**PARTNERSHIP PROJECT AGREEMENT TEMPLATE**

**Regarding the Partnership between STW and Philips Electronics Nederland B.V.**

**“Advanced Sustainable Lighting Solutions”**

1. Technology Foundation STW, a foundation existing and organized under the laws of The Netherlands, with registered office at Van Vollenhoven 661, 3527 JP Utrecht, The Netherlands, hereinafter to be referred to as “STW”, in this matter duly represented by E.E.W. Bruins,

2. [\_Name\_],a research institute existing and organized under the laws of The Netherlands, with registered office at [\_address\_], hereinafter to be referred to as “Participant”, in this matter duly represented by [\_name\_],

Both parties hereinafter together and individually to be referred as “Parties” respectively “Party”.

WHEREAS:

A. STW enables new technology by funding applied scientific research and promoting technology transfer.

B. STW and Philips Electronics Nederland B.V. (“Philips”) have concluded a so-called ‘Partnership Agreement’, on the basis of which they invite Dutch universities and research institutes to submit project proposals in the field of Advanced Sustainable Lighting Solutions, with the intention to jointly fund the project proposals that are approved.

C. The Participant has submitted the project proposal, titled [\_title\_], attached as Annex 1 to this Agreement (“Project Proposal”). The Project Proposal has been approved by decision of [\_date\_].

D. The Parties now wish to lay down in writing the terms and conditions for the execution of the Project Proposal.

HAVE AGREED AS FOLLOWS:

**Article 1 – Definitions**

As used in this Agreement the following terms, either in plural or in the single form, have the following meaning:

1. ‘Agreement’ shall mean this agreement, including all annexes and amendments hereto.

2. ‘Affiliate’ shall mean any one or more business entities, which is (are) directly or indirectly: (i) owned or controlled by A Party, (ii) owning or controlling a Party, or (iii) owned or controlled by the business entity owning or controlling a Party, at the relevant time. For the purposes of this definition, a business entity shall be deemed to own and/or to control another entity if more than 50% (fifty per cent) of the voting stock of the latter business entity, ordinarily entitled to vote in the election of directors (or, if there is no such stock, more than 50% (fifty per cent) of the ownership of or control in the latter business entity) is held by and consolidated in the annual accounts of the owning and/or controlling business entity.

3. Philips Affiliate(s)”shall mean any one or more business entities, which is (are) directly or indirectly: (i) owned or controlled by Philips, (ii) owning or controlling Philips, or (iii) owned or controlled by the business entity owning or controlling Philips, at the relevant time. For the purposes of this definition, a business entity shall be deemed to own and/or to control another entity if more than 50% (fifty per cent) of the voting stock of the latter business entity, ordinarily entitled to vote in the election of directors (or, if there is no such stock, more than 50% (fifty per cent) of the ownership of or control in the latter business entity) is held by and consolidated in the annual accounts of the owning and/or controlling business entity.

4. ‘Background IPR” shall mean any and all IPR, other than Foreground IPR, and (a) which are owned or controlled by a Party or any of its Affiliates at the Effective Date or (b) in respect of which ownership or control is acquired by a Party or any of its Affiliates during the Term of this Agreement as a result of: (i) activities conducted outside the framework of the Project or (ii) any transaction with a third party .

5. “Confidential Information” shall mean all information of whatever nature or form disclosed during a Project by a Party or (the “Discloser “) to any other Party or Participant (the “Receiver”) in connection with that Project as well as the contents of this Agreement, and any and all results and/or conclusions emanated from the purpose and which:

a. if disclosed in tangible form, was marked as confidential at the time of such disclosure; or

b. if disclosed orally, was identified as confidential at the time of such disclosure and confirmed as confidential in writing within 30 days after disclosure.

6. “Information” shall mean any and all drawings, specifications, photographs, samples, models, processes, procedures, instructions, software, reports, papers, and any other technical and/or commercial information, data and documents of any kind, including oral information.

7. “Effective Date “shall mean the date on which the Project formally starts, which is when the Project leader undertakes an initial expenditure of allocated funding or the date of the first appointment of personnel, whichever is first.

8. “Foreground IPR”: shall mean any and all IPR resulting from any Result.

9. “IPR” shall mean patents, utility certificates, utility models, trademarks, copyrights, rights to extract information from a database, design rights, trade secrets, any protection offered by law to Information, and all registrations, applications, renewals, extensions, combinations, divisions, continuations, re-examinations or reissues of any of the foregoing.

10. ‘Project’ shall mean the research project for the performance of the activities in the field of [\_description\_], as described in the Project Proposal.

11. ‘Project Committee’ shall mean the project committee as described in article 2.4 of this Agreement.

12. ‘Project Leader’ shall mean an employee of the Participant with ultimate responsibility for the content and realization of the Project.

13. ‘Results’ shall mean an invention or any other subject matter capable of protection by IPR, which invention is made or subject matter is generated either solely by a Party any of its Affiliates Philips and/or a Philips Affiliates or jointly by the Parties ,any of its Affiliates, Philips and/or a Philips Affiliate during the Term of this Agreement and within the framework of the Project.

14. “User Committee” shall mean a committee established within the Project according to STW policy, having as its members: the project leader, researchers, representatives of Philips and Philips Affiliates, program offer and if applicable special invited experts.

**Article 2 – Conduct of the Project**

1. The Participant shall conduct the Project in accordance with the Project Plan, and the applicable “General Funding Conditions” as attached in Annex 2, to the best of its knowledge and ability and taking into account the criteria and standards applicable to scientific and/or technological research. The Participant shall conduct the Project during the term of this Agreement.

2. For the performance of the Project, the Participant shall select and appoint personnel with appropriate qualifications. [\_name\_] shall be appointed as Project Leader. The Participant shall ensure that the Project Leader and the other appointed personnel comply with the obligations imposed on the Participant and its employees in this Agreement.

3. In realizing the Project, the Participant will comply with all applicable legislation and will behave in an ethically acceptable manner as may be expected in scientific and/or technological research. The Participant shall inform STW and Philips immediately if new information emerges which is relevant to (the conduct of) the Project or the utilization of the Results.

4. A Project Committee will be formed, consisting of representatives from STW, the Participant and Philips. The Project Leader chairs the Project Committee and a representative of STW shall act as its secretary. The Project Committee shall meet at least twice a year. During such meeting, the Project Committee shall discuss the progress of the Project, on the basis of the written progress report, prepared by the Project Leader. The progress report shall be sent at least two weeks before each Project Committee meeting and shall contain amongst others a description of the Results obtained so far. The Project Leader shall use the format, as can be found at the information desk (‘infobalie’) on the website of STW.

5. If a User Committee is formed, the document “Task and Method of Working of STW User Committees” (Annex 3) will be applicable.

6. If, according to the Project Plan and pursuant to Article 3 of the Partnership Agreement , part of the Project will be performed by Philips, Philips or a Philips’ Affiliate, Philips shall ensure that such Affiliate shall perform these activities in accordance with and in the manner as described in this Article 3.

7. Prior to and during the Project the Participant shall keep Philips and Philips’ Affiliates as well as STW informed forthwith on any restrictions on access to Background IPR of STW and of Participant(s) that is relevant for commercial use of the Results. STW represents and warrants that the Participants shall inform STW and/or Philips on such Background IPR.

8. The Parties may agree that Philips and Philips Affiliates may actively take part in a Project.

**Article 3 – Funding and payment**

 The Participant is according to the Project Plan entitled to compensation of expenses, incurred by the Participant in the execution of the Project. For the performance of the Project, STW and Philips have budgeted an amount of € [\_amount\_]. The conditions on the basis of which the Participant can claim its expenses, are described in the document ‘General Funding Conditions’, attached as to this Agreement (Annex 2).

**Article 4 – Results and IPR**

1. Ownership of Results, protection of Results and rights to use Results are subject to the provisions of the Partnership Agreement that in the event of a granted Project is as attached as Annex 4.

2. The Participant shall ensure that both its employees as well as any involved third parties (taking into consideration Article 9.5 of this Agreement) who might be able to claim rights to the Results, transfer those rights to the Participant and STW.

3. The Project Leader shall inform STW and Philips, pursuant to Art 5.2.b. of the Partnership Agreement, forthwith if a Result is generated which is eligible for protection by a patent. The Project Leader shall then complete an invention disclosure form, the format for which can be found at the information desk (‘infobalie’) on the website of STW. Based on said invention disclosure form, Philips shall decide within three (3) months whether pursuant to Art 5.3 of the Partnership Agreement, Philips wishes to file or have filed by its relevant Affiliate a patent application for said Result.

**Article 5 – Confidentiality and publication**

1. Confidential Information is subject to the provisions of the Partnership Agreement. Each Party undertakes to use the Confidential Information of another Party and/or Philips and its Affiliates solely for performance of the Project, only in accordance with the terms of this Agreement and not for any other purpose.

2. If publication or presentation of results and/or details of academic research would necessitate in order to preserve scientific integrity of the publication or presentation to include Confidential Information, of Philips and its Affiliates, STW and the Participant shall provide Philips with a written reasoned request for permission to disclose said information.

3. The Participant shall ensure that every scientific publication contains the following declaration to indicate that the Results were achieved with financial support from STW:

 “This research is supported by the Dutch Technology Foundation STW, which is the applied science division of NWO, and the Technology Programme of the Ministry of Economic Affairs, Agriculture and Innovation.”

 and for Dutch publications:

“Dit onderzoek wordt gefinancierd door Technologiestichting STW, die het gebied Technische Wetenschappen van NOW vertegenwoordigt, en het Technologie Programma van het Ministerie van Economische Zaken, Landbouw en Innovatie.”

 Where possible, the publications, including scientific posters and prototypes, should also contain the STW logo.

 The Participant shall furthermore consult with Philips whether Philips wants its support to the Project to be mentioned as well in the publication.

4. For the purposes of reporting to the government and the society, STW may publish non-enabling summaries of the Project following consultation with the Project Leader. STW shall ensure that such summaries shall not affect the validity of patent rights with regard to the Results.

**Article 6 – Liability and warranties**

1. Each Party is responsible for its own actions and omissions under this Agreement.

2. Parties shall not hold each other or Philips or any Affiliate liable for damage to property or injury arising out of the performance of the Project and/or the Agreement, unless the damage or injury was caused by negligence or willful intent of the Party causing the damage or injury.

3. Notwithstanding article 2.1 above, the Participant makes no representation and extends no warranty of any kind, either express or implied, with regard to the effectiveness, merchantability or fitness for a particular purpose of the Results.

4. Prior to and during the Project, the Participant shall inform Philips and via Philips its Affiliates as well as STW forthwith on any Intellectual Property Rights of any third party, that is likely to be relevant for commercial use of the Results) in as far as the Participant is reasonably aware of such intellectual property rights of any third party.

**Article 7 – Term and termination**

1. This Agreement will be in force for the period from the Effective Date until the end of the Project (“Term”). The Project ends on the last day of employment pursuant to this Agreement of the last researcher funded by STW.

2. The provisions of Articles 4,5,6,7.2, 8 and 9 shall survive the expiration or termination of this agreement to the extent needed to enable the Parties to pursue the remedies and benefits provided for in those Articles.

3. Each Party is entitled to terminate this Agreement by written notice sent by registered mail to the other Party if the other Party is in breach of this Agreement and the breach is not remedied within thirty (30) days of the other party receiving written notice specifying the breach and requiring its remedy.

4. STW and the Participant have the right to terminate this Agreement prematurely by registered mail if Philips becomes insolvent or if an order is made or a resolution is passed for the winding up of Philips or if Philips is granted suspension of payment.

5. When the participation to the Project of a Party has been terminated as meant in paragraph 3 above, said Party shall not acquire any rights with regard to the Results, generated after the termination of its participation to the Project.

**Article 8 - Governing law and jurisdiction**

1. This Agreement shall be governed by the laws of The Netherlands.

2. If any dispute should arise between any of the Parties, such Parties shall use reasonable effort to settle such dispute before pursuing any remedy they may have at law.

3. Any dispute, resulting from this Agreement, or further agreements resulting there from which do not stipulate otherwise, which has not been solved by the Parties in accordance with the previous provision, shall be submitted to the competent court in Utrecht, The Netherlands.

**Article 9 - Miscellaneous**

1. None of the Parties shall be entitled to transfer, by means of assignment, sale or otherwise, or to encumber any and all of the rights granted under and obligations deriving from this Agreement, either in whole or in part, to a third party without the prior written consent of the other Parties.

2. Unless explicitly agreed otherwise in writing, none of the Parties is entitled to act or make legally binding declarations on behalf of any of the other Parties. Nothing in this Agreement shall be deemed to constitute a joint venture, agency or any other kind of formal business grouping or entity between the Parties.

3. Any amendments or additions made to the Agreement shall only be valid and binding between the Parties if made in writing and executed by all Parties.

4. This Agreement contains four (4) annexes which form an integral part of this Agreement:

 Annex 1 Project Proposal ‘[\_title\_]’

 Annex 2 General Funding Conditions

 Annex 3 Task and Method of Working STW User Committees

 Annex 4 Partnership Agreement

5. None of the Parties grants any rights and/or licenses to the other Parties, either explicit or implicit, nor waives any of its existing rights, unless explicitly mentioned in this Agreement.

 Signed in twofold,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_

Technology Foundation STW

By: E.E.W. Bruins By:

Place: Place:

Date: Date: