Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [BTCRD/34/2015]

On July 21, 2015, the Department of Business, Tourism, Culture and Rural Development received your request for access to the following records:

"The loan agreement, plus any addendums, revisions or amendments made to the agreement, related to this press release: http://www.releases.gov.nl.ca/releases/2015/btcrd/0721n01.aspx"

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Business, Tourism, Culture and Rural Development to provide access to some of the requested information. In particular, access is granted to the following records:

The Contribution Agreement between the Department of Business, Tourism, Culture and Rural Development and Verafin Inc.

Access to the remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

Sections: 35(1)(g), 39(1)(a)(ii), 39(1)(b), 39(1)(c)(i), 39(1)(c)(ii), 40(1)

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the
Act. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement’s website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 729-3356 or by email at wcomeau@gov.nl.ca.

Sincerely,

Wayne Comeau

ATIPP Coordinator

Enclosures
Disclosure harmful to the financial or economic interests of a public body

35. (1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose

(a) trade secrets of a public body or the government of the province;

(b) financial, commercial, scientific or technical information that belongs to a public body or to the government of the province and that has, or is reasonably likely to have, monetary value;

(c) plans that relate to the management of personnel or the administration of a public body and that have not yet been implemented or made public;

(d) information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;

(e) scientific or technical information obtained through research by an employee of a public body, the disclosure of which could reasonably be expected to deprive the employee of priority of publication;

(f) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations;

(g) information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body; or

(h) information, the disclosure of which could reasonably be expected to be injurious to the ability of the government of the province to manage the economy of the province.

(2) The head of a public body shall not refuse to disclose under subsection (1) the results of product or environmental testing carried out by or for that public body, unless the testing was done

(a) for a fee as a service to a person or a group of persons other than the public body; or

(b) for the purpose of developing methods of testing.

Disclosure harmful to business interests of a third party

39. (1) The head of a public body shall refuse to disclose to an applicant information

(a) that would reveal

   (i) trade secrets of a third party, or

   (ii) commercial, financial, labour relations, scientific or technical information of a third party;

(b) that is supplied, implicitly or explicitly, in confidence; and

(c) the disclosure of which could reasonably be expected to

   (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,

   (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,

   (iii) result in undue financial loss or gain to any person, or
(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

(2) The head of a public body shall refuse to disclose to an applicant information that was obtained on a tax return, gathered for the purpose of determining tax liability or collecting a tax, or royalty information submitted on royalty returns, except where that information is non-identifying aggregate royalty information.

(3) Subsections (1) and (2) do not apply where

(a) the third party consents to the disclosure; or

(b) the information is in a record that is in the custody or control of the Provincial Archives of Newfoundland and Labrador or the archives of a public body and that has been in existence for 50 years or more.

Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.
CONTRIBUTION AGREEMENT

THIS AGREEMENT made at the City of St. John’s, in the Province of Newfoundland and Labrador, as of the 31st day of March, 2015.

BETWEEN:

HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR,
as represented by the Minister of Business, Tourism, Culture and Rural Development;

(hereinafter the “Minister”)

AND:

Verafin Inc., an extra-provincial body corporate organized and existing pursuant to the laws of Canada and registered to carry on business in the province;

(hereinafter “Verafin” or the “Company”)

WHEREAS:

1. Verafin has requested funding from the Minister to support the creation of 354 Person Years of Employment (PYE) in the Province over a 60 month period; and

2. The Minister and Verafin have agreed to terms in support of the Project as set forth herein.

NOW THEREFORE THIS AGREEMENT WITNESSES that in respect of the covenants, agreements and provisions herein contained and for mutual consideration exchanged, (the sufficiency of which is hereby acknowledged and agreed), the Minister and Verafin agree together as follows:

1. DEFINITIONS

Where used in this Agreement or in any amendment of this Agreement, the following terms shall have the following meanings respectively:

“Agreement” means this Contribution Agreement and all instruments supplemental to or in amendment or confirmation of this Agreement;

“ASPE” means Canadian Accounting Standards for Private Enterprises as the term is defined by the Canadian Standards Board, consistently applied;

“Base Level of Employment” means the employment level of Verafin in Newfoundland and Labrador as of the start of the project on May 2, 2014 which is to be confirmed in writing and accepted by the Department;

“Change of Control” shall mean the sale of all or substantially all the assets of the Company, or any change in the ownership of more than fifty percent (50%) of the voting capital stock of the Company in one or more related transactions;

“Collateral” shall have the same meaning as the definition of Collateral in the General Security Agreement dated March 31, 2015;
"Confidential Information" means all information provided or disclosed in the course of the discussions or negotiations respecting the Project whether provided directly or indirectly, tangible or intangible, orally or in writing or by any other media and despite the definition of "Confidential Information", the term "Confidential Information" does not include information that:

a) was or becomes generally publicly available, other than as a result of a disclosure by the Minister or any of its representatives in violation of this Agreement;

b) is in the lawful possession of the Minister or any of its representatives prior to its disclosure by or on behalf of Verafin or any of its representatives; or

c) was or becomes available to the Minister or any of its representatives on a non-confidential basis prior to its disclosure by or on behalf of Verafin or its representatives from a third party that to the Minister's knowledge is not bound by a similar duty of confidentiality;

"Department" means the Department of Business, Tourism, Culture and Rural Development, Government of Newfoundland and Labrador;

"Eligible Costs" refers to employment wages and direct health benefits, for incremental hires above the Base Level of Employment incurred by Verafin between May 2, 2014 and March 31, 2018 accepted by the Department as outlined in Annex A (iii);

"Employment Target" means the creation of 354 incremental person years in of employment in excess of the Base Level of Employment over the first 60 months of the project by Verafin (where 1 person year of employment equals 2080 hours of paid work in a 12 month period i.e. 354 person years of employment equals 736,320 hours (2080 hours x 354) of paid work) by May 1, 2019 as contained in the Business Plan;

"Verafin" or the "Company" means Verafin Inc., an extra-provincial body corporate organized and existing pursuant to the laws of Canada;

"Government" means the Government of Newfoundland and Labrador;

"Minister" means the Minister of Business, Tourism, Culture and Rural Development, Government of Newfoundland and Labrador, or his or her designate, and their representatives, employees or agents according to law;

"Parties" means the Minister and Verafin, collectively, and "Party" means any one of them;

"Project" means the creation of 354 Person Years of Employment (PYE) over five consecutive years of operations by Verafin as described in Verafin's business plan dated May 2, 2014 (the "Business Plan") on file with the Department and as further outlined in Annex A; and

"Province" means the Province of Newfoundland and Labrador, and includes where appropriate the Department, the Government and the Minister.

2. CONTRIBUTION

2.1. The Department's contribution to the project shall be to a total maximum amount of $6,000,000 (the "Funds") comprised of a conditionally repayable, interest-free loan.
2.2. Conditionally repayable loans shall be forgiven in respect of verified claims for Employment Targets as prescribed to a total maximum amount of $6,000,000 according to section 2.3 hereunder and which will be forgiven as further outlined and provided in section 7 of this Agreement.

2.3. The Minister will, upon the satisfaction of all conditions precedent as set forth in Section 4 of this Agreement and any other conditions as may be applicable herein, forgive Verafin in an amount equal to $16,950 per person year of employment achieved and created by May 1, 2019, to a maximum of $6,000,000. Loan forgiveness for Employment Targets will be dependent upon provision by the Company of supporting documentation to the satisfaction of the Department for employment hours claimed.

2.4. It is understood and agreed by Verafin that the disbursement of funds under this Agreement is subject to the necessary appropriation being made in accordance with the Financial Administration Act, RSNL 1990, c. F-8 (as amended).

2.5. The Department reserves the right to demand of Verafin accounting of all funds disbursed by the Department in relation to the Project, including the right to review all supporting documentation in relation thereto.

3. TERM

3.1. The Effective Date of this Agreement shall be the date on the first page hereof.

3.2. This Agreement will become null and void if a signed copy is not received by the Department from the Company by April 30, 2015.

3.3. The Term of this Agreement shall be from the Effective Date to May 1, 2019. Notwithstanding the foregoing, Verafin shall have the right to terminate this Agreement without cost or penalty at any time upon written notice to the Department, if (i) no funds have been disbursed under this Agreement, or (ii) all funds disbursed under this Agreement have been repaid by Verafin pursuant to section 7.3.

3.4. Notwithstanding Section 3.3,

3.4.1. this Agreement will expire and will be of no force and effect on April 30, 2015 if no claim for reimbursement of Eligible Costs have been made by that date, and

3.4.2. there shall be no obligation for the Department to disburse any Funds remaining undisbursed on or after April 30, 2018.

3.5 The Department shall have the absolute discretion to extend the dates referred to in this Section 3, provided however that such extension must be in writing from the Department.

4. CONTINGENT CONDITIONS (CONDITIONS PRECEDENT)

As condition precedent to the disbursement of Funds pursuant to Section 2, Verafin covenants and agrees that it shall provide or cause to be provided to the Province:

4.1. in a form acceptable to the Department, a duly executed general security agreement with
the Province as the secured party (the "General Security Agreement") and a duly executed Promissory Note; 35(1)(g), 39(1)(b), 39(1)(a)(ii), 39(1)(c)(i), 39(1)(c)(ii)

4.2. [Blank]

4.3. a copy of its incorporation certificate and evidence of good standing with the Registry of Companies for Newfoundland and Labrador;

4.4. evidence of all required permits (municipal, provincial and federal), licences, and certification required for undertaking the Project, including, where necessary, environmental clearance from Department of Environment and Conservation;

4.5. written confirmation of insurance coverage for the Collateral consistent with section 5.9, which is acceptable to the Minister. Such coverage shall name the Province as an additional loss payee for the insurance;

4.6. evidence, provided by Verafin's solicitor, of clear standing with respect to any encumbrances with Department of Finance, Department of Advanced Education and Skills under the Labour Standards Act, Canada Revenue Agency for HST and source deductions, the appropriate municipality, the Workplace Health, Safety & Compensation Commission and under the Mechanics' Lien Act, RSNL1990 C. M-3;

4.7. up-to-date search results and clearances, provided by Verafin's solicitor, for the Company in relation to the Personal Property Registry, the Judgment Enforcement Registry, the Superintendent of Bankruptcy, Bank Act security, as well as the Supreme Court of Newfoundland and Labrador and the Federal Court of Canada; and,

4.8. copies of resolutions of the Board of Directors of Verafin in a form satisfactory to the Department authorizing the borrowing and undertakings contemplated by this Agreement and the execution and delivery of this Agreement and all other Company agreements and documents listed in section 6 of this Agreement, all certified by the secretary of Verafin or another authorized officer of Verafin.

5. UNDERLYING CONDITIONS

Verafin agrees that it shall:

5.1. use the Funds exclusively towards the Project, and shall not co-mingle with the activities of any of Verafin's subsidiaries, affiliates or other associated or related corporations as those terms are understood in the laws of the Province and generally;

5.2. at the request of the Province to the extent that it is required for verification purposes, provide the Province or its designated representatives with access to Verafin's facilities, business records and supporting documentation that relate to Verafin's obligations under this Agreement including an accounting of monies contributed and disbursed;

5.3. at the request of the Province provide necessary documentation and authorization to have loan payments of principal and interest made via pre authorized payments;

5.5. provide to the Province: (i) annual review engagement financial statements, including calculation of amounts as may be due to the Department, within 120 days following the Company's fiscal year end accompanied by, (ii) a separate report verifying jobs created in the Province, further segregated by gender, as a result of provision of the Funds. The final reporting requirements, although outside the Term of this Agreement, shall be provided by the Company in accordance with this Section and these requirements shall survive any termination of this Agreement;

5.6. for the Term of this Agreement, it shall not, without the prior written consent of the Province, such consent not to be unreasonably withheld:

5.7. ensure hiring practices for the Project are inclusive for qualified women;

5.8. to the extent possible and on commercially reasonable terms, source materials and services related to the Project within the province;

5.9. 

5.10. 

5.11. 

35(1)(g), 39(1)(b), 39(1)(a)(ii), 39(1)(c)(i), 39(1)(c)(ii)
5.12.

5.13.

5.14.

5.15. not, without obtaining the approval of the Department, such approval not to be unreasonably withheld:

i. sell, lease or transfer or otherwise dispose of all or substantially all of the Collateral;

ii. do any act which could adversely affect the ranking or validity of the security interests created, granted or intended to be created or granted to the Department; or

iii. change the general nature of the business of Verafin;

5.16. not, except as is contemplated by this Agreement, make or authorize any material changes to the Project stipulated under this Agreement or its ancillary documents without the consent of the Department; and

5.17. continue to comply with all applicable enactments and obtain all required permissions, of any legislative authority that apply to the Project, including those relating to zoning, use, health, safety and environmental protection. Verafin shall conduct all Project activities in an environmentally sound manner.

6. SECURITY
7. TERMS OF REPAYMENT

7.1. Subject to the Company's compliance with all other conditions set forth in this Agreement, repayment of the Loan to a maximum of $6,000,000 will not be required if, within 30 days of May 1, 2019, the Company provides documentation satisfactory to the Department to confirm achievement of the Employment Target.

7.2. In the event the Company fails to achieve the Employment Target, it shall be liable to repay to the Province $16,950 for each PYE the Company fails to create. Payment will be provided to the Province within 90 days of May 1, 2019. The repayment amount will not be greater than the funds disbursed.

7.3. The Company shall have the privilege, without premium or penalty, of prepaying all or any part of the loan. Other than as provided in section 9.1, the loan and any amounts disbursed under this Agreement shall not be due, owing or payable prior to May 1, 2019.

7.4. Upon the occurrence of an Event of Default, the Minister may, in his absolute discretion, without notice and without prejudice to any other rights and remedies he may have in the circumstances, cease further dispersion of the Funds as of the date of default.

7.5. Funds which must be repaid as a result of an Event of Default are a debt due the Province. The interest applicable on such Funds shall be calculated in accordance with Section 33.1 and shall accrue from the date of the Event of Default.

8. INCORPORATION BY REFERENCE

8.1. [Redacted text]

8.2. In the event of any conflict between the Business Plan and a provision of this Agreement, the provision of this Agreement shall govern to the extent of the conflict.

9. EVENTS OF DEFAULT

9.1. The whole of the balance of the Funds disbursed to the Company remaining unpaid together with interest and all other monies provided for herein shall, at the option of the Department, be immediately due and payable to the Province. (each event being referred to herein as an "Event of Default") if Verafin fails to cure such Event of Default within 30 days of receipt notice thereof pursuant to section 10.1:

9.1.1. if Verafin persistently disregards the legislation of Canada or the Province;

9.1.2. if Verafin defaults in payment or performance of any of the obligations under this Agreement, the Promissory Note or the General Security Agreement or in performing or complying with any covenant, undertaking, condition or obligation
contained herein or if any of the representations and warranties of Verafin contained herein or in any other agreement between Verafin and the Department are or become untrue, and Verafin fails to remedy such default within 30 days of being provided written notice thereof;

9.1.3. if any order is made or a resolution passed for the winding-up of Verafin or if a petition is filed under the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended or replaced, against Verafin or an authorized assignment for the benefit of creditors is made by it or if a receiver or agent is appointed by or on behalf of a secured creditor of Verafin or if an application is made under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended or replaced, or if a proposal is made by Verafin to its creditors under the Bankruptcy and Insolvency Act;

9.1.4. if Verafin voluntarily commences proceedings for its winding up;

9.1.5. if an encumbrancer, whether permitted or otherwise, takes possession of or seizes any part of the Collateral, or if any process of a court, execution, distress, or analogous process becomes enforceable or is enforced against any of the Collateral and Verafin is not instituting proceedings to vacate or lift the said execution, distress or court process;

9.1.6. if Verafin terminates, abandons or ceases or threatens to terminate, abandon or cease to carry on its business, commits any act of bankruptcy, becomes insolvent, proposes a compromise or arrangement to its creditors or makes an unauthorized sale in bulk of its assets;

9.1.7. if the Department in good faith believes and has commercially reasonable grounds to believe that the prospect of payment or performance of Verafin’s obligations under the Agreement is or is about to be impaired or that the Collateral is or is about to be placed in jeopardy;

9.1.8. the occurrence of loss, theft, damage or destruction of the Collateral not covered by adequate insurance containing a loss payable clause for the protection of the Collateral in the name of the Department;

9.1.9. if the statements of Verafin in this Agreement or in any documents provided to the Department for purposes of this Agreement are false in whole or in part;

9.1.10. if Verafin fails to continue operations in the Province for the Term of this Agreement; and,

9.1.11. if Verafin fails to comply with its commitments in sections 5 and 7.

10. NOTICE OF DEFAULT

10.1. The Department will give Verafin written notice immediately on becoming aware of events of facts that, in the Department’s view, constitute an Event of Default.

10.2. Verafin will give the Department written notice of any Event of Default immediately on the occurrence of such an event.
11. ASSIGNS

11.1. This Agreement is binding upon Verafin, its successors, assigns, heirs, executors and administrators according to law and is granted to and for and shall enure to the benefit of the Province and its successors and assigns according to law.

11.2. This Agreement shall not be assigned by Verafin without the prior written consent of the Minister, which shall not be unreasonably withheld. Subject to section 19.2, the Minister will consider and respond to such requests within 20 clear days.

12. ENCUMBRANCES

12.1. Other than as provided in this section 12, Verafin shall not permit any adverse claims to encumber the subject matter of this Agreement which may materially impact on Verafin’s ability to meet its obligations pursuant to this Agreement and Verafin shall, within a reasonable time frame, cause such claims to be discharged. The Province shall be immediately provided with notice of any such claims affecting the subject matter of this Agreement.

12.2. 

13. REPRESENTATIONS AND WARRANTIES

13.1. Verafin represents and warrants to the Province that:

13.1.1. Verafin is duly incorporated and organized and validly existing in good standing under the laws of Newfoundland and Labrador.

13.1.2. Verafin has the corporate power, capacity and authority to own property and carry out transactions as contemplated in this Agreement.

13.1.3. The execution and delivery by Verafin of this Agreement and the consummation of the transactions in the Agreement will not constitute in the violation of, or constitute a default under, or conflict with or cause the acceleration of any obligation of Verafin under:

i. any provisions of the constituting documents or bylaws of Verafin; or

ii. any applicable law, statute, ordinance, regulation or rule of Canada or of any country, state, province or territory or any municipal bylaw or ordinance or any order or decree of any court or tribunal to which Verafin is subject.

13.1.4. There are no actions, suits or proceedings pending or to the knowledge of Verafin threatened against or adversely affecting Verafin in any court or before or by any federal, provincial, municipal or other governmental department, commission, board, bureau or agency, Canadian or foreign which might materially affect the
financial condition of Verafin or the title to the Collateral.

13.1.5. Verafin has good and marketable title to the Collateral free and clear of any mortgage, charge, pledge, lien or other encumbrance, except as identified prior by Verafin in writing to the Department.

13.2. The Province represents and warrants to Verafin that:

13.2.1. The Province has the legal power, capacity and authority to perform its obligations as contemplated in this Agreement.

13.2.2. The execution and delivery by, or on behalf of, the Province of this Agreement by the persons executing this Agreement, and the performance by the Province of its obligations under this Agreement have been duly authorized and does not result in the violation of any of the terms and provisions of any agreement to which it is a party or any violation of any law or regulation of Canada or of any province or territory or any municipal bylaw or ordinance or any order or decree of any court or tribunal to which the Province may be subject.

14. DISPUTE RESOLUTION

14.1. All disputes among the Minister and Verafin arising out of:

14.1.1. this Agreement; or,

14.1.2. the interpretation, application, operation or performance of this Agreement;

which cannot be resolved informally to the satisfaction of the Minister or Verafin shall be addressed in the manner set out in this Article.

14.2. All communications and documents exchanged between the Minister and Verafin during the negotiations referred to above are without prejudice.

14.3. In the event the dispute is unable to be resolved, the Minister or Verafin may refer the matter to a court of competent jurisdiction in the Province.

15. CONTACT INFORMATION

15.1. Any written notice, payment, consents or other documents required or which may be given pursuant to this Agreement (the documents shall be in writing, duly signed by the Party giving the documents and delivered or transmitted by registered mail addressed as follows) shall be directed as follows:

15.2. In the case of Verafin, addressed to it at:

Verafin Inc.
570 Newfoundland Drive
St. John's, NL A1A 5B1
Attention: Vice President of Finance
15.3. In the case of the Province, addressed to it at:

Department of Business, Tourism, Culture and Rural Development
Government of Newfoundland and Labrador
P.O. Box 8700
2nd Floor West Block, Confederation Bldg
St. John's, NL - A1B 4J6
Attention: Director Business Analysis

15.4. Any document so given shall, unless couriered or hand delivered, be deemed to have been received on the second business day following the date of mailing, if sent by registered mail. If the postal system is disrupted by labour strife, any payment shall be couriered or hand delivered and any other document shall be couriered or hand delivered. Any Party may from time to time by notice given as provided above change its address or contact for service of documents.

16. AMENDMENTS, WAIVER

16.1. No provision in this Agreement may be amended in any respect except in writing, and signed by an authorized representative of the Parties.

16.2. Waiver by a Party of any right under this Agreement in a given instance or failure to enforce any provision in a given instance shall not operate thereafter as a waiver of that right or that provision or of any other right or provision in this Agreement. Unless a waiver is executed in writing, that Party will be entitled to seek any remedy that it may have under this Agreement or at law generally.

17. GENDER AND NUMBER

17.1. The use in this Agreement of the neuter gender includes the masculine and the feminine; the use of the plural includes the singular; the use of the singular includes the plural.

18. COSTS AND EXPENSES

[section removed]

19. FURTHER ASSURANCES

19.1. The Parties shall with reasonable diligence do all things and provide all reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party shall provide those further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and to carry out its provisions, whether before or after the commencement hereof.

19.2. Where under this Agreement a consent is required to be obtained from the Minister, such consent shall be understood to be predicated on the provision by Veralin of documentation satisfactory to the Minister, acting reasonably, to ascertain the entire nature of the request. The Minister may request and Veralin shall provide such additional information as is reasonably necessary to satisfy the Minister in this regard and the time for response by the Minister under the respective section shall be extended in order to accommodate such
requirements. Consent shall be deemed to be provided if the Minister fails to provide either an affirmative or negative response within 20 clear days of the date of the request for consent or the provision of any additional information requested as described in this section 19.2.

20. RIGHTS

20.1. Except as specifically set forth or referred to in this Agreement, nothing herein, expressed or implied, is intended or shall be construed to confer on or give any person, other than the Parties and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

20.2. All rights and remedies of the Department arising out of this Agreement are cumulative, with the result that the exercise of one of them by the Department does not deprive it of the ability to exercise any of the others.

21. MONEY

21.1. All dollar amounts referred to in this Agreement are in Canadian funds unless otherwise stated.

22. GOVERNING LAW

22.1. This Agreement and its provisions shall be construed and enforced in accordance with the laws in effect in the Province of Newfoundland and Labrador and laws of Canada having application, excepting and to the extent as may be otherwise stipulated by this Agreement.

22.2. The Company irrevocably submits and attorns to the exclusive jurisdiction of the courts of Newfoundland and Labrador, but nothing shall prevent the Minister from enforcing this Agreement or any related judgment against the Company in any other jurisdiction.

22.3. Verafin agrees to ensure adherence, during the term of this Agreement, with any federal, provincial or municipal laws or regulations having application.

23. SEVERABILITY

23.1. In the event that any provision of this Agreement is declared to be invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such provision shall not affect the validity or enforceability of any other provision and the remainder of this Agreement shall be read as if the offending provision were severed from the whole and the Agreement given effect.

24. ELECTRONIC DOCUMENTS

24.1. This Agreement may be transmitted by electronic means and the reproduction and transmission of signatures by electronic means shall be deemed to be a valid execution and delivery of this Agreement and each Party undertakes to provide the other Party with a copy of this Agreement bearing original signatures as soon as possible after delivery of the electronic copy.
25. EXECUTION IN COUNTERPARTS

25.1. This Agreement may be executed in one or more counterparts, each of which so executed will constitute an original and all of which together will constitute one and the same agreement.

26. NO SET OFF

26.1. The Parties agree that the entitlement of the Province to any payment under this Agreement shall not be subject to any abatement, reduction, set-off, defense, counterclaim or recoupment of any amount due or alleged to be due by reason of any past, present or future claims against the Province by Verafin, except as may be provided for in this Agreement.

27. IMPOSSIBILITY OF PERFORMANCE AND INTERRUPTIONS

27.1. No Party shall be held liable or deemed to be in default under this Agreement if the performance or observance of its obligations is prevented or delayed by any circumstances beyond its reasonable control including, but not limited to, an act of God, warlike operations, riot, other industrial or trade dispute, fire, flood, tempest, failure of telecommunications facilities, unavoidable accident or act of Government, courts or regulatory authorities, or any delay in Governmental approvals required in respect of the subject matter hereinafter.

28. INDEMNITY

28.1. Verafin shall indemnify and hold the Province harmless from and against and in respect of any and all loss or damage, direct or indirect, including costs, charges and expenses, based on or arising out of:

28.1.1. any inaccuracy in or breach of any representation or warranty made by Verafin in this Agreement or in any certificate, agreement or other document specifically required to be delivered by Verafin under this Agreement; or

28.1.2. any failure to duly perform or observe any provision, covenant, agreement or condition under this Agreement required on the part of Verafin to be performed or observed; or

28.1.3. any claims, demands, or actions by any present or former director, officer or employee of Verafin in respect of any matter existing at or prior to the commencement of this Agreement.

29. RIGHTS NON-EXCLUSIVE

29.1. The rights and benefits provided to the Parties in this Agreement shall be supplemental to any other rights, actions or causes of action which the Party may have or obtain in or in connection with any other provision in this Agreement or otherwise.

30. HEADINGS

30.1. Headings are provided for ease of reference only and shall not be used to lend
interpretation to any respective provision of this Agreement.

31. COMMUNICATIONS

31.1. Neither party shall engage in communications related to the Project or this Agreement in the nature of press releases or public announcements without prior consultation and coordination with the other party.

31.2. Verafin agrees that it will make best efforts to work with the Province to facilitate any announcements related to the approved funding in a timely manner.

32. NECESSARY AUTHORIZATION

32.1. The Parties hereby represent that they have respectively obtained all necessary authorizations to conclude the transactions contemplated by this Agreement and that the Agreement has been executed by their duly authorized representatives.

33. DEBTS DUE THE PROVINCE

33.1. Any amount owed to the Province under this Agreement will constitute a debt due to the Province that Verafin agrees to reimburse to the Province forthwith on demand. Interest shall accrue on such amounts at a rate of 3%.

34. NO AGENCY

34.1. No provision of this Agreement and no action by the Parties will establish or be deemed to establish a partnership, joint venture, principal-agent relationship, or employer-employee relationship in any way or for any purpose whatsoever between the Province and Verafin or among the Province, Verafin and a third party.

35. NO AUTHORITY TO REPRESENT

35.1. Nothing in this Agreement is to be construed as authorizing any third party to contract for, or to incur any obligation on behalf of, a Party or to act as agent for a Party.

36. TIME OF THE ESSENCE

36.1. Time shall be and shall continue to be of the essence of this Agreement.

37. SURVIVAL

37.1. Provisions concerning the Parties' rights and obligations which by the content of the provision operate after termination or which are necessary to enforce any right after termination will survive such termination of this Agreement. Without limiting the generality of the foregoing, Sections 26, 28 and 33 shall survive this Agreement.

38. APPLICATION OF Access TO INFORMATION LEGISLATION

38.1. The Parties acknowledge that the Province is subject to access legislation. This Agreement and all Confidential Information provided hereunder therefore are subject to the provisions of the Access to Information and Protection of Privacy Act, S.N.L. 2002, c. A-1.1
(as amended) and all attendant obligations therein. The Province acknowledges that disclosure of this Agreement and the associated documentation, including without limitation the Business Plan, may be harmful to Veralin's business interests. The Department shall comply with the provisions of sections 27 and 28 of the Act prior to any disclosure of this Agreement, the associated documentation, or the Business Plan.

39. ENTIRE AGREEMENT

39.1. This Agreement together with Annex A and any subsequent amendments attached hereto and hereby made a part hereof, and the General Security Agreement and the Promissory Note constitute the entire and final Agreement among the Parties and rescind any other agreements, convention, representation, discussions or commitment, whether verbal or in writing, agreed upon by the Parties prior to signing this Agreement.

[remainder of page Intentionally blank, signature page to follow]
SIGNED, SEALED AND DELIVERED on the day and year first before written.

HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR

MINISTER or authorized representative

Verafin Inc.

Name: [Redacted]
Title: Corp. Secretary & General Counsel
Annex A – Project

(i) Project Description:
Funding has been approved under the Investment Attraction Fund to assist Verafin with hiring 91 incremental employees, equivalent to 354 PYE over five consecutive years of operations, beginning May 1, 2014.

(ii) Project Location:
Newfoundland and Labrador

(iii) Project Costs:

Annex B – Repayment Schedule

Conditionally Repayable Loan

Subject to the Company’s compliance with all other conditions set forth in this Agreement, repayment of the Loan to a maximum of $6,000,000.00 will not be required if, within 30 days of April 30, 2019, the Company provides documentation satisfactory to the Department to confirm achievement of the Employment Target.

In the event the Company fails to achieve the Employment Target, it shall be liable to repay to the Province $16,950.00 for each PYE the Company fails to create. Payment will be provided to the Province within 90 days of April 30, 2019. Such payment shall constitute a debt due the Crown.