

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

COPYRIGHT LICENSE AGREEMENT

FFTW Version 3.3.x

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**MASSACHUSETTS INSTITUTE OF TECHNOLOGY
COPYRIGHT LICENSE AGREEMENT**

This Agreement, effective as of the date set forth above the signatures of the parties below (the "EFFECTIVE DATE"), is between the Massachusetts Institute of Technology ("M.I.T."), a Massachusetts corporation, with a principal office at 77 Massachusetts Avenue, Cambridge, MA 02139-4307 and VASTech ("COMPANY"), a _____ corporation, with a principal place of business at Octoplace Block C, 5 Elektron Street, Technopark, Stellenbosch, South Africa.

RECITALS

WHEREAS, M.I.T. is the owner of certain rights, title and interest in software disclosed in M.I.T. Case No. 15054 by Matteo Frigo and Steven Glenn Johnson, (the "PROGRAM", as further defined below) and has the right to grant licenses thereunder; and

WHEREAS, COMPANY has represented to M.I.T., to induce M.I.T. to enter into this Agreement, that COMPANY shall commit itself to a thorough, vigorous, and diligent program of exploiting the PROGRAM so that public utilization shall result therefrom; and

WHEREAS, COMPANY desires to acquire, and M.I.T. desires to grant, a license to the PROGRAM on the terms and conditions hereinafter set forth.

NOW, THEREFORE, M.I.T. and COMPANY hereby agree as follows:

1. DEFINITIONS.

1.1 "AFFILIATE" shall mean any legal entity (such as a corporation, partnership, or limited liability company) that is controlled by COMPANY. For the purposes of this definition, the term "control" means (i) beneficial ownership of at least fifty percent (50%) of the voting securities of a corporation or other business organization with voting securities or (ii) a fifty percent (50%) or greater interest in the net assets or profits of a partnership or other business organization without voting securities.

1.2 "COPYRIGHT" shall mean M.I.T.'s copyright in the PROGRAM "© 2011 Massachusetts Institute of Technology. All rights reserved.", as ascribed in Sections 102 et seq. of the United States Copyright Act, as amended from time to time, and International Treaty provisions, in effect from time to time, relating to the protection of copyrights worldwide.



1.3 "DERIVATIVE(S)" shall mean any software created by or on behalf of COMPANY that incorporates, derives from, or is based on the PROGRAM, in whole or in part. DERIVATIVES shall include, without limitation, translations of the PROGRAM to other foreign or computer languages, adaptations of the PROGRAM to other hardware platforms, abridgments, condensations, revisions, and modifications to or enhancements of the PROGRAM, as well as incorporations into third party software.

1.4 "END USER(S)" shall mean a non-AFFILIATE third party granted rights to run and reproduce any DERIVATIVE, but without any rights to sublicense or distribute such works.

1.5 "PROGRAM" means the computer program known as "FFTW, The Fastest Fourier Transform in the West", Version 3.3.X, described in M.I.T. Case No. 15054 by Matteo Frigo and Steven Glenn Johnson, and related documentation created by or on behalf of M.I.T., as it exists on the EFFECTIVE DATE, whether in whole or in part.

1.6 "SUBLICENSEE" shall mean any non-AFFILIATE granted rights pursuant to Section 2.2 of this Agreement, but shall expressly exclude END USERS.

1.7 "TERM" shall mean the life of this Agreement, which shall commence on the EFFECTIVE DATE and shall remain in effect for fifteen (15) years, unless earlier terminated pursuant to the terms of this Agreement.

2. GRANT OF RIGHTS AND DELIVERY.

2.1 License Grant.

(a) Right to Run, Modify, and Distribute. Subject to the terms of this Agreement, M.I.T. hereby grants to COMPANY and its AFFILIATES for the TERM a worldwide, nonexclusive license under the COPYRIGHTS as follows:

(i) to run and reproduce the PROGRAM;

(ii) to create DERIVATIVES and to use and reproduce the PROGRAM as part of such DERIVATIVES;

(iii) to distribute DERIVATIVES (and, as incorporated therein, the PROGRAM) by sale, transfer, license or lease.

(b) COMPANY Rights in DERIVATIVES. COMPANY shall be entitled to establish all proprietary rights as necessary to protect its own intellectual property contained in DERIVATIVES, whether in the nature of trade secrets, copyrights, patents or other rights,

provided that all such rights are subject to the COPYRIGHT. Any copyright registration by COMPANY for DERIVATIVES shall give full attribution to the COPYRIGHT. In the event COMPANY receives a patent on a DERIVATIVE, COMPANY hereby grants M.I.T. non-exclusive royalty-free irrevocable rights solely sufficient for M.I.T. to fully practice its rights retained under Section 2.3, below.

2.2 Sublicenses.

(a) COMPANY shall have the right to sublicense the right granted in Section 2.1(a)(iii) above, provided that COMPANY shall incorporate terms and conditions into its sublicense agreements sufficient to enable COMPANY and SUBLICENSEES to comply with this Agreement.

(b) Effect of Termination. Any license of a DERIVATIVE to an END USER shall survive termination of this Agreement, so long as such license, to the full extent permitted by law: (i) disclaims any and all warranties by M.I.T. in relation to the DERIVATIVES; and (ii) limits M.I.T.'s liability for damages related to the DERIVATIVES.

2.3 Retained Rights.

(a) Non-Commercial Use. Regardless of any intellectual property rights to be established by COMPANY in DERIVATIVES, M.I.T. hereby retains now and forever the right to modify the PROGRAM in any way whatsoever, and to distribute the PROGRAM and M.I.T.-created derivatives, modifications, improvements, enhancements, or upgrades to third parties for educational, non-profit and non-commercial use.

(b) Federal Government. COMPANY acknowledges that the U.S. federal government retains a royalty-free, non-exclusive, non-transferable license to the PROGRAM pursuant to 48 CFR 52.227-14 (Civilian Agencies) or DFARS 252.227-7014 (Defense Agencies).

2.4 Delivery of PROGRAM. Upon M.I.T.'s receipt of the license issue fee owed under Section 3.1, M.I.T. shall initiate delivery to COMPANY of one (1) copy of the PROGRAM and accompanying documentation, if any. Such delivery shall be effected by an email to the address listed in Section 10.1. COMPANY agrees to accept the PROGRAM as delivered. Accordingly, M.I.T. shall not be required to load the PROGRAM onto COMPANY's machines; test for proper operation; perform debugging; make corrections; provide maintenance, service, or updates; or assist in the understanding or use of the PROGRAM.

2.5 Limitation. Nothing in this Agreement shall be construed to confer any rights upon COMPANY or its affiliate, subsidiary, or patent companies by implication, estoppel or otherwise to any computer software, trademark, technology or patent rights of M.I.T., or of any other entity, except as explicitly granted herein.

3. LICENSE ISSUE FEE AND PAYMENT TERMS.

3.1 License Issue Fee. COMPANY shall pay to M.I.T., within thirty (30) days of invoicing, a nonrefundable license issue fee of Twelve Thousand Five Hundred dollars (\$ 12,500), which shall be the sole sum payable by COMPANY hereunder.

3.2 Payment Terms. Such payment shall be made as indicated on the invoice; shall reference this Agreement ("FFTW ver. 3.3.x"); and shall be without any deduction of exchange, collection, or other charges, and, specifically, without deduction of withholding or similar taxes or other government imposed fees or taxes.

4. OWNERSHIP OF INTELLECTUAL PROPERTY.

COMPANY acknowledges that title to the PROGRAM shall remain with M.I.T. To the extent the PROGRAM is marked with an M.I.T. copyright notice, COMPANY shall retain prominently, and shall cause its AFFILIATES to retain prominently, such M.I.T. copyright notice in any DERIVATIVE.

5. INDEMNIFICATION AND INSURANCE.

5.1 Indemnification. COMPANY shall indemnify, defend, and hold harmless M.I.T. and its trustees, officers, faculty, students, employees, and agents and their respective successors, heirs and assigns (the "Indemnitees"), against any liability, damage, loss, or expense (including reasonable attorneys fees and expenses) incurred by or imposed upon any of the Indemnitees in connection with any third party claims, suits, actions, demands or judgments arising out of any theory of liability (including without limitation actions in the form of tort, warranty, or strict liability and regardless of whether such action has any factual basis), concerning any product, process, or service that is made, used, sold, or licensed pursuant to any right or license granted under this Agreement. For the avoidance of doubt, COMPANY's obligations under this Section shall survive any expiration or termination of this Agreement.

5.2 Insurance. COMPANY shall obtain and carry in full force and effect commercial general liability insurance, including, as customary to the business, products liability and/or errors and omissions liability insurance which shall protect COMPANY and Indemnitees with respect to events covered by Section 5.1 above. COMPANY shall continue to maintain such

insurance after the expiration or termination of this Agreement during any period in which COMPANY or SUBLICENSEE or END-USER continues to run the PROGRAM or any DERIVATIVE.

6. NO REPRESENTATIONS OR WARRANTIES.

THE PROGRAM IS DELIVERED "AS IS." M.I.T. MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE PROGRAM OR THE COPYRIGHT, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE. M.I.T. EXTENDS NO WARRANTIES OF ANY KIND AS TO PROGRAM CONFORMITY WITH WHATEVER USER MANUALS OR OTHER LITERATURE MAY BE ISSUED FROM TIME TO TIME. FURTHERMORE, AND NOT TO LIMIT THE FOREGOING, M.I.T. MAKES NO REPRESENTATION OR WARRANTY THAT THE EXPLOITATION OF THE PROGRAM OR ANY DERIVATIVE WILL NOT INFRINGE ANY PATENTS OR OTHER INTELLECTUAL PROPERTY RIGHTS OF M.I.T. OR OF A THIRD PARTY.

IN NO EVENT SHALL M.I.T., ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES AND AFFILIATES BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGES OR INJURY TO PROPERTY AND LOST PROFITS, REGARDLESS OF WHETHER M.I.T. SHALL BE ADVISED, SHALL HAVE OTHER REASON TO KNOW, OR IN FACT SHALL KNOW OF THE POSSIBILITY OF THE FOREGOING.

7. ASSIGNMENT.

This Agreement is personal to COMPANY and neither this Agreement nor any of COMPANY's rights or obligations hereunder may be assigned or transferred, whether by merger, consolidation, acquisition or other change or control without M.I.T.'s prior written consent. Any purported assignment or transfer in violation of the foregoing shall be null and void and of no force and effect.

8. GENERAL COMPLIANCE WITH LAWS

8.1 Compliance with Laws. COMPANY shall comply with all local, state, federal/national and international laws and regulations relating to the development, manufacture, use, sale and license of DERIVATIVES; and as otherwise relevant to COMPANY's performance under this Agreement. In addition, at its own cost and only where required, COMPANY shall register or record this Agreement with the relevant government authority.



8.2 Export Control. COMPANY and its AFFILIATES shall comply with all United States laws and regulations controlling the export of certain commodities and technical data, including without limitation all Export Administration Regulations of the United States Department of Commerce. Among other things, these laws and regulations prohibit or require a license for the export of certain types of commodities and technical data to specified countries. COMPANY hereby gives written assurance that it will comply with, and will cause its AFFILIATES to comply with, all United States export control laws and regulations, that it bears sole responsibility for any violation of such laws and regulations by itself or its AFFILIATES, and that it will indemnify, defend, and hold M.I.T. harmless (in accordance with Section 5.1) for the consequences of any such violation.

9. TERMINATION.

9.1 Voluntary Termination by COMPANY. COMPANY shall have the right to terminate this Agreement, for any reason, (i) upon at least thirty (30) days prior written notice to M.I.T., such notice to state the date at least thirty (30) days in the future upon which termination is to be effective, and (ii) upon payment of all amounts due to M.I.T. through such termination effective date.

9.2 Termination for Default. In the event either party commits a material breach of its obligations under this Agreement and fails to cure that breach within sixty (60) days after receiving written notice of the existence of such breach, the non-breaching party may terminate this Agreement immediately upon written notice to the breaching party.

9.3 Effect of Termination. Articles 1, 5, 6, and 10; Sections 2.2(b) and 9.3 shall survive the expiration or termination of this Agreement.

10. MISCELLANEOUS.

10.1 Any notices required or permitted under this Agreement shall be in writing, shall specifically refer to this Agreement, and shall be sent by hand, recognized national overnight courier, confirmed facsimile transmission, confirmed electronic mail, or registered or certified mail, postage prepaid, return receipt requested, to the following addresses or facsimile numbers of the parties:

If to M.I.T.: Technology Licensing Office, Room NE18-501
Massachusetts Institute of Technology
255 Main Street, Kendall Square
Cambridge, MA 02142-1601
Attention: Director
Tel: 617-253-6966
Fax: 617-258-6790

If to COMPANY: VASTech
Octoplace Block C
5 Elektronstreet
Technopark, Stellenbosch, 7600
Attention: Chief Technology Officer
Tel: 427 21 880 9800
Fax: _____
Email: _____

All notices under this Agreement shall be deemed effective upon receipt. A party may change its contact information immediately upon written notice to the other party in the manner provided in this Section.

10.2 Governing Law. This Agreement and all disputes arising out of or related to this Agreement, or the performance, enforcement, breach or termination hereof, and any remedies relating thereto, shall be construed, governed, interpreted and applied in accordance with the laws of the Commonwealth of Massachusetts, U.S.A., without regard to conflict of laws principles.

10.3 Use of M.I.T. Name. COMPANY and its AFFILIATES shall not use the name of "Massachusetts Institute of Technology," "Lincoln Laboratory" or any variation, adaptation, or abbreviation thereof, or of any of its trustees, officers, faculty, students, employees, or agents, or any trademark owned by M.I.T., or any terms of this Agreement in any promotional material or other public announcement or disclosure without the prior written consent of M.I.T. The foregoing notwithstanding, solely for the purpose of showing that COMPANY is legally licensed by M.I.T., COMPANY may state, without the consent of M.I.T., that it is licensed by M.I.T. under the COPYRIGHT, provided that such statement is not used in advertising or as an endorsement or selling feature of COMPANY'S product.

10.4 Force Majeure. Neither party will be responsible for delays resulting from causes beyond the reasonable control of such party, including without limitation fire, explosion, flood,



war, strike, or riot, provided that the nonperforming party uses commercially reasonable efforts to avoid or remove such causes of nonperformance and continues performance under this Agreement with reasonable dispatch whenever such causes are removed.

10.5 Amendment and Waiver. This Agreement may be amended, supplemented, or otherwise modified only by means of a written instrument signed by both parties. Any waiver of any rights or failure to act in a specific instance shall relate only to such instance and shall not be construed as an agreement to waive any rights or fail to act in any other instance, whether or not similar.

10.6 Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any other provision of this Agreement, and the parties shall negotiate in good faith to modify the Agreement to preserve (to the extent possible) their original intent.

10.7 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

10.8 Headings. All headings are for convenience only and shall not affect the meaning of any provision of this Agreement.

10.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements or understandings between the parties relating to its subject matter.


IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

The **EFFECTIVE DATE of this Agreement** is 05 August 2019.

MASSACHUSETTS INSTITUTE OF
TECHNOLOGY

VASTech SA (Pty) Ltd

DocuSigned by:
By: Lauren C Foster
Name: Lauren C Foster
Title: Associate Director, MIT TLO

By: 
Name: JA Scholtz
Title: CTO