



**BUILD, OPERATE, OWN AND TRANSFER (BOOT) PROJECT
AGREEMENT**

FOR

500 BEDS KUMASI SITE

BETWEEN

**WISCONSIN INTERNATIONAL UNIVERSITY COLLEGE,
GHANA LTD-KUMASI SITE**

AND

CONSTRUCTPRO INNOVATIONS LTD.

18TH OCTOBER 2021

This AGREEMENT is made and entered into on this 18th day of October 2021,

BETWEEN:

WISCONSIN INTERNATIONAL UNIVERSITY COLLEGE, GHANA, LTD, a University College established by Law in Ghana, as a company limited by shares, and having its address at 23 Akoto Bamfo Street, North Legon, in the Greater Accra Region of Ghana, (P. O. Box LG 751 Legon, Accra), (hereinafter referred to as 'Wisconsin') of the one part, acting by its Vice Chancellor Prof. Obeng Mireku, who is duly authorized to represent it in this agreement.

=AND=

CONSTRUCTPRO INNOVATIONS LTD, a Company registered in Ghana, having its registered office at off Atomic Road, Haatso, Accra, in the Greater Accra Region of the Republic of Ghana, and acting by its Chief Executive Officer, Ernest E. Amissah, who is duly authorized to represent it in this agreement, (hereinafter referred to as "CPI") of the other part.

RECITALS

WHEREAS WIUC and CPI signed a Memorandum of Understanding on the 18th October 2021 pursuant to which they agreed, inter alia, to endeavor to agree the terms upon which CPI, would build five hundred (500) beds facility at the agreed Kumasi site of Wisconsin on a build, operate, own and transfer basis.

NOW IT IS HEREBY AGREED as follows: -

1.0 DEFINITION OF TERMS:

- i. Effective Date means the date of the signing of this agreement.
- ii. Commencement Date means the date of Sod Cutting.
- iii. Transfer Date means the end of the 30-year BOOT term.
- iv. BOOT Term means date of occupancy and thirty (30) years thereafter.
- v. Construction period means twelve (12) months from date of Sod Cutting.
- vi. Hostel means the Hostel to be constructed by the CPI and together with all facilities built under the project.
- vii. CPI means Constructpro Innovations Limited.
- viii. WIUC means Wisconsin International University College, Ghana Ltd.

2.0 THE PROJECT

2.1 CPI, having inspected the site and finding it physically suitable for the construction and operation of a five hundred (500) bed capacity students' hostel (hereinafter, 'the Hostel'), shall

cause the design, development, construction, completion, commissioning of the Hostel in accordance with the specifications and the project scope.

2.2 Subject as herein provided, all costs of CPI in connection with the building of the hostel as provided in clause 2.1 shall be borne by CPI and CPI shall be responsible for arranging all necessary funding including any available preferential credits.

2.3 WIUC shall make available the site (**Appendix 1**) to CPI for the purpose of building and operating the hostel for the period from the Effective Date until the Transfer Date and CPI shall be responsible for the payment of all taxes and assessments, rates and other charges in respect of the site and the buildings and improvements thereon.

2.4 WIUC shall ensure that all necessary access to and from the site is made available to CPI.

2.5 CPI shall be responsible for the importation and transportation of equipment to the site, the obtaining of building, construction, operating and other permits, licenses and approvals for the project, and of visas and work permits for foreign personnel, the recruitment of local labour and compliance with all local and other regulations including the payment of all fees and costs thereof.

2.6 From the date hereof until the Transfer Date, CPI shall, directly or indirectly, own the hostel and it shall operate and manage the hostel for the benefit of both parties.

2.7 On the Transfer Date, the Hostel shall be transferred by CPI to WIUC without the payment of any compensation.

2.8 The parties herein shall mutually collaborate with each other in order to achieve the objectives of this Agreement and the performance by each of the parties hereto of their respective obligations hereunder

3.0 CONSTRUCTION OF THE HOSTEL

3.1 CPI shall be responsible for the design, construction, equipping, completion, and commissioning of the Hostel and shall commence work upon being instructed by WIUC by instructions in writing, given not later than 10th November 2021

3.2 In pursuance of its obligation under clause 3.1, CPI shall have full right to:

- i. Call for tenders and award contracts with or without tender;
- ii. Arrange for the preparation of detailed designs and approve or reject the same;
- iii. Appoint consultants and professional advisers;
- iv. Appoint, organize and direct staff, manage and supervise the Project;
- v. Enter into contracts with third parties for the supply of materials
- vi. Both parties shall commit to a Value for Money (VFM) audit of the materials to be used for the project.
- vii. Do all other things necessary or desirable for the completion of the Hostel in accordance with the specifications and generally accepted engineering standards by the Target Completion Date.

3.3 WIUC shall be entitled at its own cost to monitor the progress and quality of the construction and installation work and for this purpose, CPI shall:

- i. Ensure that WIUC and any experts appointed by WIUC in connection with the Project are afforded reasonable access to the Site at times to be agreed with CPI provided that such access does not materially interfere with the works comprising the Project or expose any person on the Site to any danger.
- ii. Make available for inspection at the Site copies of all plans and designs; and
- iii. Within two (2) months of the completion of the Hostel, supply WIUC with one set of reproducible copies and five sets of white print copies (or equivalent) of all “as built” plans and designs.

3.4 CPI:

- i. Shall in no way represent to any third party that WIUC is responsible for the engineering soundness of the Hostel; and
- ii. Shall, subject to other provisions of this Agreement, be solely responsible for the economic and technical feasibility, and operational capability of the Hostel.

3.5 WIUC shall:

- i. Give vacant possession of the Site to CPI by, not later than, 15 working days after the Effective Date 18th November, 2021.

3.6 CPI warrants and undertakes that the Site shall be suitable for the construction and operation of the Hostel including its construction and operation within all environmental and other local laws and regulations.

4.0 SPECIFICATIONS AND OPERATING PARAMETERS

4.1 The Hostel shall be constructed and equipped in accordance with the Specifications and Project Scope set out in the Bill of Quantities (BOQ) and the Architectural Working Drawings (**Appendix 2**).

4.2 Following the Completion Date, the Hostel shall be capable of operating within the guidelines set out in the Hostel Operational Manual (**Appendix 3**).

5.0 WORKS SCHEDULE

5.1 The parties shall work together in order to achieve the timely completion of the Project in accordance with the building Scope of Work (**Appendix 4**).

5.2 In the event that, due to the fault of CPI, the completion Date has not occurred, both parties shall meet to discuss any challenges whatsoever and find an amicable solution for the continuation of the Project.

6.0 CERTIFICATION

6.1 The parties shall meet and agree procedures, standards, protective settings, and a programme that conforms to the standards of the Ghana Building Code.

6.2 Forthwith upon the completion of any certification, the Accra and Kumasi Metropolitan Assembly (AMA and KMA) shall certify whether the Hostel has satisfied the standards of the Ghana Building Code and shall provide WIUC with a copy of such certificate.

7.0 CONDITIONS PRECEDENT

7.1 It shall be a condition precedent to this Agreement that by 18th November 2021, or such later date as the parties hereto may agree, the following are supplied to WIUC by CPI, each in form and substance satisfactory to WIUC unless such a condition precedent is waived by WIUC in writing:

- (i) Hard copies of Certification of Incorporation of CPI as issued by the Registrar General's Department.
- (ii) Hard copies of resolutions adopted by CPI's Board of Directors, authorizing the execution, delivery and performance by CPI of this Agreement.
- (iii) Letter of approval from the financiers of CPI to provide funding for the Project;

(iv) Copies of all such consents, licences, permits, approvals and registrations by or with any governmental agencies as may be necessary to ensure the validity and binding effect of this agreement.

7.2 It shall be a condition precedent to this Agreement that by 18th November 2021 or such later date as the parties hereto may agree in writing, the following are supplied to CPI by WIUC, each in form and substance satisfactory to CPI or that such a condition precedent is waived by CPI in writing:

- (i) Copies of resolutions adopted by the Governing Council of WIUC, authorising delivery and performance by WIUC of this Agreement.
- (ii) A copy of the cadastral site plan of the land to be used for the project.
- (iii) A copy of the sub lease executed between WIUC and CPI transferring interest in the 4.0 acres of land to CPI for the term of the BOOT agreement.
- (iv) Evidence that the sub lease referred to in the paragraph (iv) above has been recorded at the Lands Commission and that CPI's interest in the land has been duly recorded.

7.3 If all the conditions set out in the Clause 7, hereof have not been satisfied as of 18th October 2021, the parties hereby shall meet and endeavor to agree a new Effective Date; if no agreement is reached on or before 18th November 2022, this Agreement shall be declared automatically cancelled (or alternatively suspended until further notice) and the parties shall have no liability with respect to each other.

8.0 OPERATION OF THE HOSTEL

8.1 CPI shall, at its own cost, be responsible for the management, operation, maintenance, and repair of the Hostel during the BOOT Term (30 years) and shall use its best endeavours to ensure that the Hostel is in good operating condition and capable of hosting student occupants.

8.2 It is understood and agreed by the parties that in order to undertake necessary maintenance and repair, CPI shall be entitled to shut down the facility once a year and the parties hereto shall agree in writing an annual schedule for the shutdown.

8.3 CPI undertakes that during the BOOT Term (30 years), it shall manage the Hostel.

8.4 In pursuance of its obligations under Clause 8.1 CPI shall have full right to:

- (i) Enter into contracts for the supply of materials and services;
- (ii) Appoint and remove managers of the Hostel;
- (iii) Purchase replacement equipment;
- (iv) Appoint, organize and direct staff, manage and supervise the Hostel;
- (v) Establish and maintain regular inspection, maintenance and procedures; and

(vi) Do all other things necessary or desirable for the running of the Hostel

8.5 WIUC shall give a guarantee of occupancy of the facility (commercial guarantee):

(i) On the completion of the Hostel, the University shall use its best endeavors to make available enough students to fill up the Hostel.

(ii) For the duration of the contract, the University shall use its best endeavors to ensure that there are enough students to occupy the Hostel.

8.6 WIUC and CPI shall, from time to time, meet and discuss and agree safety guidelines for the operation of the Hostel.

8.7 CPI shall operate the Hostel in accordance with all environmental and local by-laws and regulations in force during the BOOT Term:

9.0 PAYMENTS

9.1 CPI shall pay an annual fee of GHS100,000 for the first three (3) years to WIUC during the BOOT Term or from the date of occupancy. This is subject to review after every three years.

10.0 INSURANCE

CPI shall be responsible to ensure there is affected insurance as provided below:

10.1 INSURANCES DURING CONSTRUCTION. From the Effective Date until the commissioning of the Hostel, CPI shall, at its own expense, obtain and maintain in force insurance to cover the entire works from any and all kinds of damages arising out of any cause whatsoever;

A. "Third Party Liability Insurance" to cover injury to or death of persons (including those of WIUC) or damages to property caused by the works or by CPI's vehicles, tools and/or equipment or personnel including its subcontractors; and

B. "Workmen's Compensation Insurance" as required under the Social Security Law.

10.2 INSURANCE DURING BOOT TERM. CPI shall at its own expense keep the Hostel insured against accidental damage from all normal risks and to a level normal for prudent operators of facilities similar to the Hostel. In addition, CPI shall secure adequate insurance cover for its employees as may be required by law.

10.3 The insurances affected shall be no less favourable to the insured in terms of risks covered than that normally effected by WIUC in respect of its own similar operations.

11.0 TRANSFER OF OWNERSHIP

11.1 On the Transfer Date CPI shall transfer to WIUC, free from any lien or encumbrance created by CPI and without the payment of any compensation, all its right, title, and interest in and to the fixtures, fittings, plant and equipment and all improvements comprising the Hostel.

11.2 Six months prior to the Transfer Date, WIUC and CPI shall meet and agree in writing the inventories involved, the mechanics of transfer and security arrangements.

11.3 The Hostel and all other equipment transferred pursuant to this Clause 11.2 shall be transferred on an "as it is" basis and any warranties which would otherwise be implied by statute or otherwise and after the Transfer Date CPI shall be under no liability whatsoever to WIUC in respect of the operation or otherwise of the Hostel and WIUC shall indemnify and keep indemnified CPI against any liability to any person arising from the use or operation of the Hostel after the Transfer Date.

11.4 CPI shall be responsible for all costs and expenses incurred in connection with the transfer referred in this Clause 11.1 and shall at its own cost obtain or effect all governmental and other approvals, licences, registrations and filings and take such other action as may be necessary for the transfer contemplated in this Clause 11.

12.0 LIABILITY

12.1 In the event that, in breach of its obligations hereunder, CPI fails to construct the Hostel, CPI shall reimburse and indemnify WIUC for all costs and liabilities incurred by WIUC in respect of WIUC's obligations under this agreement.

12.2 CPI shall hold WIUC, its officers and employees free of and harmless from any claims or suits of any third party.

13.0 FORCE MAJEURE

13.1 No failure or omission to carry out or observe any of the terms, provisions or conditions of this Agreement shall give rise to any claim by any party hereto against any other party hereto, or be deemed to be breach of this Agreement if the same shall be caused by or arise out of:

(a) Any war declared or hostilities, or blockade, revolution, insurrection, riot, public disorder, expropriation, requisition, confiscation, or nationalization, export or import restrictions by any

governmental authorities, or fire, unusual flood, earthquake, storm, lightning, tide (other than normal tides), epidemic, quarantine, strikes or combination of workmen, lockouts or other labour disturbances, or any other event, matter or thing, wherever occurring, which shall not be within the reasonable control of the party affected thereby; or each of the foregoing event, matters or things being called "Force Majeure" in this Agreement.

13.2 The party invoking Force Majeure shall:

- (a) Notify the other parties as soon as reasonably possible by email or letter of the nature of the Force Majeure and the extent to which the Force Majeure suspends the affected party's obligations under this Agreement; and
- (b) Resume performance of its obligations as soon as possible after the Force Majeure condition no longer exists.

13.3 If Force Majeure applies prior to the Completion Date, the parties will meet to discuss a revised timetable for the completion of the Project.

13.4 If Force Majeure applies by the occurrence of any Force Majeure mentioned in the subparagraph (a) of Clause 13.1 during the BOOT period, the BOOT period shall be extended by a period equal to that during which the effect of the Force Majeure applies provided that if such effect applies for a period in excess of 180 days, the parties hereto will meet to discuss the basis and terms upon which the arrangements set out in this Agreement may be continued.

13.5 The parties hereto will consult with each other and take all reasonable steps to minimize the losses of either party resulting from Force Majeure.

14.0 BUYOUT

14.1 If not earlier than ...⁵... years after the Completion Date, WIUC gives not less than 90 days' written notice to CPI that it wishes to close the Hostel or WIUC fails, without lawful excuse, to make available adequate number of students to occupy the Hostel, then upon CPI giving to WIUC not less than 90 days' notice requiring WIUC to buyout CPI or, as the case may be, WIUC giving not less than 90 days' notice in writing requiring CPI to sell out to WIUC, WIUC shall purchase all CPI's right, title and interest in and to the Hostel and thereupon all CPI's obligations hereunder shall cease.

14.2 The amount payable by WIUC to CPI for the Hostel buyout shall be determined by an independent valuer to be appointed by the parties and with inputs from both parties.

15.0 CHANGE IN CIRCUMSTANCES

In the event that as a result of any laws or regulations of the Republic of Ghana, or any agency or other body under the control of the Government of the Republic of Ghana, coming into effect after the date thereof, or as a result of any such laws or regulations in force at the date hereof being amended, modified or repealed, the interest of CPI in the Site, the Project or the Hostel and/or CPI's expectation of its economic return on its investment is materially reduced, prejudiced or otherwise adversely affected, then the parties hereto shall meet and use their best endeavors to agree written amendments to this Agreement and if after 90 days no such agreement has been reached the provisions of Clause 14.1 shall apply.

16.0 BENEFIT OF AGREEMENT

16.1 WIUC may not assign or transfer all or any part of its rights, benefits, or obligations hereunder without the written consent of CPI which consent shall not be unreasonably refused.

16.2 CPI may not, transfer all or any of its obligations hereunder but may, for purposes of arranging or rearranging finance for the Project, assign or transfer to any person providing finance to the Project, all or any part of its rights and benefits hereunder but not its obligations and WIUC shall duly acknowledge any such assignment or transfer of which it is given notice in writing.

SIGNATORIES

1. WISCONSIN INTERNATIONAL UNIVERSITY COLLEGE, GHANA LTD

..... DATE: 18th October 2021
NAME: DR. PAUL KOFI FYNN

(CHANCELLOR)

WISCONSIN INT. UNIVERSITY
COLLEGE-GHANA
P. O. BOX LG 757
LEGON

..... DATE: 18TH October 2021
NAME: DR. EMMANUEL OWUSU
(BOARD CHAIRMAN)

..... DATE: 18TH October 2021
NAME (WITNESS): PHILIP GLAH

(LAWYER FOR WISCONSIN)

2. CONSTRUCTPRO INNOVATIONS LTD

..... DATE: 18th October 2021
MR. ERNEST E. AMISSAH

(CEO, CONSTRUCTPRO INNOVATIONS LTD)

ConstructPro Innovation
No. 5 St Elizabeth Sch. Lane
West Legon, Accra
www.constructproinnovations.com

..... DATE: 18th October 2021
NAME: AMOS AKWETEEY

(FINANCE DIRECTOR, CONSTRUCTPRO INNOVATIONS LTD)

..... DATE: 18th October 2021
NAME (WITNESS): CORDELIA OKAI

(COMPANY SECRETARY, CONSTRUCTPRO INNOVATIONS LTD)