

# Startup Agreement

**THIS AGREEMENT** made and entered into at Colombo in the Democratic Socialist Republic of Sri Lanka on this ..... (....) day of ....., Two Thousand and ..... (20XX) by and between

**UNIVERSITY OF MORATUWA** – A University established by an Order under the Universities Act No. 16 of 1978 as amended of the said Republic of Sri Lanka and having its registered office at Katubedda, Moratuwa (hereinafter referred to as “Assignor” ) of the First Part.

..... a company duly incorporated under the Companies Act No. 7 of 2007 bearing Company Registration Number ..... and having its registered office at ....., Colombo and having an alternative address at Product Accelerator University Business Linkage Cell, University of Moratuwa which term shall as herein used where the context so requires mean and include the said ....., its successors and permitted authorities/persons (hereinafter referred to as “Assignee”) of the Second Part

(Herein after individually referred to as the “Party” and collectively referred to as the “Parties”).

**WHEREAS** the Assignee is desirous of obtaining the service of the Assignor to completion and commercialization of the products which are set out in Annex 1 and after completion and commercialization of the products which are set out in Annex 1 to pay the royalties

**AND WHEREAS** the Assignor shall agree to provide the resources, laboratory facilities and the office premises for the purpose of completion and commercialization of the products which are set out in Annex 1 by the Assignee.

**AND WHEREAS** pursuant to the discussions and negotiations held between the Assignor and the Assignee and the Assignor has agreed to provide the resources, laboratory facilities and the office premises for the purpose of completion and commercialization of the products which are set out in Annex 1 by the Assignee in accordance with the terms and conditions set out hereinafter;

**NOW THEREFORE** in consideration of the premises and mutual covenants of the parties hereinafter contained, this Agreement witnesses and it is hereby agreed by and between the parties as follows:

## **1. TERM**

This Agreement shall commence on the ..... and shall continue for a Term of 2 years, ending on the..... and thereafter reviewed, subject to the renewal and termination provisions in this Agreement.

## **2. USING UNIVERSITY ADDRESS**

In terms of the Section 4.1 of the Policy on formation of startup Companies as approved by the Council at its 480<sup>th</sup> meeting held on 06.01.2021, Assignee shall be allowed to use the address of the Assignor.

## **3. USING UNIVERSITY RESOURCES**

The Assignor shall allow the Assignee to use the resources, laboratory facilities and the office premises only for the purpose of completion and commercialization of the products which are set out in Annex 1 by the Assignee.

## **4. OWNERSHIP OF INTERLECTUAL PROPERTY RIGHTS, COPY RIGHTABLE WORK AND TRADEMARK**

According to the exemptions specified in Clauses I(a), I(b) and I(c) of IP Policy as approved by the Council at its 346<sup>th</sup> meeting held on 06.01.2010, ownership of Intellectual property rights, Copyrightable work, and Trade Mark(s)/Service Mark(s) shall be decided by the parties on case-by-case basis.

## **5. ROYALTY AND DIVIDENDS**

In lieu of the usage of the resources, laboratory facilities and the office premises which belongs to the Assignor by the Assignee, Assignee shall be paid .....% royalty out of Net Revenue as listed in Annex I.

In any case when the net revenue becomes negative, the Assignor shall not be liable for any damages or compensation.

## **6. KEEPING UP RECORDS & MONITORING**

The Assignee shall keep up to date and accurate records and accounts in respect of usage the resources, laboratory facilities and the office premises which belong to the Assignor only for the purpose of completion and commercialization of the products which are set out in Annex 1 by the Assignee. Upon reasonable request by the Assignor, for a genuine, good faith reason, no more than

once in any 12-month period and with at least 30 days' prior written notice, the Assignor shall during normal working hours inspect at the Assignee's premises, those records and accounts which relate only and specifically to usage the Intellectual Property ownership and the usage of resources, laboratory facilities and the office premises which belongs to Assignor pursuant to this Agreement. This clause survives until the termination of this Agreement.

## **7. INVOICING AND PAYMENT**

The Assignee shall be billed by the Assignor, and shall make payment to the Assignor, in accordance with the payment terms set out in Annex 1 hereto. If the Assignor disputes part or all of an invoice it must notify by the Assignee immediately in writing within 14 days upon receipt of the invoice. The Assignor shall pay any undisputed balance of an invoice within the payment terms set out in the Annex 1 of this Agreement for such payments the Assignee shall produce fresh invoices which will be honored according to the remuneration form. If the parties still cannot agree, they shall resolve the matter in accordance with clause 12.

## **8. TERMINATION**

If any party breach of any condition or conditions of this agreement or infringement of any right, duty or obligation under this agreement, other party shall be entitled to terminate the agreement by giving a written notice within 14 days

## **9. EFFECT OF TERMINATION**

During the notice period the Assignee's duties, responsibilities and rights will continue in full force. The Assignor shall be entitled to all the charges relating to usage of the Intellectual Property ownership and the usage of resources, laboratory facilities and the office premises which belongs to the Assignor by the Assignee during the notice period and prior to the effective date of termination. Upon termination of this Agreement, each party will return to the other party such information and documentation and equipment which belongs to the other party and to which the other party is entitled under this Agreement and immediately stop using the Intellectual Property belonging to the other party and all literature and advertising material in its possession whether or not supplied by the other party, which contain or bear the Intellectual Property and any documents and things of whatever nature forming part of or relating to the Intellectual Property.

## **10. INDEMNIFICATION**

The Assignee shall keep the Assignor indemnified from and against all claims, demands, writs, summons, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature whatsoever which the Assignor may suffer or incur in connection with loss

of revenue, image, reputation or damage arising from negligent and/or reckless acts and omissions and/or the breach of any of the provisions of this Agreement by the Assignee and its employees or agents.

The Assignor shall keep the Assignee indemnified from and against all claims, demands, writs, summons, actions, suits, proceedings, judgments, orders, decrees, damages, costs, losses and expenses of any nature whatsoever which the Assignee may suffer or incur in connection with loss of revenue, image, reputation or damage arising from negligent and/or reckless acts and omissions and/or the breach of any of the provisions of this Agreement by the Assignor and its employees or agents.

## 11. DISPUTE RESOLUTION

- 11.1 If a dispute, conflict or argument arises between the parties concerning any right or duty under this Agreement, then the parties will meet in person and confer, as soon as practicable after written notice from one party to the other party identifying the reasons for such dispute, in an attempt to resolve the dispute by negotiation.
- 11.2 If the parties are unable to resolve the dispute amicably by negotiation within thirty (30) days after such notice, parties agree to apply mediation or conciliation methods as appropriate.
- 11.3 If the parties are unable to resolve dispute amicably or mediation or conciliation methods, the parties further agreed to refer to arbitration method with respect of Arbitration Act No. 11 of 1995.

## 12. NOTICES

The Assignor:

University of Moratuwa,  
Bandaranayake Mawatha,  
Katubadda,  
Moratuwa, 10400.

**Tel. No. : 94 112650301**

**Fax : 94 112650622**

The Assignee:

.....  
.....  
.....

.....

**Tel. No. :** .....

or at such other address, facsimile or telex numbers as shall have been notified (in accordance with this clause) to the other parties hereto for the purposes of this clause and any notice sent by post as provided in this clause shall be deemed to have been given, made or served forty-eight (48) hours after dispatch and any notice sent by telegram, cable, facsimile or telex as provided in this clause shall be deemed to have been given, made or served at the time of dispatch

### **13. MISCELLANEOUS**

- 13.1. Employees of the Assignee shall exercise their due care when using the equipment of the Assignor and shall be liable for all damages caused to any equipment due to failing, neglecting or refusing to carry out their duties.
- 13.2 Employees of the Assignee are forbidden from engaging in
- (a) Commercial activities other than the works those are stipulated in this agreement including freelancing activities without having prior written approval from the Assignor.
  - (b) Any activity that may prejudice, compromise or create a conflict of interest with the conditions of this an Agreement between the University and a third party
  - (c) Any activity that may be illegal under the law of the Sri Lanka or by-laws of the University or deemed socially inappropriate or unethical in nature.
- 13.3. Employees of the Assignee shall apprehend that priority has to be given to academic activities of the Assignor. The Assignor shall also take all reasonable measures to minimize the issues resulting any inconveniences.
- 13.4. The University shall not be liable for any losses incurred due to failing, neglecting or refusing to carry out their duties by an employees of Assignee
- 13.5. Resources, laboratory facilities and the office premises which belongs to the Assignor shall be used for limited personal usage subject to the following conditions:
- (a) The purpose of usage is reasonable

- (b) The activity does not incur a significant cost to the University
- (c) The activity does not inconvenience others using facilities of the University.

#### **14. CONFIDENTIAL INFORMATION**

Each party will ensure that any Confidential Information relating to the other party is treated as strictly confidential, and is not used or disclosed to any other person, other than:

- (a) Persons strictly requiring the information for the purpose of properly performing its obligations under this Agreement, provided that they are made aware of the obligations in this clause;
- (b) With the other party's prior consent;
- (c) As required by law;
- (d) To that party's related body corporate if necessary for reporting purposes;
- (e) To that party's professional advisers in confidence; or
- (f) Where the information is generally or publicly available other than through a breach of this Agreement.

This clause survives termination of this Agreement.

#### **15. FORCE MAJEURE**

If at any time during the continuance of this Agreement, the performance in whole or in part by either Party or any obligation under this Agreement shall be prevented or delayed by reason of governmental decision, war whether declared or not, hostilities, act of the public enemy, civil commotion sabotage, fire, typhoons, flood or any natural disasters, explosion, epidemics quarantine restrictions, disturbance in supplies from normally reliable sources (including but not limited to electricity, water, fuel) strike and lockout or any other event beyond the reasonable control of the Party concerned (hereinafter referred to as the "Eventuality"), then notice of such Eventuality shall be given by the affected Party to the other within Twenty (20) business days from the date of occurrence thereof and performance of this Agreement shall be resumed as soon as possible after such Eventuality has come to an end or ceased to exist, provided that if the

performance in whole or in part of any obligation under this Agreement is delayed by reason of any such Eventuality for a period exceeding two (02) months, the Parties shall review in good faith the desirability and conditions of continuing this Agreement

## **16. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of Sri Lanka.

## **17. ASSIGNMENT**

The parties shall not assign all or any part of this Agreement to any other party without prior written approval of the other party

## **18. AMENDMENTS AND MODIFICATIONS**

No modification, amendment or other change may be made to the Agreement or any part thereof unless in writing and executed by authorized representatives of the Assignor and the Assignee.

## **19. ENTIRE AGREEMENT**

This Agreement constitutes the entire contract between the Parties in respect of the matters dealt with in this Agreement and no representations, terms, conditions or warranties not contained in this Agreement shall be binding on the Parties.

**IN WITNESS WHERE OF** the Parties hereto have signed and affixed their respective common seals hereunto and to three others of the same tenor and date as these presents on the date at the beginning hereof mentioned.

The Common Seal of the University of Moratuwa is affixed in the presence of its Vice-Chancellor N. D. Gunawardena, and the Registrar  
V. Kulasekara in the office for the time being who do hereby attest the sealing hereof

Witnesses

1. Name in full :

NIC No :

Signature :

2. Name in full :

NIC No :

Signature :

The Authorized Signatories of  
..... being  
authorized signatories and .....  
Have signed in the presence of the following  
witnesses:

#### Witnesses

1. Name in full :

NIC No :

Signature :

2. Name in full :

NIC No :

Signature :

#### **Annex 1:**

List of Products calculating the royalties for the startup ..... as per the clause no  
5: Royalties and Dividends.

No	Description	Amount to paid to UOM as royalty
1		
2		
3		
4		
5		
6		
7		

**Note:** The royalty is applied for five years from the date of 1<sup>st</sup> sale and the payment as per the university commercialization policy.