involving the conception, application and commercialization of new research-based tools, techniques and technologies.

3. Confidentiality

It is expected that a Sponsoring Organization will not provide any confidential information to the Accelerate Intern or Elevate PDF who will work on a project receiving funding from Mitacs (“Project”). In the event the Project requires the exchange of confidential information, however, Brock’s standard Mitacs Collaborative Research Agreement or a Non-Disclosure Agreement may be used.

4. Ownership and Use of Intellectual Property

“**Background Intellectual Property**” means, individually and collectively, all Intellectual Property that is relevant to this specific project and has been discovered, developed, produced or obtained by a Party prior to or outside of the Project which is disclosed to the other Party for the purpose of the Project.

“Foreground Intellectual Property” means, individually and collectively, all new or potential Intellectual Property developed by a Party as a direct result of the Project during the Term, including any improvement, enhancement or modification to Background Intellectual Property, including, without limitation, the Project Results. “Project Results” means any research results produced during the course of the Project.

“Intellectual Property” means intellectual property rights in any jurisdiction, whether registered or not, including: (i) inventions, pending patent applications and patents which may be issued from current applications (including divisionals, reissues, renewals, re-examinations, continuations, continuations-in-part and extensions) and issued patents; (ii) trade-marks, service marks, logos, trade dress, trade names, business names, domain names and other indicia of origin; (iii) copyrights and all other rights of authorship and all applications and registrations in connection therewith; and (iv) industrial designs, design patents and similar rights and all applications, registrations and renewals in connection therewith.

Ownership of Background Intellectual Property. All right, title and interest in each Party’s Background Intellectual Property is and shall remain the sole and exclusive property of such Party.

License to use Background Intellectual Property. Each Party hereby grants a royalty-free, non-exclusive license to each other Party and their respective Affiliates to use, copy and modify its Background Intellectual Property solely as necessary for such other Party to fulfill its obligations in respect of the Project under and in accordance with this Agreement and to fully utilize any rights it may have, directly stemming from this Agreement, in Foreground Intellectual Property that incorporates and/or is dependent upon such Background Intellectual Property.

Ownership of Foreground Intellectual Property. The Sponsoring Organization shall own any Intellectual Property developed during the Project except for:

1. Any Intellectual Property, subject matter or Project Results that are covered by one or more separate agreements to which Brock and the Sponsoring Organization are parties where such agreement is effective during the term of the Project;
2. Any tools, techniques, data, Intellectual Property or other subject matter owned by a third party that are used to conduct the Project;
3. The copyright in the materials produced by an intern or Academic Supervisor in relation to the Project.

Brock, Academic Supervisors and Intern will avoid the use of any Intellectual Property that is personally known (where “personally known” means without conducting a search or any records or databases or undertaking any specific investigations) to them to be owned by a third party and not authorized for use in the Project. If such third party Intellectual Property is inadvertently used or if the use of the third party Intellectual Property cannot be avoided, then when the use of such Intellectual Property become personally known, the participant shall promptly inform the other participants and cease any further use.

Academic Use License. Notwithstanding anything in this Section 4 and subject to the applicable terms of confidentiality for each Project, Brock shall retain a non-exclusive, royalty-free,

worldwide perpetual right to use the Foreground Intellectual Property for academic research, publication, and educational purposes.

5. Publications.

Should Brock intend to publish some or all of the Project Results, including presenting Project Results from the Project at symposia, professional meetings, or for academic evaluation or other purposes, or from publishing thesis, course reports, or in journals or other publications (“Publications”), Brock will give Sponsoring Organization at least 30 days’ advance notice of their intent to do so and will provide Sponsoring Organization with a copy of the intended publication for Sponsoring Organization’s review and comments. Sponsoring Organization may request that any Confidential Information, be deleted from the publication. Sponsoring Organization may further request that publication be delayed for 60 days or such further period as may be reasonably necessary to protect their commercial interests in their product and/or the Project Results. However, Sponsoring Organization may not request an indefinite delay of publication. Brock will acknowledge the support of Sponsoring Organization in all such publications.

This Agreement shall not impose restrictions on the content or handling, for academic purposes, of a thesis of a student participant in the Project (whether paid or unpaid). The Sponsoring Organization may request, by written notice to Brock, that the student participant delay publication or public disclosure of a thesis for a period not to exceed sixty (60) days from the date of intended publication or disclosure, only if such publication or disclosure would prevent protection or commercialization of Sponsoring Organization’s intellectual property. Sponsoring Organization, acting reasonably, may also request that a thesis defence be held in camera and that the members of the thesis examination board, including the external examiner(s), be required to sign a non-disclosure agreement. The parties acknowledge that, except as otherwise provided by this Agreement, this Agreement does not obligate the student participant to delay publication or disclosure of a thesis. Nothing in this Agreement shall delay the defence of a student’s thesis.

The author of any Publications, excluding software code and related technical documentation developed as part of the Project research, will retain copyright therein in accordance with the applicable policies and collective agreements of Brock.

- 6. Equipment.** Brock will own any equipment or material purchased by, or provided to, Brock as part of the Project.

7. Warranty Disclaimer and Indemnity

The Sponsoring Organization acknowledges that the Project is experimental and exploratory in nature and that no promise is made with respect to the achievement of any particular results, desired or otherwise, in a given Project. The Sponsoring Organization agrees to undertake its own due diligence prior to any use of any Intellectual Property. No warranty or representation is given with respect to the Foreground Intellectual Property or Project Results including, without limitation, any implied warranties as to merchantability, fitness for a particular purpose or of non-infringement. Brock, the Academic Supervisor and the Intern expressly disclaim all obligations and liabilities for damages of any kind or nature whatsoever including, but not limited to, direct, indirect, special, incidental, punitive and consequential damages, solicitors’ and experts’ fees, and

court costs (even if they have been advised of the possibility of such damages, fees or costs), arising out of or in connection with the Project or any use in any manner whatsoever of any Project Results or any Intellectual Property.

The Sponsoring Organization will hold harmless and indemnify Brock, its Board of Governors, executives, faculty, staff, employees, agents, successors and assigns (including without limitation the Academic Supervisor and the Intern) from and against any and all claims or judgments, including all associated legal fees, expenses and disbursements actually incurred, on a solicitor and own client basis, from or arising out of the use by the Sponsoring Organization, or anyone for whom the Sponsoring Organization is in law responsible or any of their successors or assigns, of Foreground Intellectual Property or the Results of a given Project, including without limitation any damages of any kind or nature whatsoever (including but not limited to direct, indirect, special, incidental, punitive or consequential), losses of any kind or nature (including without limitation loss of revenues, profits, savings, business, data or records) or costs arising in any manner whatsoever (including arising from or incidental to any product liability or other lawsuit, claim, demand or other action brought), directly or indirectly, from or out of any use whatsoever of Intellectual Property or the Results of the Project.

- 8. Communications.** Nothing in these Terms will be construed as conferring a right to the Sponsoring Organization to use, in advertising, publicity, promotional or sales literature, or otherwise, the Brock's name or any adaptation of their trademarks, without the prior written consent of Brock, such consent not to be unreasonably withheld. Sponsoring Organization agrees that Brock may publish the title of the Project, the name of Sponsoring Organization, the value of the Project, and the name(s) of the Principal Investigator(s) in its records and reports of research funding provided by external Sponsoring Organizations.

9. Dispute Resolution

In the event of a dispute arising out of or relating to these Terms, including any question regarding its existence, validity or termination, the parties shall first seek settlement of the dispute by mediation in accordance with the National Mediation Rules of the ADR Institute of Canada, which Rules are deemed to be incorporated by reference into this clause. The place of mediation shall be Toronto, Ontario, Canada. The language of the mediation shall be English. If the dispute is not settled by mediation within 30 days of the commencement of the mediation, or such further period as the parties agree in writing, the dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the ADR Institute of Canada, which Rules are deemed to be incorporated by reference into this clause. The Seat of Arbitration shall be Toronto, Ontario, Canada. The language of the arbitration shall be English.