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THE NATIONAL LAW UNIVERSITY JODHPUR
**INTERNATIONAL DEAL
NEGOTIATION COMPETITION**
IN PARTNERSHIP WITH A&O SHEARMAN

28TH FEBRUARY - 2ND MARCH, 2025

BACKGROUND INFORMATION

GlobeMed Pharmaceuticals

GlobeMed Pharmaceuticals ("GlobeMed"), headquartered in Basel, Switzerland, is a large and well-established company in the pharmaceutical industry with a market capitalization of \$40 billion. Since its founding in 1978, the company has built its reputation on groundbreaking treatments for chronic diseases, particularly oncology and autoimmune disorders. Their flagship drug, Immunex-Plus, revolutionized rheumatoid arthritis treatment, generating annual revenues exceeding \$3 billion.

The company's success stems from its robust research and development infrastructure, comprising seven state-of-the-art facilities across three continents and an annual R&D budget of \$4.2 billion. GlobeMed's global distribution network spans 120 countries, with a particularly strong presence in emerging markets. In 2021, the company launched its "Healthcare Access Initiative," aimed at making precision medicine accessible in developing nations.

Recent years have seen GlobeMed pivot towards personalized medicine, recognizing it as the future of healthcare. However, despite its pharmaceutical expertise, it lacks the sophisticated diagnostic capabilities required to fully capitalize on the demand in this emerging sector. *"The future of medicine lies in personalization, but achieving this requires bridging the gap between traditional*

pharmaceuticals and cutting-edge diagnostics", stated Dr. Elena Martinez, GlobeMed's CEO, during their 2021 annual shareholders' meeting.

NanoTech Diagnostics

NanoTech Diagnostics ("NanoTech"), founded in 2018 in Sinch City, Mexas, is at the vanguard of medical technology innovation. The company's breakthrough came with their proprietary NanoSense™ platform, which uses quantum dot technology to detect disease markers with unprecedented accuracy. This innovation earned them the prestigious MedTech Innovator Award in 2020 and attracted \$300 million in Series C funding.

Despite their technological prowess, NanoTech faced challenges in scaling their operations and navigating the complex regulatory landscape of global healthcare markets. Their diagnostic platforms, while revolutionary, require validation and distribution capabilities that only a major pharmaceutical partner can provide.

Dr. James Chen, NanoTech's founder and CEO, recognized this limitation: *“Our technology can transform patient care, but reaching global scale requires strategic partnerships. We need to combine our diagnostic innovation with established pharmaceutical expertise to deliver truly personalized medicine solutions across the world.”*

GENERAL INFORMATION

In March 2022, GlobeMed and NanoTech formed PrecisionCare Therapeutics ("PrecisionCare"), a joint venture aimed at combining their capabilities to revolutionize personalized medicine. The partnership initially flourished and quickly secured a significant market share, successfully launching two products: NanoSense-X, a diagnostic platform for cancer detection, and PrecisionRx, a companion diagnostic system for autoimmune disease treatments.

NanoSense-X, in particular, exceeded all expectations. By combining NanoTech's nanoparticle detection technology with GlobeMed's drug interaction algorithms, the platform achieved 99.8% accuracy in early-stage cancer detection, significantly outperforming existing solutions. The product now generates 60% of PrecisionCare's revenue, with projected sales of \$2.5 billion for 2025.

As PrecisionCare enters its third year, several critical issues have emerged, which could potentially threaten the stability of the partnership:

1. Intellectual Property Dispute

PrecisionCare has developed a breakthrough innovation earlier this year that has sparked intense debate between GlobeMed and NanoTech over IP rights. The technology in question, dubbed "QuantumScript",

combines NanoTech's proprietary nanoparticle detection method with GlobeMed's drug interaction algorithms in a similar manner to Nano-Sense X. However, unlike Nano-Sense X, this hybrid technology also predicts patient responses to specific treatments with 95% accuracy.

The IP clause in the original joint venture agreement states:

"Each Party agrees and acknowledges that:

(a) it shall retain ownership of any existing intellectual property rights relating to its technologies and the use and development of any such technology by the Joint Venture shall not affect its respective ownership; and

(b) it shall share ownership and commercialization rights of any jointly developed innovations in accordance with its respective shareholding in the Joint Venture."

NanoTech argues that QuantumScript is fundamentally an evolution of their NanoSense™ platform, while GlobeMed contends that their algorithmic contributions transformed the technology into an entirely new innovation. This dispute has stalled the technology's commercialization, with both parties unable to agree on licensing terms and development priorities. NanoTech firmly believes that it should have veto rights over decisions involving the IP licensing of jointly developed innovations that utilize technology

from the NanoSense™ platform. Both parties recognize the need to determine what constitutes a jointly developed innovation and establish a clear and effective framework to govern its ownership and commercialization rights.

2. Profit Sharing Model

The unexpected success of NanoSense-X has highlighted inadequacies in the original profit-sharing model, which allocated profits based on overall contribution to PrecisionCare: 60% to GlobeMed and 40% to NanoTech, reflecting their initial capital contributions and relative market positions.

NanoTech believes that this profit-sharing model fails to account for product-specific contributions. It contends that NanoSense-X's success primarily stems from its core technology, despite utilizing GlobeMed's distribution network. It would, therefore, now like to propose a revised model where profit sharing varies by product depending on its technological origin and development contribution.

The current profit-sharing clause stands as follows:

“a. Subject to the applicable law, the Joint Venture shall distribute its net profits for each accounting year in accordance with each Party’s respective shareholding in accordance with its articles of association.

b. In the event that the Joint Venture needs to restrict the dividend for any one accounting year, the dividend amount shall be determined by GlobeMed acting reasonably. However, if the dividend amounts deviate

from the principles set out in paragraph (a) above for two consecutive years, the amount shall be determined jointly by the Parties. If the Parties cannot reach an agreement following good faith discussions, the dividend shall be distributed in accordance with the principles set out in paragraph (a) above subject to the applicable law.

c. All distributions by the Joint Venture to the Parties shall be made in cash, unless otherwise agreed between the Parties taking into account all relevant legal, tax and structuring costs.

d. No Party may invoke provisions of the applicable law or the Joint Venture’s articles of association conferring on a shareholder the right to require that a dividend shall be issued.”

3. Governance Structure

PrecisionCare’s board must consist of eight directors at all times, where GlobeMed and Nanotech each have the right to nominate four directors. Each director carries one vote and is entitled to the same voting rights. The original joint venture agreement does not contemplate a chairman so the board does not have one. This has led to a number of operational inefficiencies as critical decisions requiring unanimous approval frequently face deadlocks, particularly in relation to research priorities and market expansion strategies:

Recent examples include:

- A three-month delay in approving the Asian market expansion plan due to disagreements over resource allocation

- Stalled negotiations for a potential licensing deal with a major healthcare provider
- Unresolved discussions over the development priority of new diagnostic platforms versus improving existing products.

NanoTech has proposed the insertion of the following clause in the SHA:

“a. The following reserved matters shall require the prior written consent from NanoTech:

- *Approval of the joint venture’s annual budget and business plan.*
- *Issuance of new shares or changes to the shareholding structure.*
- *Entry into contracts exceeding \$500,000.*
- *Licensing, sublicensing, or sale of intellectual property.*
- *Appointment or removal of the CEO or other senior executives.*
- *Any decision to wind up or dissolve the joint venture.”*

Although GlobeMed has agreed to include reserved matters in the SHA, they have advocated for a narrower list limited to critical structural and strategic decisions such as changes to shareholding structure, dissolution of the joint venture, or major financial undertakings exceeding \$1,000,000, ensuring operational autonomy for day-to-day business activities.

Despite the significant challenges facing PrecisionCare, both GlobeMed and NanoTech recognize the immense

potential of their joint venture. Acknowledging the critical nature of the unresolved issues—including intellectual property disputes, profit-sharing concerns, and governance challenges—senior executives from both companies have agreed to engage in a series of high-level mediation sessions. These meetings aim to find mutually beneficial solutions that preserve the groundbreaking partnership and continue their shared mission of revolutionising personalised medicine.

Ms. Elena Martinez of GlobeMed and Mr. James Chen of NanoTech have personally committed to leading these negotiations, signalling their mutual desire to overcome current obstacles and maintain the strategic alliance that has already demonstrated remarkable success with innovations like NanoSense-X. Their collaborative approach underscores a shared belief that the potential of PrecisionCare Therapeutics far outweighs their current disagreements.