

# BTM Transfer Agreement

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## 1.1 Parties

- 1.1.1 TECHNATION Canada, known before June 3, 2020 as Information Technology Association of Canada (ITAC), founders of the BTM Forum, as a legal person duly incorporated with the Government of Canada, Corporation Number 214298-8, represented for the purposes hereof by Angela Mondou, CEO, duly authorized for this purpose as declared, and acting as Agreement Coordinator.
- 1.1.2 Digital Innovation Foundation (hereinafter Designated "DIF"), as the proposed custodian Non-Profit Organization (NPO), a legal person duly incorporated with the Gouvernement du Québec, Corporation Number 1165538407, represented for the purposes hereof by Stéphane Gagnon, CEO, duly authorized for this purpose as declared, and acting as Agreement Coordinator.

## 1.2 Definitions

- 1.2.1 **"Project"** means the transfer of the BTM IP to DIF and the provision of any transitional and support services by TECHNATION Canada described in this Agreement.
- 1.2.2 **"Transfer Date"** means the date(s) specified in Section 3 for the transfer of the BTM IP.
- 1.2.3 **"Members"** means the duly registered members of the BTM Forum, as per their listing on the database of <http://btm-forum.org> web site.
- 1.2.4 **"Intellectual property rights"** means all intellectual property rights, whether registered or not, including patent rights, copyrights, industrial designs, integrated circuit topographies, plant varieties, inventions (patentable or not), discoveries, trade secrets, know-how, domain names, trade-marks, trade names and other rights recognized by the statutory law or the common law in the foregoing, including any application for protection.
- 1.2.5 **"BTM IP"** means the intellectual property to be transferred to DIF that relates to the BTM Forum and which is listed in Schedule A.
- 1.2.6 **"Confidential Information"** shall mean any and all technical and non-technical information transmitted by a Party (the "Disclosing Party") to another Party (the "Receiving Party") including patent, copyright, trade secret, and proprietary information, techniques, sketches, drawings, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, source codes, and formulae related to the current, future, and proposed products and services of the Disclosing Party, and includes, without limitation, the Disclosing Party's information concerning research, experimental work, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, and marketing plans and information.

## 2 Agreement

### 2.1 Purpose and Scope

- 2.1.1 The purpose of this Agreement is to govern the execution of the Project, which aims to transfer the rights to the BTM IP to DIF.

- 2.1.2 The Parties agree to transfer all responsibilities for the BTM initiative from TECHNATION Canada to DIF.
- 2.1.3 The responsibilities transferred include but are not limited to: (a) maintaining the intellectual property rights (outlined in section 5.3.2), (b) continuation of service for BTM GC as well as BTM Accreditation Committee (BTM AC), (c) performing existing agreements and furthering all pending applications for Accreditation with colleges and universities in Canada, (d) continuation of service for Members of the BTM Forum and its web site address <https://btm-forum.org>, (e) continuation of service for participants to BTM Talent Mash (see 2.3 *Disclaimer and Inclusions*), and (f) complete responsibility for all future decisions for the BTM initiative as a global NPO.

## **2.2 Preserving BTM Forum Structure**

- 2.2.1 DIF agrees that the BTM Forum, and its 2 standing committees BTM GC and BTM AC, will retain their structure, membership, terms, and privileges after execution of this Agreement and completion of the Project.

## **2.3 Disclaimers and Exclusions**

This Agreement does not pertain to prior engagements and completed projects by TECHNATION Canada regarding the BTM initiative, including BTM TalentMash operations (see section 3.3.1) and MITACS obligations. TECHNATION will fulfill the remaining obligations pertaining to the MITACS Accelerate Partnership including providing a signature for the final report and completing the exit survey.

## **3 Implementation**

### **3.1 Process and Calendar**

- 3.1.1 This Agreement is bound by the following process, for which the calendar is only indicative and depending on the actual dates of meetings by standing committees and respective designated signing authorities:
  - 3.1.1.1 July 14, 2021: Approval of the agreement by the 15-members BTM GC.
  - 3.1.1.2 August 3, 2021: Signature by Agreement Coordinators as per respective designated signing authorities of the parties.
  - 3.1.1.3 August 31, 2021: Completion of transfer processes and reporting to any external entity.
  - 3.1.1.4 September 1, 2021: Communication to Members and initiation of operations under DIF.

### **3.2 Transfer of Intellectual Property Rights**

- 3.2.1 Upon receiving the agreement of resolutions submitted to the respective signing authorities TECHNATION Canada will initiate, at its own cost, the process of transferring to DIF the trademarks listed in Schedule A, as well as the domain name registrations for BTM-Forum.org, BTMForum.org (redirecting to BTM-Forum.org), and any derivatives.

### **3.3 Transfer of Accreditation and BTM TalentMash Operations**

3.3.1 Upon receiving the agreement of resolutions submitted to the respective signing authorities, TECHNATION Canada will initiate the transfer of operations for BTM Accreditation, but will support BTM TalentMash events that are hosted by BTM post secondary institution programs until March 31, 2022 at which point DIF will become solely responsible for the BTM TalentMash program.

### **3.4 Transfer of Funds for Continuation of Services**

3.4.1 The parties agree that the available funds prior to transfer have been utilized for operating expenses related to the BTM Initiative. TECHNATION will not have any obligation to transfer any funds to DIF. DIF will take over the invoicing/revenue generation process from the date of transfer to generate funds required for operating expenses for the program.

## **4 Communications**

### **4.1 Information**

4.1.1 The Parties agree to exchange information on their legal status and financial statements specifically related to incoming revenue for the BTM program management if requested.

### **4.2 Progress**

4.2.1 DIF will communicate progress to BTM GC and BTM AC.

### **4.3 Information Processing**

### **4.4 Security**

4.4.1 The Confidential Information shared by each party, under responsibility of Agreement Coordinators, when transmitted in electronic format, will be transferred either as email attachments or by using password-protected cloud storage services.

4.4.2 The Confidential Information will be stored by the receiving party in a data center dedicated to its team, with encrypted connections using SSH and SFTP, and access rights unique to each team member, with auditable records (date, time, user) of their storage.

### **4.5 Confidentiality**

4.5.1 This Agreement will be communicated only to BTM GC and the Board of Directors of BTM and TECHNATION's designated signing authority.

4.5.2 To ensure the realization of the Project, it is agreed that the Parties may be called upon to exchange Confidential Information. The Parties shall make the necessary but reasonable arrangements in view of the nature of such information and their legitimate interests to preserve the confidentiality of the Confidential Information received and to prevent any inappropriate disclosure of such information.

- 4.5.3 The Parties shall maintain in respect of Confidential Information the same level of care as for their own equivalent Confidential Information, and will avoid the disclosure, publication, and the dissemination of such Confidential Information.
- 4.5.4 The Parties undertake to restrict the disclosure of any Confidential Information only to their employees, directors, officers, students, agents, or representatives who specifically need to know the Confidential Information. It is understood that these individuals will be informed of the confidential nature of this information and that they will have to respect its confidentiality.
- 4.5.5 The Receiving Party has no obligation of confidentiality with respect to any portion of the Confidential Information if the Receiving Party can demonstrate that:
  - 4.5.5.1 it was in the public domain at or after the time it was communicated to the Receiving Party by the Disclosing Party through no fault of the Receiving Party;
  - 4.5.5.2 it was rightfully in the Receiving Party's possession free of any obligation of confidence at or after the time it was communicated to Receiving Party by the Disclosing Party; or
  - 4.5.5.3 it was developed by the Receiving Party, its employees, or agents independently of and without reference to information communicated to the Receiving Party by the Disclosing Party.
- 4.5.6 A disclosure of Confidential Information (a) in response to a valid order by a court or other governmental body, (b) otherwise required by law, or (c) necessary to establish the rights of either party under this Agreement, shall not be considered to be a breach of this Agreement or a waiver of confidentiality for other purposes; provided, however, that the Receiving Party shall provide prompt written notice thereof to enable the Disclosing Party to seek a protective order or otherwise prevent such disclosure.

## **4.6 Intellectual Property Rights**

- 4.6.1 Except for the BTM IP transferred pursuant to this Agreement, this Agreement does not have the effect of transferring, in whole or in part, any intellectual property rights belonging to any of the Parties or to any other party, unless there is a specific separate agreement in this regard.
- 4.6.2 Effective as of the Transfer Date, TECHNATION Canada hereby assigns to DIF, all right, title and interest in the BTM IP, outlined in Schedule A.
- 4.6.3 The Parties agree that TECHNATION Canada will retain a non-exclusive, perpetual, worldwide, royalty-free, sublicensable right to use and display the BTM Trademarks and documents produced under the BTM initiative to promote its contribution and value.
- 4.6.4 The BTM IP are provided "As-is" without any warranty or condition of any kind.

## **5 Legal Proceedings**

### **5.1 Termination**

- 5.1.1 Prior to approval by each organization, each Party may at any time terminate this agreement by ten (10) business days by written notice to the other Party. Upon such termination, the Parties

will cooperate on winding down the Project without disruption of service, including the return or destruction of information belonging to either Party.

5.1.2 Notwithstanding the termination or terminating of this agreement, the Parties continue to be bound by the provisions of this Agreement relating to Confidential Information and Indemnities, following the end of execution calendar or termination.

5.1.3 This Agreement may be amended only through written agreement of the Parties.

## **5.2 Litigation**

5.2.1 The Parties agree that this Agreement shall be concluded and governed exclusively in accordance with the laws applicable in the Province of Québec, Canada.

5.2.2 Where a dispute cannot be resolved by mutual agreement, the parties agree that any legal action or claim must be brought before the courts of the Province of Québec, Canada, which will have exclusive jurisdiction over all such actions and claims.

5.2.3 If a competent court declares any of the provisions of this Agreement invalid, in part or in whole, only the invalid part of that provision will be ineffective, and the valid part of the provision and all other provisions of this Agreement will continue to be fully implemented.

5.2.4 This Agreement and its Appendixes constitute the complete agreement between the Parties and replace all oral or written communications, representations and prior agreements relating to the achievement of the Project. In addition, any addition or amendment to the agreement must be made in writing and signed by the Parties.

## **5.3 Indemnities**

5.3.1 Failure by one of the Parties to exercise or execute one or more of its rights stipulated in the Agreement on a specific occasion shall not be construed as a waiver of its rights or affect in any way this Agreement or the right of one of the Parties to exercise any right stipulated in this Agreement.

5.3.2 This Agreement binds and shall endure to the benefit of the Parties and their respective subsidiaries.

5.3.3 Each Party agrees to indemnify, defend and hold harmless the other for all damages, costs, actions and expenses (including court costs and reasonable legal fees) (“Losses”) incurred by the other Party in connection with any third-party claim arising as a result of the indemnifying Party’s failure to comply with its obligations under this Agreement. In addition, DIF shall indemnify, defend, and hold harmless TECHNATION Canada from and against any Losses arising out of operation of the BTM Forum or use of the BTM IP after the Transfer Date. Finally, TECHNATION Canada shall indemnify, defend, and hold harmless DIF from and against any Losses arising out of operation of the BTM TalentMash or use of the BTM IP after the Transfer Date.

## **5.4 Limitations**

- 5.4.1 This Agreement does not create any partnership, joint venture, or temporary association between the Parties.
- 5.4.2 No party may, in any way whatsoever, assign or transfer its rights or obligations under this Agreement or otherwise dispose of it without the prior written consent of the other party.
- 5.4.3 The Parties agree that neither of them will be liable for any defect or delay in execution caused by circumstances of force majeure. Force majeure is an external, unpredictable, and irresistible event, which includes, but is not limited to, natural disasters, fires, labor disputes, illnesses, pandemics, and public security advisories.

## 6 Signatures

In WITNESS whereof, the Parties signed in Two (2) Copies of this Agreement.

For TECHNATION Canada:



Angela Mondou, CEO

Date: 2021-08-31

For Digital Innovation Foundation:



Stéphane Gagnon, CEO

Date: 2021-08-31

## SCHEDULE A - BTM Intellectual Property

The following are identified as intellectual property associated with the BTM Forum. BTM intellectual property does not include use of the TECHNATION Canada or TECHNATION Canada logos or any non-BTM program trademarks, domains, documentation, or software/technology.

### BTM Trademarks

- All BTM logos related to:
  - The BTM Forum
  - The BTM Forum Governing Council
  - BTM Accreditation
  - BTM Certification
  - BTM TalentMash
- BTM Registered Trademarks in the United States of America:
  - BTM Word
    - Ser. Num.: 87106023
    - Reg. Num.: 5440994
  - BTM Logo
    - Ser. Num.: 87106040
    - Reg. Num.: 5440995
- BTM Registered Trademarks in Canada:
  - BTM Word
    - Application number: 1764823
    - Registration number: TMA983627
  - BTM Logo
    - Application number: 1764825
    - Registration number: TMA983599
  - GTA Word
    - Application number: 1764828
    - Registration number: TMA983598
  - GTA Logo
    - Application number: 1764833
    - Registration number: TMA983600

### BTM Domains

- <https://www.btm-forum.org/>
- <https://www.btmforum.org/>

### Documentation

- BTM Forum
- BTM Forum Governing Council Terms of Reference
- BTM Learning Outcomes
- BTM National Occupational Standards



- BTM Certification
- BTM Accreditation
- BTM Body of Knowledge

### **Software/Technology**

- BTM BOK project deliverables, systems, and contents
- BTM related online videos that do not have embedded TECHNATION Canada or TECHNATION Canada branding
- BTM Certification and Accreditation Application Software
- BTM Social Media materials that do not have embedded TECHNATION Canada or TECHNATION branding. E.g.:
  - Facebook - <https://www.facebook.com/btmforum/>
  - YouTube - <https://www.youtube.com/channel/UCwrO-zwKuN5hR9s4CiZxj4A>
  - Twitter - [https://twitter.com/BTM\\_Forum](https://twitter.com/BTM_Forum)
  - LinkedIn - <https://www.linkedin.com/groups/8486760/>