

APPENDIX 1



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 COLLABORATIVE RESEARCH AGREEMENTS

Research Collaboration Agreement

APRIL, 2023

THIS RESEARCH COLLABORATION AGREEMENT (“Agreement”) is made this.....day of.....20-- BETWEEN*¹ of (address) and duly represented by (name and position of authorized representative), (hereinafter referred to as the “Academic Institution”) which expression shall where the context so requires or admits, include its lawful representatives and assigns of the one part AND (name of Collaborator*²) of (address) and duly represented by (name and position of authorized representative), (hereinafter referred to as the “Collaborator”) which expression shall where the context so requires or admits, include its lawful representatives and assigns of the other part. The Academic Institution and the Collaborator each shall be referred to herein as a “Party” and together as the “Parties”.

WHEREAS

- A. The Academic Institution is desirous of performing certain research utilizing funds and other resources from the Collaborator to conduct the Research Project detailed in Schedule 1;
- B. The Collaborator is desirous of collaborating with Academic Institution, for the mutual benefit of the Parties, by providing the needed funds and other resources for the Research Project;
- C. The performance of collaborative research is consistent with the instructional and research objectives of the Parties.

Where the Research Project is funded, and a Prime Agreement³ has been executed between the funding body and a Party to this Agreement, the provisions in this Agreement shall align with provisions in the Prime Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein the Parties agree as follows:

1. DEFINITIONS

For the purpose of this Agreement, the following terminologies wherever used shall mean:

- 1.1. **Academic Institution Intellectual Property** means Intellectual Property developed or owned by the Academic Institution.
- 1.2. **Claim** includes but is not limited to every phase of any lawsuit, loss, claim, damage or liability for death, illness or personal injury of any person (including employees of the

¹ Insert name of Academic Institution

² A Collaborator may be interpreted to mean an Academic Institution, Industry, Charitable Organisation, Sponsor or a Government’s Ministry Department or Agency.

³ A Prime Agreement is an agreement between a funding agency and a Collaborator on this Research Collaboration Agreement to provide financial support or other assistance towards the execution of the Research Project.

- Academic Institution or the Collaborator), for property damage, and/or for infringement of intellectual property or other rights of a third party.
- 1.3. **Collaborator Intellectual Property** means Intellectual Property developed or owned by the Collaborator.
 - 1.4. **Confidential Information** means a Disclosing Party's Research Materials, confidential, scientific, business or financial data or information, that is disclosed to a Receiving Party whether orally or fixed in a tangible form provided that such information:
 - a. is not publicly known or available from other sources who are not under a confidential obligation to the source of the information;
 - b. has not been made available by its owners to others without a confidentiality obligation;
 - c. is not already known by or available to the Receiving Party without a confidentiality obligation;
 - d. is not independently developed by the Receiving Party;
 - e. does not relate to potential hazards or cautionary warnings associated with the performance of the Research Project or is not required to be disclosed under operation of law.
 - f. To be considered Confidential Information, all written information (including Research Materials) must be marked or designated in writing as **CONFIDENTIAL** by the Disclosing Party, and oral communications must be reduced to writing within thirty (30) days of the initial communication of the information and such writing must be marked or designated in writing as **CONFIDENTIAL** and provided to the other Party's Principal Investigator.
 - 1.5. **Disclosing Party** means a Party providing Confidential Information.
 - 1.6. **Intellectual Property** means intangible property that result from creativity and includes patentable and non-patentable inventions, software, literary and artistic works, Confidential Information, designs, logos, symbols, formula, plant variety.
 - 1.7. **Intellectual Property Rights** mean patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use and protect the confidentiality of Confidential Information (including know-how and trade secrets) and all other Intellectual Property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or 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, including the right to sue for and recover damages for past infringements.
 - 1.8. **Joint Intellectual Property** means all Intellectual Property created jointly by the Parties during the term of this Agreement.

- 1.9. **Pre-existing Rights** mean Intellectual Property owned by a Party prior to the execution of this Agreement and used for the sole purpose of the Research Project.
- 1.10. **Principal Investigator** means any person appointed by the Parties, who is responsible for the conduct, supervision and administration of the Research Project.
- 1.11. **Receiving Party** means a Party receiving Confidential Information.
- 1.12. **Research Funds** means all monetary, facilities, materials or any other tangible or intangible support deployed for the sole purpose of conducting the Research Project.
- 1.13. **Research Materials** means those experimental materials, equipment and/or data one Party may provide the other in connection with and as stated in the Research Project.
- 1.14. **Research Project** means the research work which is the subject matter of this Agreement and described in Schedule 1.

2. OBLIGATIONS OF THE PARTIES

*Indicate the obligations of the Parties.

3. RESEARCH PROJECT

- 3.1. Each Party shall use its reasonable efforts to conduct all activities for which it is responsible under the Research Project,
- 3.2. The Academic Institution’s Principal Investigator (name) shall direct the conduct of Academic Institution’s activities under the Research Project.
- 3.3. The Collaborator’s Principal Investigator (name) shall direct the conduct of Collaborator’s activities under the Research Project.
- 3.4. Any Research Materials of a Party transferred to the other in connection with the Research Project may only be used as stated in the Research Project. Unless the Parties agree otherwise, Research Materials are to be considered as “Confidential Information” of the providing Party.
- 3.5. The Parties shall generally keep one another informed of the results of the work performed in connection with the Research Project, principally through their respective Principal Investigators. In addition, the Parties’ respective Principal Investigators shall communicate to each other and provide progress reports on the implementation of the Research Project.
- 3.6. During the course of the Research Project, either or both of the Principal Investigators may find it advantageous to modify the Research Project document. Any modifications shall be documented and formalized in a written amendment to this Agreement and any such amendment shall become effective only if signed by an authorized representative of both Parties to this Agreement.

- 3.7. The Collaborator acknowledges that the primary mission of the Academic Institution is.....; and, consequently, the Research Project shall be performed in a manner best suited to carry out that mission. Specifically, the Academic Institution's Principal Investigator shall determine the manner of performance of the Academic Institution's part in the Research Project and the Academic Institution does not represent or warrant that the Research Project will be successful in any way or that any specific results will be obtained.
- 3.8. Nothing in this Agreement shall be construed to limit the freedom of Academic Institution or its researchers who are participants under this Agreement, from engaging in similar research made under other grants, contracts, or research agreements with parties other than the Collaborator.

4. APPLICATION OF FUNDS TO RESEARCH PROJECT

- 4.1. The Academic Institution agrees as follows
 - 4.1.1. To use all funds received from the Collaborator judiciously and in accordance with the funding schedule as detailed in Schedule 2.
 - 4.1.2. To keep detailed records of all funds received from all sources as well as proven expenditure and submit accounts to the Collaborator upon completion of the Research Project.
- 4.2 The Collaborator agrees as follows:
 - 4.2.1 To disburse in advance the stated funds in accordance with the Funding schedule as detailed in Schedule 2
 - 4.2.2 To disburse upon justified request from the Academic Institution any emergency funds within reasonable time to address an emergency situation.
 - 4.2.3 If at any time the Academic Institution determines that it will require additional funds for the Research Project, it shall notify the Collaborator and provide an estimate of the additional amount. The Collaborator shall not be responsible for any costs in excess of the amount of as set forth in Schedule 2 unless it has agreed in writing to provide additional funds.
 - 4.2.4 Title to any equipment, laboratory animals, or any other materials made or acquired with funds provided under this Agreement shall vest in the Academic Institution, and such equipment, animals, or materials shall

remain the property of the Academic Institution following termination of this Agreement.

5. USE OF PROPRIETARY INFORMATION AND CONFIDENTIALITY

- 5.1. Either Party's acceptance and use of any Confidential Information provided by the other Party in the course of the Research Project shall be subject to the following:
 - 5.1.1 The Principal Investigator shall use reasonable efforts to limit the exchange of Confidential Information.
 - 5.1.2 The Principal Investigator agrees to use the same degree of care to prevent the unauthorized use, dissemination, or publication of the Confidential Information, without the express written permission of the Providing Party.
 - 5.1.3 The Principal Investigator's obligation to hold Confidential Information in confidence expires (state duration) after the termination or expiration of this Agreement or in perpetuity if the information is a trade secret as long as same remains a trade secret.
- 5.2. The obligations of Confidentiality undertaken in this Agreement by each Party shall not apply to any Confidential Information which the party can show by clear and convincing evidence that the Confidential Information:
 - i. is already known to the Party on a non-proprietary basis at the time it is disclosed to the Party or subsequently enters into the public domain without any disclosure by the Receiving Party;
 - ii. has been rightfully received by the Receiving Party from a third party without restriction on disclosure and without a breach of an obligation of confidentiality;
 - iii. has been approved for public release by written authorization by the Party owning the information.

6. PUBLICITY

Neither Party will identify the other in any products, publicity, promotion, promotional advertising, or other promotional materials to be disseminated to the public, or use any trademark, service mark, trade name, logo, or symbol that is representative of the other Party or its entities, whether registered or not, or use the name, title, likeness, or statement of the other Party's faculty member, employee, or student, without the prior written consent of the other Party. Any use of a Party's name shall be limited to statements of fact and shall not imply endorsement of products or services.

7. PUBLICATION

- 7.1. The Collaborator shall provide all reasonable cooperation with the Academic Institution to generate new knowledge and to expeditiously disseminate same for

the public benefit in accordance with the basic objectives of the Academic Institution.

- 7.2. Any Party may publish the results of work performed in relation to the Project provided that a draft of the proposed publication is first submitted to the other Party for approval prior to publication.
- 7.3. A Party receiving a proposed publication has a review period starting from the date upon which it receives the draft, to review the draft and provide written reasons within three months for any embargo of or request alterations to the proposed publication. If a written notification is not received within the review period, consent to publish the proposed publication shall be deemed to have been provided.
- 7.4. A Party may embargo a publication or otherwise withhold their approval only if that Party reasonably believes that the publication discloses Confidential Information owned by it, discloses Intellectual Property or commercially sensitive information, is materially inaccurate or misleading. Such an embargo may remain until the commencement of an application for intellectual property rights or the inaccuracies have been corrected, or the commercially sensitive information is no longer applicable.
- 7.5. Where possible, the Parties may negotiate in good faith amendments or redactions to a publication in order to facilitate its expeditious release.
- 7.6. Where a researcher is also a student of the Academic Institution nothing in this Agreement shall restrict the right of that student to have his/her thesis or work examined, provided that the Academic Institution will enter into confidentiality arrangements with the student's supervisors, assessors or examiners as required to fulfil its obligations under this Agreement.
- 7.7. Each publication shall make reference to the contributions of the Parties involved in the Research Project.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 Except to the limited extent required to perform a Party's obligations under this Agreement, neither Party receives any right, title, or interest in or to the Pre-existing Rights of the other Party.
- 8.2 Intellectual Property conceived, discovered and reduced to practice solely by a Party or its employees, or agents, shall be owned by the Party. Such Intellectual Property is collectively referred to as "Sole Intellectual Property".
- 8.3 Neither Party shall make any claim to the other Party's Sole Intellectual Property.

8.4 Intellectual Property conceived, discovered and reduced to practice by at least one employee, agent, or student of both Parties shall be owned by both Parties. Such Intellectual Property is referred to as "Joint Intellectual Property"⁴.

8.4.1 Where the Academic Institution/Collaborator⁵ owns the Joint Intellectual Property

- a. All rights, titles and interests in Joint Intellectual Property shall be owned by the Academic Institution/Collaborator.
- b. The Collaborator/Academic Institution shall execute all the necessary documents or do all acts or things required to enable the Academic Institution/Collaborator to exercise ownership and its rights to the Joint Intellectual Property.
- c. The Academic Institution/Collaborator shall endeavor to apply for protection for the Joint Intellectual Property.
- d. Any improvement to the Joint Intellectual Property shall be owned by the Academic Institution/Collaborator.

8.4.2 Where the Academic Institution and the Collaborator own the Joint Intellectual Property in equal shares.

- a. All rights, titles and interests in Joint Intellectual Property shall be owned jointly by the Parties in equal shares.
- b. The Parties shall endeavor to jointly apply for protection of the Joint Intellectual Property and take steps to exploit the Joint Intellectual Property. The Parties may also agree on which Party would lead the process of securing protection of Joint Intellectual Property and exploitation of the Joint Intellectual Property.
- c. The cost of protecting and exploiting Joint Intellectual Property shall be equally borne by the Parties.
- d. Ownership of improvements or modifications to the Joint Intellectual Property shall be determined on a case-by-case basis.

8.4.3 Where the Academic Institution and the Collaborator own the Joint Intellectual Property in unequal shares.

- a. All rights, titles and interest in Joint Intellectual Property shall be owned by the Parties based on the respective financial, technical, and other contributions of the Parties to the creation of the Joint Intellectual Property.
- b. The Parties shall agree on which Party would lead the process of securing protection of Joint Intellectual Property as well as the exploitation of Joint Intellectual Property.
- c. The cost of protecting and exploiting Joint Intellectual Property shall be borne by the lead Party.
- d. The lead Party shall pay the other Party a fair and reasonable share of net royalty taking into consideration the financial, technical, and other

⁴ The Parties should adopt one of the options for the ownership of Joint Intellectual Property in 8.4.1; 8.4.2; or 8.4.3.

⁵ Select the applicable option

contributions of the other Party to the protection and exploitation of the Joint Intellectual Property.

- e. Ownership of improvements or modifications to the Joint Intellectual Property shall be determined on a case-by-case basis.
- 8.5 Each Party reserves the right to license its interest in its Sole Intellectual Property and neither Party shall have any right to compensation in connection with any such license granted by the other.
- 8.6 A Party may license its interest in any Joint Intellectual Property on agreed terms and may not be subject to any compensation to the other Party.
- 8.7 Each Party grants to the other a non-exclusive, royalty-free license to use Joint Intellectual Property for its own teaching and research purposes including commercial research funded by third parties provided the third party does not lay ownership claims to the Joint Intellectual Property.

9 INDEMNIFICATION

- 9.1 Each Party hereby waives any Claim against the other Party and agrees to indemnify, defend, and hold harmless the other Party, its trustees, officers, employees, agents or students from any Claim arising out of or connected with this Agreement or the work done under this Agreement, except to the extent such Claim is due to the Party's negligence or willful misconduct of the other Party. Each Party shall promptly notify the other of any such Claim and shall cooperate with the each other and its insurance carrier in the defense of the Claim.

10 REPRESENTATIONS, WARRANTIES, LIABILITY LIMITS

- 10.1 To the greatest extent permitted by law, the Parties agree to exclude all statutory or other warranties or implied terms binding upon the Parties except for those expressly set out in this Agreement.
- 10.2 No Party shall be liable to any other Party for consequential or indirect loss or damage including, but not limited to, loss of profits, arising from a breach of this Agreement.
- 10.3 Each Party (the *Indemnifier*) indemnifies the other Party, its officers, employees and agents (the *Indemnified Parties*) from and against any loss (including legal costs and expenses on a solicitor/own client basis) or liability reasonably incurred or suffered by any of the Indemnified Parties, arising from any reasonable claim, demand, action or proceeding, by any person against any of the Indemnified Parties where such loss or liability was caused by a willful, unlawful or negligent act or omission by the Indemnifier, its officers, employees or agents in connection with this Agreement.

- 10.4 An Indemnifier's liability to the Indemnified Parties under clause 10.3 shall be reduced proportionally to the extent that any unlawful or negligent act or omission by the Indemnified Parties caused or contributed to such loss or liability.
- 10.5 Each Party warrants that it shall maintain or cause to maintain at its own cost adequate public liability insurance and professional indemnity insurance as appropriate in connection with its activities under this Agreement and workers' compensation insurance in accordance with applicable legislation.

11 TERM AND TERMINATION

- 11.1 This Agreement shall remain in effect for [____] [months] [years] from the effective date⁶ unless terminated sooner or extended in writing and signed by the Parties in accordance with this Agreement.
- 11.2 This Agreement may be terminated by the mutual agreement of the Parties in writing.
- 11.3 Without limiting the generality of any other clause in this Agreement, a Party (*'terminating Party'*) may terminate this Agreement where:
- 11.3.1 any Party (*'defaulting Party'*) is in breach of any term of this Agreement and such breach is not remedied within days of the terminating Party notifying the defaulting Party of the breach;
 - 11.3.2 any Party is unable to pay its debts when such debts fall due or becomes subject to any form of administration; or
 - 11.3.3 any Party ceases or threatens to cease to carry on its business in the normal manner.

12 GENERAL

- 12.1 Neither Party may assign or delegate its rights or obligations under this Agreement without the express written consent of the other Party.
- 12.2 This Agreement constitutes the entire agreement between the Parties relating to the Research Project, and any and all prior or contemporaneous negotiations, representations, agreements and understandings are superseded hereby. No amendment or change to this Agreement may be made except by means of a written document signed by duly authorized representatives of the Parties.
- 12.3 Any notice or communication required or permitted to be given hereunder shall be in writing and, except as otherwise expressly provided in this Agreement, shall be

⁶ This Agreement must be signed by all the Parties to make it effective. The effective date is the date on which the Agreement is signed by the last of the Parties.

deemed given and effective (i) when delivered personally or by fax or (ii) when received if sent by email, courier, or mail:

To Academic Institution:

To Collaborator:

Provide details

12.4 This Agreement is made and entered into in the Republic of Ghana. The Parties agree to submit themselves to the exclusive jurisdiction of the laws of Ghana.

12.5 For the purposes of this Agreement and all services to be provided hereunder, each Party shall be, and shall be deemed to be, an independent contractor and not an agent or employee of the other Party. Neither Party shall have authority to make any statements, representations or commitments of any kind, or to take any action that is binding on the other Party, except as explicitly provided for herein or authorized in writing.

12.6 Neither Party shall be liable for any failure to perform as required by this Agreement, if the failure to perform is caused by circumstances reasonably beyond such Party's control, such as labor disturbances or labor disputes of any kind, accidents, failure of any governmental approval required for full performance, civil disorders or commotions, acts of aggression, acts of God, energy or other conservation measures, explosions, failure of utilities, mechanical breakdowns, material shortages, disease, thefts, or other such occurrences.

12.6.1 Force majeure shall not include any of the following:

i. Any event caused by the negligence or intentional action of either Party, its agents, employees or subcontractors; or

ii. Insufficiency of funds or the inability of a Party to pay any sum of money required to be paid under this Agreement.

IN WITNESS WHEREOF, the Parties hereto have hereunto set their respective hands and seals the day and year first above written.

SIGNED for and on behalf of the Academic Institution

Name: _____

Signature: _____

In the presence of:

Name: _____

Signature: _____

Address: _____

Position: _____

I, _____, named as Principal Investigator, acknowledge that I have read this Agreement in its entirety and, while not a party to this Agreement, shall use reasonable efforts to uphold my obligations and responsibilities set forth herein:

Signature: _____

Date: _____

SIGNED for and on behalf of the Collaborator

Name: _____

Signature: _____

In the presence of:

Name: _____

Signature: _____

Address: _____

Position: _____

I, _____, named as Principal Investigator, acknowledge that I have read this Agreement in its entirety and, while not a party to this Agreement, shall use reasonable efforts to uphold my obligations and responsibilities set forth herein:

Signature: _____

Date: _____

SCHEDULE 1 - Research Project

SCHEDULE 2 - Research Funding Schedule