

## MIDDLEFUND VENTURES

### SHAREHOLDERS AGREEMENT

**THIS SHAREHOLDERS AGREEMENT** is made as of the 14<sup>th</sup> day of July, 2021 between [*MiddleFund Ventures*], a corporation incorporated under the laws of The Republic of Ghana (the “Corporation”); [*Basha Tahidu Damba*], an individual residing in the city of Accra, in the Province of Oyarifa (“*Damba*”); each investor listed on Schedule “A” annexed hereto; and any person who becomes a party hereto by executing an acknowledgement in the form annexed hereto as Schedule “B”.

#### RECITALS:

**WHEREAS** the parties hereto, other than the Corporation, together own, directly or indirectly, all of the issued and outstanding shares in the capital of the Corporation as of the date hereof;

**AND WHEREAS** the parties hereto wish to record their agreement as to the manner in which the Corporation’s affairs are to be conducted and to agree upon the terms on which the securities of the Corporation, now or hereafter outstanding and held by them, will be held, transferred and voted;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the premises and the mutual covenants and agreements herein contained the parties hereto covenant and agree as follows:

#### ARTICLE 1

#### DEFINITIONS AND PRINCIPLES OF INTERPRETATION

##### **1.1 Definitions**

Whenever used in this Agreement, the following words and terms have the meanings set out below:

- (a) “Act” means the Ghanaian Companies Act, as the same may be amended from time to time;
- (b) “Affiliate” of a Person means another Person where:
  - (i) one of them is a Subsidiary of the other; or
  - (ii) each of them is Controlled by the same Person.
- (c) “Agreement” means this Shareholders Agreement and all attached schedules and all instruments supplemental to or in amendment or confirmation of this Agreement;

- (d) “Articles” means the articles of incorporation of the Corporation, as amended from time to time;
- (e) “Board” means the board of directors of the Corporation, as the same may be constituted from time to time in accordance with this Agreement;
- (f) “Business Day” means any day except Saturday, Sunday or any statutory holiday in the Republic of Ghana;
- (g) “Class A Preferred Shares” means the Class A Preferred Shares in the capital of the Corporation;
- (h) “Common Shares” means the Common Shares in the capital of the Corporation;
- (i) “Competitor” means any business which is, at the relevant time, engaged in the design, development, marketing, sale or licensing of any products or services that are in form and function competitive with any of the products and services that are marketed and sold or licensed by the Corporation or any product or service that is known by a Shareholder to be under development by the Corporation;
- (j) “Control” means: (a) with respect to any corporation, the ownership, beneficially and legally, of voting securities in the capital of such corporation, to which are attached more than fifty percent (50%) of the votes that may be cast to elect the directors of such corporation and such votes are sufficient (if exercised) to elect a majority of the directors; and (b) with respect to a partnership, trust, syndicate or other entity, actual power or authority to manage and direct the affairs of, or ownership of more than fifty percent (50%) of the beneficial interest in such entity;
- (k) “Family Members” means, in respect of an individual, any parent, spouse, child, spouse of a child, grandchild and/or sibling;
- (l) “Founder” means [\[Damba\]](#);
- (m) “Founder Shares” means the Common Shares held by the Founder;
- (n) “Initial Public Offering” shall mean the Corporation’s first underwritten public offering of its Common Shares pursuant to a registration statement that has been declared effective under the Republic of Ghana Securities Industry Act, 2016 (Act 929), accompanied by the listing of the Common Shares on the Ghana Stock Exchange and/or the Ghana Alternative Market and/or any other stock exchange or market approved in writing by a Preferred Majority;
- (o) “Investor” means each Person listed on Schedule “A” annexed hereto under the heading “Investors”, so long as such Person holds Class A Preferred Shares, together with any other Person that becomes a Party to this Agreement as a holder of Class A Preferred Shares (including Permitted Transferees of Class A Preferred Shares); and “Investors” means all of such Persons collectively;

- (p) “Major Investor” means any holder of at least 10% of Class A Preferred Shares;
- (q) “Parties” means, collectively, the Shareholders, the Founders, and the Corporation and any other Person that becomes a party to this Agreement, and “Party” means any one of them;
- (r) “Permitted Additional Securities” means:
  - (i) up to 10,000,000 Common Shares issued or issuable pursuant to the Stock Plan (including all Common Shares issuable on the exercise of options granted under the Stock Plan or proposed for grant under the Stock Plan to the date hereof, and options to purchase such Common Shares) (subject to appropriate adjustment for any share dividends, share splits, recapitalizations, combinations or the like affecting the Common Shares) or such greater number of Common Shares as approved by the Board and a Preferred Majority;
  - (ii) any Common Shares offered to the public pursuant to a Qualified IPO; and
  - (iii) any Common Shares issued on the conversion of, or as a dividend or distribution on, the Class A Preferred Shares, or, if applicable, as a result of the adjustment of the Class A Conversion Price (as such term is defined in the Articles);
- (s) “Permitted Transferee” means any Person to whom Shares are transferred pursuant to Section 6.4;
- (t) “Person” includes any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural Person in his capacity as trustee, executor, administrator, or other legal representative;
- (u) “Preferred Majority” means shareholders holding more than fifty percent (50%) of the outstanding Class A Preferred Shares;
- (v) “Qualified IPO” has the meaning given to it in the Articles;
- (w) “Shares” means, collectively, the Common Shares and the Class A Preferred Shares;
- (x) “Shareholder Majority” means Shareholders holding more than fifty per cent of the outstanding Shares;
- (y) “Shareholders” means the Founders and the Investors, together with such other Persons as may become Parties to this Agreement as a shareholder of the Corporation, collectively, and “Shareholder” means any one of such Persons individually;

- (z) “Stock Plan” means providing for the issuance of Common Shares to eligible employees, consultants, directors, vendors and any other parties approved by the Board;
- (aa) “Subsidiary” means a Person that is controlled directly or indirectly by another Person; and
- (bb) “Transfer” means any disposition, transfer, sale, exchange, assignment, gift, bequest, disposition, mortgage, hypothecation, charge, pledge, encumbrance, grant of security interest, or any arrangement by which possession, legal title or beneficial ownership passes, directly or indirectly, from one person or entity to another, or to the same person or entity in a different capacity, whether or not voluntary and whether or not for value, and includes any agreement to effect the foregoing.

## 1.2 Additional Definitions

Unless there is something inconsistent in the subject matter or context, or unless otherwise provided in this Agreement, all other words and terms used in this Agreement that are defined in the Act have the meanings set out in the Act.

## 1.3 Certain Rules of Interpretation

In this Agreement:

- (a) **Consent** - Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required is conclusively deemed to have withheld its approval or consent.
- (b) **Governing Law** - This Agreement shall be governed by and construed in accordance with the laws of the Republic of Ghana, without regard to the Republic’s conflict of law provisions, and each of the Parties irrevocably agrees to submit to the exclusive jurisdiction of the courts of such province for and in connection with any proceedings relating to this Agreement.
- (c) **Headings** - Headings of articles and sections are inserted for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (d) **Including** - Where the word “including” or the word “includes” is used in this Agreement, it means “including (or includes) without limitation”.
- (e) **Number and Gender** – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (f) **Severability** – If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable,

such provision is, as to such jurisdiction, ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances.

- (g) **Time** – Time is of the essence in the performance of the Parties’ respective obligations.
- (h) **Time Periods** - Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done are calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the following Business Day if the last day of the period is not a Business Day.
- (i) **Currency** - Unless otherwise indicated all amounts will be stated in equivalence to the Ghanaian Cedi (¢)

## **ARTICLE 2**

### **PURPOSE AND SCOPE**

#### **2.1 Compliance with Agreement**

Each Shareholder agrees to vote and act as a shareholder of the Corporation to fulfil the provisions of this Agreement and in all other respects to comply with, and use all reasonable efforts to cause the Corporation to comply with, this Agreement, and to the extent, if any, permitted by law, shall cause its respective nominee(s) as directors of the Corporation to act in accordance with this Agreement. The Shareholders further undertake that they will use their influence as Shareholders to cause such meetings of the Corporation to be held, resolutions passed, by-laws enacted, agreements and other documents signed and acts or things performed or done as may be necessary or desirable to ensure that the provisions of this Agreement are implemented and given full force and effect.

#### **2.2 Compliance by Corporation**

The Corporation undertakes to carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so.

#### **2.3 Conflict with Articles or By-laws**

To the extent permitted by the Act, in the event of any conflict between the provisions of this Agreement and the provisions of the Articles or the by-laws of the Corporation, the provisions of this Agreement shall prevail, and the Shareholders shall vote to amend the Articles and by-laws of the Corporation so as to ensure conformity with the terms of this Agreement.

## **2.4 Agreement to Vote Shares**

In the event that any action requiring approval pursuant to Section 4.3 of this Agreement is approved by the Board and the requisite number of Investors (a “Special Action”), each Shareholder agrees that it shall execute and deliver all deeds, transfers, consents, resolutions, share certificates or other documents as may be necessary to complete the Special Action and shall vote its Shares in favour of all resolutions relating to the Special Action at any meeting of shareholders of the Corporation or execute all written shareholder consents and resolutions relating to the Special Action and the completion of the transaction contemplated thereunder, and, each Shareholder hereby expressly waives any right to dissent with respect to any such actions which are required for the purpose of any such Special Action. However, this Section 2.4 applies only if all Shares of a particular class are treated in a similar manner.

## **2.5 Unanimous Shareholder Agreement**

- (a) This Agreement is deemed to be a unanimous shareholder agreement within the meaning of the Act, and the power of the directors to manage or supervise the management of the business and affairs of the Corporation is restricted in accordance with the terms of this Agreement.
- (b) No amendment to this Agreement that affects the rights, powers and duties of any of the directors is effective until the directors are given written notice of the proposed amendment and an opportunity to resign.

## **ARTICLE 3**

### **FINANCIAL PARTICIPATION IN THE CORPORATION**

## **3.1 Equity Participation**

Each of the Shareholders represents and warrants to each other and to the Corporation that:

- (a) such Shareholder at the date hereof (or, if such Shareholder becomes a Party following the date of this Agreement, at the date such Shareholder acquired its Shares), owns beneficially and of record the number of Shares set forth opposite such Shareholder’s name on Schedule “A” or Schedule “A-1” attached hereto, as applicable (as such schedules may be amended from time to time to reflect changes in shareholdings);
- (b) the Shares held by such Shareholder are held beneficially and of record by such Shareholder, such Shares are not subject to any mortgage, lien, charge, pledge, encumbrance, security interest or adverse claim and no Person has any rights to become a holder or possessor of any of the Shares or of the certificates representing the same, if applicable;
- (c) if the Shareholder is an individual, that such Shareholder has the capacity to enter into and give full effect to this Agreement;

- (d) if the Shareholder is a corporation, that it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation and that it has the corporate power and capacity to own its assets and to enter into and perform its obligations under this Agreement;
- (e) if the Shareholder is a trust, partnership or joint venture, that it is duly constituted under the laws that govern it and that it has the power to own its assets and to enter into and perform its obligations under this Agreement;
- (f) this Agreement has been duly authorized by such Shareholder and duly executed and delivered by such Shareholder and constitutes a valid and binding obligation enforceable in accordance with its terms, subject to the usual exceptions as to bankruptcy and the availability of equitable remedies;
- (g) that the execution, delivery and performance of this Agreement does not and shall not contravene the provisions of its articles, by-laws, constating documents or other organizational documents or the documents by which such Shareholder was created or established or the provisions of any indenture, agreement or other instrument to which such Shareholder is a party or by which such Shareholder may be bound; and
- (h) that, subject to the terms of this Agreement, all of the foregoing representations and warranties (other than the representation and warranty in paragraph (a)) shall continue to be true and correct during the continuance of this Agreement.

#### **ARTICLE 4**

#### **MANAGEMENT OF THE CORPORATION**

##### **4.1 Board of Directors**

The Corporation shall have a Board consisting of up to three (3) directors, of which:

- (a) one director shall be nominated by the Founder (the “Founder Nominee”);
- (b) one director shall be nominated by the holders of the Class A Preferred Shares (the “Investor Nominee”);
- (c) one director shall be nominated by the holders of the Common Shares (the “Common Nominee”) and be acceptable to the Corporation, the Investor Nominee and the Founders.

Each Shareholder shall vote its Shares at any meeting at which directors are to be elected, or execute any written resolutions of the shareholders at the request of the Corporation, to elect the directors nominated in accordance with this Agreement.

#### **4.2 Removal and Replacement of Nominees**

Any Shareholder (or group of Shareholders) entitled to nominate and elect a director may remove any such director by notice to such director, the other Shareholders and the Corporation. Any vacancy occurring on the Board by reason of the death, disqualification, inability to act, resignation or removal of any director may be filled only by a further nominee of the Shareholder or Shareholders whose nominee was so affected so as to maintain a Board consisting of the nominees specified in Section 4.1.

#### **4.3 Matters Requiring Prior Approval.**

In addition to any approval, authorization or ratification required by the Act, none of the following shall be carried out and effected by the Corporation without the prior approval of the Board and the prior written approval of the Preferred Majority:

- (a) any amendment to the Articles or by-laws of the Corporation that would adversely alter the rights, preferences, privileges or powers of the Class A Preferred Shares;
- (b) any changes in the number of directors of the Corporation;
- (c) any corporate restructuring, amalgamation or merger of the Corporation with any other body corporate; or
- (d) the disposition of all or substantially all of the assets of any wholly owned subsidiary of the Corporation or the disposition of any shares of any wholly owned subsidiary of the Corporation.

### **ARTICLE 5 COVENANTS OF THE CORPORATION**

#### **5.1 Information Rights**

The Corporation shall prepare and deliver to each of the Major Investors:

- (a) as soon as available after the end of each financial year, unaudited financial statements of the Corporation, including consolidated balance sheets of the Corporation and its subsidiaries, if any, as at the end of such financial year, and consolidated statements of income, retained earnings and changes in cash flow of the Corporation and its subsidiaries, if any, for such year, setting forth in each case in comparative form the corresponding figures for the previous financial year, all prepared in accordance with generally accepted accounting principles in the Republic of Ghana;
- (b) as soon as available after the end of each quarter, a report prepared by the management of the Corporation regarding such quarter's financial results and operations;



- (c) prior to the commencement of each financial year, the proposed annual business plan together with an operating and capital expenditure budget of the Corporation (the “Annual Budget”) as approved by the Board;
- (d) such other financial and business information as any Investor may reasonably request from the Corporation from time to time.

## **5.2 Other Covenants**

Without limiting any other covenants and provisions hereof, and except to the extent the following covenants and provisions of this Section 5.2 are waived in any instance by the holders of Preferred Majority, the Corporation covenants and agrees that it shall perform and observe the following covenants and provisions, and shall cause each of its subsidiaries, if and when such subsidiary exists, to perform and observe such covenants and provisions. The covenants in this Section 5.2 are for the exclusive benefit of the Investors.

### **(a) Financings.**

The Corporation shall inform the Board of any negotiations, offers or contracts relating to possible financings of any nature for the Corporation, whether initiated by the Corporation or any other Person, except for (A) arrangements with trade creditors, and (B) utilization by the Corporation of commercial lending arrangements with financial institutions.

### **(b) Proprietary Information and Inventions Agreements.**

The Corporation shall obtain a duly executed agreement relating to proprietary information and assignment of inventions on terms and conditions acceptable to the Board, from each current and future technical or senior managerial employee, contractor and consultant of the Corporation.

### **(c) Confidentiality and Non-Compete Agreements.**

The Corporation shall ensure that all key employees of the Corporation enter into appropriate employment contracts containing appropriate confidentiality, non-compete and non-solicit covenants that are acceptable to the Board.

## **ARTICLE 6 DEALING WITH SHARES**

### **6.1 Restrictions on Transfer of Shares**

- (a) No Shareholder shall Transfer any Shares to any Person, except as specifically permitted or required by this Agreement and only in accordance with the terms of this Agreement. The Corporation shall not be required: (A.) to Transfer on its books any Shares, nor (B.) to treat as the owner of the Shares, or otherwise to accord voting or dividend rights to, any transferee to whom the Shares have been Transferred in contravention of this Agreement.

- (b) Every Transfer of Shares held by a Shareholder is subject to the conditions that:
- (i) the proposed transferee, if not already bound by the terms of this Agreement, first agrees, in writing, to become a party to and be bound by the terms of this Agreement by signing an acknowledgment substantially in the form annexed hereto as Schedule “B”;
  - (ii) the Transfer is approved in accordance with the Articles; provided, that, any Transfer referred to in Section 6.1(a) or that is otherwise a permitted Transfer pursuant to this Agreement shall be deemed to be consented to by the Shareholders for the purposes of any restrictions on Transfer in the Articles; and
  - (iii) the Shareholder shall have provided the Corporation with written assurances, in form and substance satisfactory to the Corporation, that: (A.) the proposed Transfer is exempt from the registration and prospectus requirements of all applicable securities laws, and (B.) all appropriate action necessary for compliance with applicable securities laws and regulatory policies in connection with such proposed Transfer have been taken.
- (c) The Corporation shall refuse to issue any new Shares to any Person who is not a Party hereto, and the issuance of Shares to any such Person shall not be approved by the Board, unless either (a) such Person has agreed to become a Party hereto and bound by all the provisions hereof by signing an acknowledgment substantially in the form annexed hereto as Schedule “B” and provided that such Person is not engaged in the business of a Competitor of the Corporation; or (b) such Person is subject to a Share Restriction Agreement. All future grantees of options to purchase Shares or securities of the Corporation convertible into Shares shall be required, as a condition to the exercise or conversion of any such options or convertible securities, either (a) to enter into an appropriate written contractual obligation to become a Party to and bound by this Agreement; or (b) to become a party to a Share Restriction Agreement.

## **6.2 Endorsement on Certificates**

In addition to such legends as may be required by applicable securities laws, share certificates of the Corporation shall bear the following language either as an endorsement or on the face of such share certificate:

“The shares represented by this certificate are subject to all the terms and conditions of a Shareholders Agreement made as of *14<sup>th</sup>, July, 2021* as it may be amended from time to time, which agreement contains, among other things, restrictions on the right of the holder hereof to transfer or sell the shares. A copy of such agreement is on file at the registered office of the Corporation.”

## **6.3 Pre-Emptive Rights**

- (a) Subject to paragraphs (b) and (c), if any shares or other securities of the Corporation, or options, rights, warrants or other instruments to purchase shares, or securities convertible into or exchangeable directly or indirectly for shares (including any newly created class or series) (collectively referred to in this Section as “Additional Securities”), are to be issued, the Corporation shall first offer such Additional Securities to the Major Investors by notice given to them of the Corporation’s intention to issue Additional Securities and the number and purchase price of such Additional Securities to be so issued. Each of the Major Investors may purchase its Pro Rata Share (as such term is defined below) of the Additional Securities so offered. Each Major Investor’s “Pro Rata Share” of the Additional Securities shall be equal to the total number of Additional Securities so offered, multiplied by the quotient of X/Y, where X is equal to the number of Class A Preferred Shares that the Major Investor holds, and Y is equal to the aggregate number of Class A Preferred Shares held by all of the Major Investors. Each Major Investor shall have five (5) Business Days from the date such notice is given to give a notice to the Corporation of such Major Investor’s intention to purchase all or any of the Additional Securities to which it is entitled. If no such notice is given by a Major Investor within such five (5) Business Day period, such Major Investor shall be deemed to have rejected the offer to purchase such Additional Securities. The transaction of purchase and sale by the Corporation to the Major Investors shall be completed on the date specified by the Board. Any Additional Securities not taken up by the Major Investors may be issued within ninety (90) days of such Additional Securities having been first offered to the Major Investors, at not less than the price and on terms no more favourable than the terms offered to the Major Investors, to such Persons as the Board determines, provided that such Persons agree to be bound by, and become parties to, this Agreement in accordance with Section 6.1(c) above.
- (b) The Corporation may issue Additional Securities without complying with the provisions of subsection (a) of this Section 6.3:

- (i) if such Additional Securities are:
  - (A) Permitted Additional Securities;
  - (B) Common Shares or rights to purchase Common Shares issued in connection with equipment lease financing arrangements, credit arrangements, debt financings, or other commercial transactions approved in good faith by the Board, or otherwise to strategic partners, customers, suppliers, landlords, lenders or lessors pursuant to agreements approved in good faith by the Board, provided, that, any such transaction must be for non-financing purposes; or
  - (C) Common Shares or rights to purchase Common Shares issued for consideration other than cash pursuant to a merger, amalgamation, consolidation, or acquisition of a business or any assets or properties or technology, or similar business combination, in any case approved in good faith by the Board; or
- (ii) if the application of this Section 6.3 is waived in writing by a Preferred Majority.
- (c) The pre-emptive rights of Major Investors to purchase Additional Securities, described in this Section 6.3, will terminate immediately prior to:
  - (i) a Qualified IPO by the Corporation;
  - (ii) a Sale Transaction (as defined in Section 6.6 (a) (i) of this Agreement; or
  - (iii) 10 years from the date of this Agreement.

#### **6.4 Permitted Transfers**

- (a) Each Investor may, after giving notice to the Corporation, transfer all or any part of the Shares beneficially owned by it to:
  - (i) any Affiliate of such Investor;
  - (ii) any fund under common management or Control with such Investor (or its successor by amalgamation), or whose manager or general partner, as applicable, is the same as or an Affiliate of the manager or general partner of the Investor (or its successor by amalgamation);
  - (iii) any shareholder(s), partner(s), member or investor(s) of such Investor where such Transfer is made in connection with a distribution of assets to any shareholder(s), partner(s), member(s) or investor(s) of the Investor;
  - (iv) any Person in connection with the sale of all or substantially all of the assets of such Investor or the liquidation or dissolution of such Investor; or

- (v) any financial institution that carries on the business of providing equity financing as part of a sale of a portfolio of equity interests by such Investor;

provided, that, each transferee agrees to be bound by, and become a party to, this Agreement in accordance with Section 6.1(c) above and neither such transferee nor any of its Affiliates is a Competitor of the Corporation.

- (b) Each Shareholder may, after giving notice to the Corporation, Transfer all or any part of the Shares beneficially owned by it to:
  - (i) a corporation wholly-owned by such Shareholder and/or his Family Members; or
  - (ii) a custodian, trustee (including an RRSP, RIF, IRA or similar retirement or investment fund) or other fiduciary for such Shareholder and/or his Family Members; or
  - (iii) any other Person if such Transfer is effected pursuant to such Shareholder's will or the laws of intestate succession;

provided, in the case of (i), (ii) or (iii) above, the transferee agrees to be bound by, and become a party to, this Agreement in accordance with Section 6.1(c). In the event of any such Transfer pursuant to (i) or (ii) above:

- (A) the transferring Shareholder shall remain a party to this Agreement;
- (B) the transferring Shareholder shall take such actions as may be necessary to cause the transferee to at all times fully and faithfully perform and discharge its obligations under this Agreement and to comply with the terms and conditions of this Agreement;
- (C) the transferring Shareholder shall at all times after such Transfer be jointly and severally liable with the transferee for the performance and discharge the transferee's obligations under this Agreement and compliance by the transferee with the terms and conditions of this Agreement; and
- (D) if the transferee is no longer a corporation wholly-owned by the transferring Shareholder and/or his respective Family Members or a custodian, trustee or other fiduciary for such Shareholder and/or his Family Members, the transferee will immediately transfer all of the transferred Shares back to the Transferor.

## **6.5 Co-Sale Rights**

- (a) If any Shareholder (the "Selling Party") receives from a third party (the "Third Party"), acting as principal and dealing at arm's length with the Selling Party, a bona fide written offer (the "Third Party Offer"), prior to the acceptance of the

Third Party Offer, the Selling Party shall notify all of the Investors (other than the Selling Party if the Selling Party is an Investor) (the “Remaining Shareholders”) of such proposed sale and the terms of such proposed sale and the Selling Party shall obtain from the Third Party a bona fide offer addressed to each of the Remaining Shareholders, on terms and conditions at least as favourable as those contained in the Third Party Offer, to purchase from each Remaining Shareholder (the “Co-Sale Offer”) the Shares which the Remaining Shareholder holds.

- (b) If the Third Party has specified a limited number of Shares that it is willing to purchase in the aggregate, then each Investor has the right to sell to the Third Party up to that number of Shares (calculated on an as-converted basis) that is in the same proportion to the number of Shares being purchased by the Third Party pursuant to the Third Party Offer, as the number of Shares then owned by such Investor is of the total number of Shares held by the Selling Party and the Remaining Shareholders (in each case, calculated on an as-converted basis). If any Remaining Shareholder does not elect to sell the full number of Shares that it is entitled to sell, the Selling Party is entitled to sell additional Shares to make up the aggregate number of Shares being so purchased.
- (c) The Selling Party shall deliver the Co-Sale Offer to the Remaining Shareholders, together with a copy of the Third-Party Offer. The Co-Sale Offer shall be irrevocable and shall be open for acceptance by the Remaining Shareholders for thirty (30) days after the delivery thereof to the last of the Remaining Shareholders. If, within such thirty (30) day period, a Remaining Shareholder does not provide the Selling Party with notice of such Remaining Shareholder’s intent to accept or reject the Co-Sale Offer, such Remaining Shareholder shall be deemed to have rejected the Co-Sale Offer.
- (d) The price per share for any Shares in respect of which a co-sale right under this Section 6.5 is exercised will be computed on the basis of an appropriate, reasonable discount or premium related to the terms and conditions of each class of Shares to be sold by the Selling Party and the Remaining Shareholders for which any other class of Shares to be sold by the Selling Party and the Remaining Shareholders are not entitled to.
- (e) This Section 6.5 shall not apply if: (i) the Preferred Majority exercise the drag-along rights provided in Section 6.5 with respect to the Third-Party Offer.

## **6.6 Drag Along Rights**

- (a) If:
  - (i) a third party offer is made to the Corporation and/or one or more of the Shareholders that provides for:
    - (A.) any merger, amalgamation, reorganization, consolidation or other transaction involving the Corporation and any other corporation or other entity or person in which the persons who were the shareholders of the

Corporation immediately prior to such merger, amalgamation, reorganization, consolidation or other transaction own less than fifty percent (50%) of the outstanding voting shares of the surviving or continuing entity after such merger, amalgamation, reorganization, consolidation or other transaction;

(B.) the sale, exchange or transfer by the Corporation's shareholders, in a single transaction or series of related transactions, of all of the voting shares of the Corporation (other than those held by the Person making the third-party offer); or

(C.) the sale, lease, license, abandonment, transfer or other disposition of all or substantially all the assets of the Corporation or the exclusive license of all or substantially all of the Corporation's material intellectual property and technology (any transaction referred to in (A.), (B.) or (C.) above being hereinafter referred to as a "Sale Transaction"); and

- (ii) the Sale Transaction has been irrevocably accepted, or otherwise approved, by a Shareholder Majority,

then, upon being notified by the Corporation or such third party offeror of the names of the Shareholders who have irrevocably accepted or otherwise approved such offer and the number of Shares in respect of which they have irrevocably accepted, or otherwise approved, the Sale Transaction, each Shareholder: (I.) shall, if the Sale Transaction involves a sale or other tender of Shares, sell all of the Shares held by such Shareholder to the third party offeror pursuant to the terms of the Sale Transaction in accordance with the offer upon the terms and at the price contained in the offer; (II.) shall vote in favour of (for the purposes of any approval acquired by the Act, the Articles, this Agreement or otherwise), and otherwise act, to approve the Sale Transaction and any continuance, reorganization or recapitalization or any other change to the Articles that is necessary or desirable to facilitate the Sale Transaction, as applicable; and (III.) shall provide such reasonable representations, warranties, indemnities, covenants, escrow agreements and other agreements as may be required by the third party offeror pursuant to such Sale Transaction. To the extent permitted by law, each Shareholder hereby expressly waives any right to dissent or appraisal under applicable laws with respect to the transactions or approvals referred to in clause (II.) above.

- (b) Notwithstanding the foregoing, no Shareholder (nor their respective Permitted Transferees) is required to comply with the terms of this Section 6.6 if:

- (i) the liability of such Shareholder under the purchase agreement for the Sale Transaction (including, without limitation, liability for a breach of representation or warranty or for a claim under an indemnity) exceeds with respect to such Shareholder the lesser of such Shareholder's (A.) pro rata share of any claim; and (B.) the purchase price payable to such Shareholder;

- (ii) the portion of the aggregate proceeds of the sale allocated to the Shareholder is less than the portion of the assets of the Corporation would be distributed to such Shareholder upon a liquidation of the Corporation; or
- (iii) the terms of the Drag-Along Offer, other than price, that are applicable to the Shareholder are, on the whole, less favourable to the Shareholder as the terms applicable to the Shareholders that accept or approve the offer pursuant to Section 6.6(a)(ii).

## **6.7 Lock-up**

If requested in writing by the underwriters in connection with a Qualified IPO, each Shareholder will agree not to sell publicly any Shares (other than Shares being sold in such Qualified IPO), without the consent of such underwriters, for a period not to exceed 180 days following the closing of such Qualified IPO (or such longer period as may be reasonably requested by such underwriters so as to facilitate compliance with applicable research report publication restrictions); but only if all other Persons holding in excess of 5% of the capital stock of the Corporation on a fully diluted basis agree not to sell publicly their shares of the Corporation under the circumstances and pursuant to the terms set forth in this Section 6.7.

## **ARTICLE 7 ARRANGEMENTS REGARDING DISPOSITIONS**

### **7.1 Closing**

The following provisions apply to any Transfer of Shares between Shareholders or between Shareholders and the Corporation pursuant to this Agreement, or by a Shareholder who wishes or is required to sell Shares pursuant to Section 6.5 or 6.6 of this Agreement:

- (a) The Transfer shall be completed at the Corporation's registered office on the date specified for closing. At such time, the transferor(s) shall Transfer to the transferee(s) good title to the Shares being transferred free and clear of all liens, charges and encumbrances and deliver to the transferee(s) certificates and other documents of title evidencing ownership of the Shares being transferred, duly endorsed in blank for transfer by the holders of record. In addition, if the transferor is disposing of all or substantially all of its Shares, the transferor(s) shall deliver to the Corporation all records, accounts and other documents in its possession belonging to the Corporation and the resignations and releases of its nominees on the Board, all such resignations to be effective no later than the time of delivery. The transferee(s) shall deliver to the transferor(s) full payment of the purchase price (subject to any escrow or holdback requirement) payable for the Shares being transferred.
- (b) If, at the time of closing, a transferor fails to complete the subject transaction of purchase and sale, the transferee (or, in the case of a Sale Transaction, the Corporation or any other Shareholder) shall have the right, if not in default under this Agreement, without prejudice to any other rights that it may have, upon payment by the transferee of that part of the purchase price payable to the transferor



at the time of closing to the credit of the transferor in the main branch of the Corporation's bank (or, in the case of a Sale Transaction in which the consideration consists of cash, securities or other assets, or any combination, with a third party escrow agent), to execute and deliver, on behalf of and in the name of the transferor, such deeds, transfers, share certificates, resignations or other documents that may be necessary to complete the subject transaction and the transferor hereby irrevocably appoints the transferee its attorney in that behalf. Such appointment and power of attorney, being coupled with an interest, shall not be revoked by the insolvency or bankruptcy of the transferor and the transferor hereby ratifies and confirms and agrees to ratify and confirm all that the transferee may lawfully do or cause to be done by virtue of such appointment and power.

## **7.2 Completion of Drag-Along Offers**

If a Sale Transaction contemplates a purchase of Shares and, at the time proposed for the closing of the Sale Transaction, a Shareholder does not complete the transactions for any reason, the party making the third party offer has the right to deposit that portion of the consideration for such Shareholder's Shares to be paid at closing either, in the case of consideration consisting of cash, to the credit of such Shareholder in the main branch of the Corporation's bank, or, in the case of consideration consisting of cash, securities or other assets, or any combination, with a third party escrow agent. If the purchase price is so deposited, then from and after the date of deposit, even if certificates or instruments evidencing the Shares are not delivered to the third party making the third party offer:

- (a) the purchase is deemed to have been fully completed (subject to any obligation in the transaction documents to make payments of portions of the purchase price after the closing date), and the records of the Corporation may be amended accordingly;
- (b) all interest in the Shares is conclusively deemed to have been transferred and assigned to and to have become vested in the third party; and
- (c) all interest of such Shareholder and of any other Person (other than the third party) having an interest in such Shares ceases.

## **7.3 Repayment of Debt**

- (a) In the event that at the time of the sale of any Shares under any provision of this Agreement, the vendor thereof is indebted to the Corporation or any Affiliate thereof, the vendor shall assign and set over to the Corporation or such Affiliate and shall direct the purchaser to pay to the Corporation or such Affiliate, if requested by the Corporation to do so, the purchase price of such Shares to the extent required to discharge the vendor's indebtedness to the Corporation or such Affiliate.
- (b) In the event that at the time of the sale of any Shares under any provision of this Agreement, the Corporation or any Affiliate thereof is indebted to the vendor, the Corporation or such Affiliate shall pay all such indebtedness to the vendor (unless it otherwise agrees in writing) at the time of closing herein provided for.

## **ARTICLE 8**

### **CONFIDENTIALITY**

#### **8.1 Confidentiality**

No Party shall, at any time or under any circumstances, without the consent of the Corporation, directly or indirectly communicate or disclose to any Person (other than the other Parties and its or their employees, agents, advisors and representatives) or make use of any confidential knowledge or information howsoever acquired by such Party relating to or concerning the customers, products, technology, trade secrets, systems or operations, or other confidential information regarding the property, business and affairs of the Corporation (collectively, “Information”), except for:

- (a) Information that becomes generally known in the industry to which the business of the Corporation is related other than through a breach of this Agreement;
- (b) Information that is lawfully obtained from a third party without breach of this Agreement by the Party;
- (c) Information that is reasonably required to be disclosed by a Party to protect its interests in connection with any proposed Transfer of Shares that is pursuant or subject to this Agreement; or
- (d) Information that is required to be disclosed by law or by the applicable regulations or policies of any regulatory agency of competent jurisdiction or any stock exchange, provided that the Party gives the Corporation prompt written notice of the compelled disclosure and cooperates with the Corporation, at the Corporation’s expense, in seeking a protective order or any other protections available to limit the disclosure of the Information.

If a Shareholder ceases to be a shareholder of the Corporation, the Shareholder shall use all reasonable efforts to ensure that all Information and all copies thereof are either destroyed or returned to the Corporation if the Corporation so requests, and shall not, directly or indirectly, use for the Shareholder’s own purposes, any Information discovered or acquired by the Shareholder or the Shareholder’s advisors. The Party’s obligations in this Article 8 shall be in addition to and not in derogation of any other obligation of confidentiality owed to the Corporation by the Founders or other Shareholders who are employees of or consultants to the Corporation.

#### **8.2 Specific Performance**

Each of the Parties acknowledges that disclosure of any Information in contravention of Section 8.1 may cause significant harm to the Corporation and that remedies at law may be inadequate to protect against a breach of Section 8.1. Accordingly, each of the Parties acknowledges that the Corporation is entitled, in addition to any other relief available to it, to the granting of injunctive relief without proof of actual damages or the requirement to establish the inadequacy of any of the other remedies available to it. Each of the Parties covenants not to assert any defence in proceedings regarding the granting of an injunction or specific performance based on the availability to the Corporation of any other remedy.

## **ARTICLE 9**

### **GENERAL**

#### **9.1    Application of this Agreement**

The terms of this Agreement shall apply to any Shares that may hereafter be issued by the Corporation and to any shares or other securities:

- (a)    resulting from the conversion, reclassification, redesignation, subdivision, consolidation or other change to the Shares; or
- (b)    of the Corporation or any successor body corporate that may be received by the Shareholders on a merger, amalgamation, arrangement or other reorganization of or including the Corporation;

and prior to any action referred to in (a) or (b) above being taken the Parties shall give due consideration to any changes that may be required to this Agreement in order to give effect to the intent of this Section 9.1.

#### **9.2    Aggregation of Shares**

All of the Shares of each class held or acquired by each Investor and/or any Permitted Transferee of such Investor pursuant to Section 6.4(a) of this Agreement shall be aggregated together for the purposes of determining the availability of any rights of such Investor under this Agreement.

#### **9.3    Undertaking**

The Parties undertake to sign and complete all such deeds, documents, resolutions, minutes and other instruments and to do all such acts as are necessary to give full effect to the terms, conditions and restrictions contemplated by this Agreement and to make them binding on the Parties as well as on third parties who are not privy to the terms hereof.

#### **9.4    Notices**

Any notice, consent or approval required or permitted to be given in connection with this Agreement (in this Section referred to as a “Notice”) must be in writing and is sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by fax:

- (a)    in the case of a Notice to the Corporation at:

MiddleFund Ventures

Attention:    Chief Executive Officer  
Mobile:       +233200490556  
Email:        tuahirud@gmail.com

in the case of a Notice to any Investor, at the address for notice contained in Schedule “A” of the Subscription Agreement; and

- (b) in the case of a Notice to any other Shareholder, at the address in the records of the Corporation with respect to such Shareholder.

Any Notice made or given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and, if made or given by courier, on the second (2nd) Business Day following the deposit thereof with the courier and, if made or given by fax, on the day of transmittal thereof or if the day of transmittal is not a Business Day, the next Business Day following the date of transmittal thereof (provided the original copy is immediately forwarded by courier).

## **9.5 Amendment**

- (a) No amendment, supplement or modification of this Agreement and, unless otherwise specified, no waiver, consent or approval by any Party, is binding unless approved by the Board, and approved in writing by the Preferred Majority and the Founders. Notwithstanding the above:
  - (i) any amendment of this Agreement that treats some Shares of a particular class in a manner that is not similar to the remaining Shares of such class is ineffective without the written consent of the Shareholder whose Shares of such class are not treated in a similar matter to the remaining Shares or, if there is more than one Shareholder holding such Shares, the Shareholders holding at least a majority of the Shares of such class that are not treated in a similar manner to the remaining Shares; and
  - (ii) the Parties agree that the Corporation is entitled to, and the Corporation shall, make such amendments to Schedule “A” and Schedule “A-1” from time to time as may be necessary to reflect permitted changes in the Shareholders and their shareholdings.

## **9.6 Execution and Delivery**

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by fax or other electronic means, and all such counterparts and facsimiles together constitute one agreement.

## **9.7 Benefit of the Agreement**

This Agreement enures to the benefit of and is binding upon the respective heirs, executors, administrators, successors and permitted assigns of the Parties.

## **9.8     Assignment**

Each Investor shall be entitled, on prior written notice to the Corporation, to assign all of its rights, benefits, remedies and obligations under this Agreement to any Permitted Transferee of the Investor Shares held by it. Subject to the immediately preceding sentence, and except as expressly provided in this Agreement, none of the Parties to this Agreement may assign its rights, benefits, remedies and obligations under this Agreement without the prior written consent of the Corporation and a Preferred Majority.

## **9.9     Termination**

This Agreement terminates upon the first to occur of:

- (a) the date this Agreement is terminated by the written approval of: (i) the Board; (ii) the Founders and (ii) a Preferred Majority;
- (b) the date that is immediately prior to a Qualified IPO;
- (c) the time that one Person becomes the beneficial owner of all of the Shares; and
- (d) the date of a Sale Transaction unless otherwise agreed in writing by a Shareholder Majority;

except that the provisions of Sections 6.7, 8.1, and 8.2 continue upon a termination of this Agreement.

## **9.10    Entire Agreement**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces in its entirety all previous agreements, term sheets and understandings relating to the matters referred to in this Agreement.

**[The remainder of this page is intentionally left blank.]**

IN WITNESS OF WHICH the Parties have duly executed this Agreement.

**MIDDLEFUND VENTURES**

By: \_\_\_\_\_

Name: Basha Tahidu Damba

Title: Founder & C.E.O

By: \_\_\_\_\_

Name: Abubakari Maltiti Bilal

Title: Senior Developer

By: \_\_\_\_\_

Name: Farouk Pumaya

Title: Risk Analyst/ Fund Manager

By: \_\_\_\_\_

Name: Karan Okai Kanyi

Title: Shareholder

By: \_\_\_\_\_

Name: Saani Ahlam Tunteeya

Title: Shareholder

By: \_\_\_\_\_

Name: Rabiatu Timtouni Mohammed  
Title: Human Resources Manager/ PR

By: \_\_\_\_\_

Name: Latifa Laaba Tanko Iddi  
Title: Shareholder

By: \_\_\_\_\_

Name: Fataw Abdulai Adams  
Title: Shareholder

By: \_\_\_\_\_

Name: Mohammed Pumaya  
Title: Executive Assistant

SIGNED, SEALED AND DELIVERED )  
in the presence of: )

\_\_\_\_\_  
Witness )

\_\_\_\_\_  
**BASHA TAHIDU DAMBA**



## **SCHEDULE “A”**

### **LIST OF SHAREHOLDERS AND SHARES**

<b>Shareholders</b>	<b>Number of Shares</b>
Rabiatu Timtouni Mohammed	50,000 shares
Saani Ahlam Tunteeya	50,000 shares
Fataw Abdulai Adams	50,000 shares
Pumaya Mohammed	50,000 shares
Latifa Laaba Tanko Iddi	100,000 shares
Karan Okai Kanyi	200,000 shares
Farouk Pumaya	500,000 shares
Abubakari Maltiti Bilal	1,500,000 shares

**SCHEDULE “A-1”**

**LIST OF FOUNDERS AND OTHER SHAREHOLDERS**

<b>Founder and Other Shareholders</b>	<b>Number and Class of Shares</b>
Basha Tahidu Damba	7,500,000 shares – Founder shares

## **SCHEDULE “B”**

### **FORM OF ACKNOWLEDGEMENT**

To: The parties to the Shareholders Agreement made as of 14<sup>th</sup> July, 2021 between MiddleFund Ventures (the “Corporation”) and all of the shareholders of the Corporation, as the same may be amended from time to time (the “Agreement”)