



REPUBLIC OF GHANA

**MINISTRY OF ENVIRONMENT, SCIENCE, TECHNOLOGY
AND INNOVATION (MESTI)**

**GHANA JOBS AND SKILLS PROJECT
Credit # 6716-GH
PROJECT ID: P166996**

DEVELOPMENT OF FRAMEWORK FOR TECHNOLOGY TRANSFER

MODEL TECHNOLOGY TRANSFER AGREEMENTS

Joint Venture Agreement

APRIL, 2023

THIS JOINT-VENTURE AGREEMENT is made this.....day of.....20--
BETWEEN Academic Institution / Business (select one as appropriate) of
..... (address) and duly represented by (name and position
of authorized representative), (hereinafter referred to as “**JV1**”) which expression shall where the
context so requires or admits, include its lawful representatives and assigns of the one part AND
..... (name of investor/business) of (address) and
duly represented by (name and position of authorized representative),
(hereinafter referred to as “**JV2**” which expression shall where the context so requires or admits,
include its lawful representatives and assigns) of the other part. The JV1 and the JV2 each shall
be referred to herein as a “Party” and together as the “Parties”.

W H E R E A S:

- A. The JV 1 is in the business of..... and has rights to certain intellectual property and has developed certain technologies.
- B. The JV 2 is a..... with expertise in..... and is interested in developing and exploiting and commercializing the intellectual property and technology of the JV 1
- C. That consequently, the Parties are desirous of establishing a Joint Venture under the laws of the Republic of Ghana for the purpose of developing and exploiting the intellectual property and / or technology.
- D. Thus, the Parties hereby set forth herein their respective responsibilities, interests, and liabilities in connection with the purpose afore mentioned.

NOW, THEREFORE, in consideration of the mutual covenants and promises, the Parties intending to be legally bound do agree as follow:

1. DEFINITIONS

To avoid ambiguity in terminologies, for the purposes of this Agreement, the following words wherever they appear in this document shall mean:

- 1.1. Commercialize** means making, using, selling, offering for sale, importing, copying, or distributing any product, process or original work for consideration, including without limitation, all activities directed to marketing, promoting, manufacturing, packaging and distributing products or services, offering for sale and selling products or services, importing products for sale, permitting or licensing others to do any of the foregoing, or using products to render services, where in each case, products includes software programs.
- 1.2. Confidential Information** any information that is labeled or identified at the time of disclosure under this Agreement as confidential or proprietary to the Discloser, including inventions; discoveries; facts; data; ideas; manner, method or process of manufacture; method or principle of construction; chemical composition or formulation; techniques; products; prototypes; processes; names; know-how;

routines; specifications; drawings; trade secrets; technology methods; computer programs; works in respect to which copyright subsists; circuit board layouts; business plans; marketing plans; strategies; market analysis; feasibility plans; concept documents; expert's reports; forecasts; projections; methodologies; financial accounts; financials statements; cash flow statements; valuations; and other knowledge.¹

1.3. Discloser means a party to this Agreement which discloses Confidential Information

1.4. Venture means an undertaking involving development, commercialization and general exploitation of IPRs and / or technology the subject matter of a technology transfer between the Parties.

1.5. Intellectual Property means (a) conceptions, ideas, innovations, discoveries, inventions, processes, machines, biological materials, formulae, equipment, compositions of matter, formulations, plans, specifications, drawings, improvements, enhancements, modifications, technological developments, know-how, show-how, methods, techniques, systems, designs, production systems and plans, software, documentation, data, programs and information (irrespective of whether in human or machine-readable form), integrated circuits and their design and layout, and works of authorship, whether or not patentable, copyrightable, or susceptible to any other form of legal protection, and (b) any patent, application for a patent, right to apply for a patent or similar right, copyright or other rights in the nature of copyright, circuit layout right, plant breeders right, design right or registration, trademark or trade secret right with respect to any of the foregoing.

1.6. IP holding party means the JV who brings in an IP to be used for the realization of the objects and purpose of the Venture.

1.7. JV means a party to the agreement

1.8. Affiliate means:

1.8.1. any person directly or indirectly controlling, controlled by or under common control with another person.

1.8.2. any office, director, or other partner of a person.

¹ Since technical and business information may be confidential, using a broad definition encompassing all types of information may prevent inadvertent omission of some category of information.

1.9 Net profit means the taxable income and loss of the Venture.

1.10 Net losses means

1.11 Percentage of participation means the amount of contribution made by each JV as set forth and in the annex.

1.12 Recipient means a party to this Agreement to whom Confidential Information is disclosed.

1.13 Research program means research activities undertaken to fulfill the purpose of this Agreement.

2. INTERPRETATION

2.1. A reference to a party to this Agreement includes a reference to that party's executor, administrator, heirs, successors, permitted assigns, guardian, and trustee in bankruptcy, all of whom, respectively, are bound by the provisions of this Agreement.

2.2. Headings in this Agreement are inserted for guidance only, and shall not affect the meaning and interpretation of the remaining provisions of this Agreement.

2.3. Words in this Agreement importing the singular number or plural number shall include the plural number and singular number respectively.

2.4. Words in this Agreement importing persons include all persons, entities and associations, including companies, trusts, bodies corporate, statutory bodies, partnerships, and joint ventures.

2.5. Where a word or phrase is given a meaning in this Agreement, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

2.6. Where a party to this Agreement is more than one person, the covenants and obligations on their part contained in this Agreement are binding upon each of them jointly and severally.

3. FORMATION

3.1. The Parties shall execute such documents as may be required by the laws of the Republic of Ghana or of any other jurisdiction to facilitate the operation and purpose of the venture.

3.2. The venture shall be conducted under the name and style of

3.3. i. The principal place of business of the venture shall be..... and same may be relocated from time to time.

- ii. Additional offices may be created as determined by the venture.
- 3.4. The Joint venture shall be a joint venture for all intents and purposes and shall not be construed to mean partnership or create any other fiduciary relationship.
- 3.5. The management team of the joint venture shall comprise:

4. TERM

The term of the venture shall commence on the date hereof and shall be terminated upon any of the following:

- 4.1. The completion of the purpose and completion of all financial responsibilities arising from the venture.
- 4.2. The mutual consent of the Parties
- 4.3. The order of a court of competent jurisdiction
- 4.4. On the day of 20.....

5. PURPOSE

The purpose/business/objective of this joint venture shall be/shall comprise:

- 5.1. A commercialization of an intellectual property right (IPR), more particularly detailed in the Schedule; and / or
- 5.2. Application of results of a research project to....; and / or
- 5.3. Exploitation of technology and / or developed product(s) more particularly detailed in the Schedule; and / or
- 5.4. (may be edited to suit each agreement)

6. PERCENTAGE OF CONTRIBUTION

The interest of the parties in relation to the performance of the purpose/business/objective of the Venture shall be as follows:

- 6.1. Contribution of the Parties:
- 6.2. Profit:
- 6.3. Losses:
- 6.4. Venture interests:
- 6.5. Indemnities:
- 6.6. Return of capital contributions:
 - 6.6.1. No Venture shall withdraw or receive his/its capital contributions or any part thereof except as otherwise agreed herein.

- 6.6.2.** The Parties shall not be personally liable for the capital contributions or any part thereof except as otherwise provided for herein.

7. DISTRIBUTION OF PROFIT

Distribution of profit in the Venture shall be:

8. CONFIDENTIAL INFORMATION

- 8.1.** During the subsistence of this Agreement, the Parties may provide each other with confidential information necessary for the purpose/business/objective of the Venture.
- 8.2.** All confidential information shall be designated in writing as such by the discloser.
- 8.3.** The Parties shall exercise reasonable care to protect the confidential information from disclosure to third parties except with the prior written consent, duly signed, of the other party.
- 8.4.** Upon termination or expiration of this Agreement, the Parties shall comply with the other's written request to discontinue the use of and/or return all confidential information.
- 8.5.** This Confidentiality provision shall continue for a period of five (5) years² following the termination or expiration of this Agreement.

9. PAYMENTS, NOTICES, AND OTHER COMMUNICATIONS

Any payment, notice or other communication required by this Agreement shall be sufficiently made or given on the date of mailing if sent by email, recognized express carrier, certified first-class mail, postage prepaid, or to the address of Venture, addressed to any of the Parties as it designates by written notice to the other at the following addresses:

10. INTELLECTUAL PROPERTY

10.1. Ownership of Intellectual Property

Any IP brought into the venture by either party shall remain an IP of the IP holding party. Any IP right acquired during the subsistence of the Venture shall be an IP of the Venture.

10.2. Further documents

² Duration may be edited accordingly

Any party bringing an IP into the Venture shall reserve the right to require the other party to sign any further document to the effect that said IP remains the property of the IP holding party.

10.3. Use and commercialization IP

The IP holding party in its sole discretion, may decide all matters concerning the use and Commercialization of the IP.

10.4. License Under Project IP

The IP holding party may grant to the venture a perpetual, worldwide, royalty-free, non-exclusive license to use the IP solely for the object and purpose of the Venture. No party shall have the right or license to Commercialize any IP without the prior written consent of the IP holding party.

11. REPRESENTATIONS AND WARRANTIES

11.1. The Parties represent and warrant that they have the full corporate power and authority to enter into this Agreement, that this Agreement constitutes the binding legal obligation of the parties within the Venture.

11.2. The Parties warrant that execution and performance of this Agreement will not violate or conflict with any other agreement to which either Party is a party or with any law, rule or regulation applicable to the Venture.

12. EXCLUSION OF WARRANTIES

Each party acknowledges that:

12.1. except for such warranties on the part of the either Party as are expressly set out in this Agreement, there are no other terms or warranties binding upon or between the Parties.

12.2. the Parties have not made, nor has any person on behalf of the Parties made any warranty, undertaking, or understanding whatsoever that is not expressly set out in this Agreement.

12.3. to the full extent permitted by law, there are no statutory warranties binding upon the Parties, and

12.4. no representation or promise of any description, not expressly included in this Agreement, was made by the Parties before this Agreement was signed.

13. ASSIGNMENT

13.1. No Party shall assign or transfer by any means any of its rights or obligations hereunder without the prior written consent of the other party, any such assignment or transfer shall be void.

- 13.2.** Nothing in this provision shall prevent a transfer to a successor in ownership of all or substantially all assets of the assigning party given that the successor shall expressly assume in writing the terms and conditions of this agreement.
- 13.3.** This agreement shall inure to the benefit of and shall be binding on the valid successors and assigns of the parties.

14. TERMINATION

- 14.1.** Either Party may terminate this agreement, effective as of the end of the initial term or any renewal term, notice of which shall be given to the other Party in writing at least thirty (30) days prior the end of such initial term or renewal term.
- 14.2.** Notwithstanding the provision of 14.1. above upon mutual agreement, both parties may terminate this agreement, same expressly stated in writing and duly signed by the Parties.
- 14.3.** Any element of duress and or undue influence by any Party negates the mutuality

15. DISPUTE RESOLUTION

Disputes arising from the Venture shall upon breakdown of negotiations by the Parties be subject to:

- i. Mediation by a neutral party agreed upon by the Parties
- ii. (Option 1) Upon failure of the mediation process within [...] days, the parties shall submit to arbitration by [...] arbitrator(s) appointed by the Parties.
- (Option 2)
- ii. Upon failure of the mediation process within [...] days, a party may seek redress before a court of competent jurisdiction.

16. GOVERNING LAW

This agreement shall be governed by the laws of the Republic of Ghana

17. SEVERABILITY

- 17.1.** This agreement shall be construed in a manner that renders its provisions valid and enforceable to the maximum extent possible under the laws of the Republic of Ghana.
- 17.2.** To the extent that any provisions of this agreement are determined by a court of competent jurisdiction to be invalid or unenforceable, such provision or part thereof shall be deleted or modified to make such provision or part thereof enforceable and the

validity and enforceability of the remaining part of the provision as of the agreement shall not be affected.

18. ENTIRE AGREEMENT

18.1. This agreement comprises the entire agreement between the Parties and supersedes all prior contemporaneous communications, representations, promises, and understandings written or oral between the parties in relation to the Venture.

18.2. This agreement shall not be modified except by agreement and consent of both Parties, clearly stated in writing and duly signed by both Parties, specifying the modifications agreed upon.

IN WITNESS WHEREOF, the Parties hereto have caused this Joint Venture Agreement to be duly executed in the manner below the day and year first above written.

SIGNED, SEALED AND DELIVERED

by the within-named **JV1**

.....

In the Presence of:

Name: _____

Address: _____

SIGNATURE OF WITNESS

Occupation: _____

SIGNED, SEALED AND DELIVERED

by the within named **JV2**

.....

In the Presence of:

Name: _____

Address: _____

SIGNATURE OF WITNESS

Occupation: _____