

**CONSORTIUM AGREEMENT
ETC WASTE AND MATERIALS IN A GREEN ECONOMY**

under Article 1.2.3 of the Special Conditions of the Framework Partnership Agreement number OCP/EEA/IEA/18/001-ETC/WMGE regarding the internal operation of the consortium including all aspects necessary for the management, operation and coordination of the consortium and the implementation of the framework agreement and specific agreements of the European Topic Centre on Waste and Materials in a Green Economy 2019 – 2021 (ETC/WMGE)

The parties to this agreement and their legal representatives are the following:

- **Vlaamse Instelling voor Technologisch Onderzoek (VITO)**, established in Belgium, Boeretang 200, 2400 Mol, dully represented by Mr. Dirk Fransaer, Managing Director (hereinafter referred to as "VITO" or "the *Coordinator*").

And the Consortium partners:

- Banson Communications Ireland Ltd (BCI), established in the United Kingdom, 26 Devonshire Road, Cambridge CB1 2BH, represented by Bartholomew Ullstein, Director
- **Česká informační agentura životního prostředí (CENIA)**, established in Czech Republic, Vršovická 65/1442, 100 10 Praha 10, represented by Miroslav Havránek, Director
- Collaborating Centre on Sustainable Consumption and Production gGmbH (CSCP), established in Germany, Hagenauer Str. 30, 42107 Wuppertal, represented by Michael Kuhndt, Executive Director
- **Instituto di Ricerca sullo Crescita Economica Sostenibile (IRCREs)**, established in Italy, Via Real Collegio 30, 10024 Moncalieri (Torino), represented by Dr. Secondo Rolfo, Director
- **Openbare Vlaamse Afvalstoffenmaatschappij (OVAM)**, established in Belgium, Stationstraat 110, 2800 Mechelen, represented by Henny de Baets, Administrator-General, or his authorized representative
- **Slovak Environment Agency (SEA)**, established in Slovakia, Tajovského 28, 975 90 Banská Bystrica, represented by Richard Müller, Director General ("*partner*"),
- **Università degli Studi di Ferrara (UNIFE) – Sustainability, Environmental Economic and Dynamic Studies (SEEDS)**, established in Italy, via Savonarola, 44121 Ferrara, represented by Giorgio Zauli, Rector
- **Teknologian tutkimuskeskus VTT Oy (VTT)**, established in Finland, P.O. Box 1000, 02044 VTT, Finland, represented by Antti Arasto, Research Manager
- **Wuppertal Institut für Klima, Umwelt, Energie GmbH (WI)**, established in Germany, Döppersberg 19, 42103 Wuppertal, represented by Brigitte Mutert-Breidbach, Business Manager, and Prof. Dr. Uwe Schneidewind

hereinafter referred to as the "partners",

wish to specify and supplement between themselves the provisions of the Framework Partnership Agreement in line with Article 1.2.3 of the Framework Partnership Agreement and wish to lay down some general rules related to the management of the Project and Specific Agreements signed under it, including but not limited to liability.

Therefore, the Partners have agreed as follows:

1. Definitions

- 1.1 The composition of the Consortium is ruled by Article 1.2 of the Framework Partnership Agreement. The terms defined in the Framework Partnership Agreement and any Specific Agreement shall have the same meaning in this Consortium Agreement unless the context otherwise requires.
- 1.2 The *Coordinator* shall mean "Vlaamse Instelling voor Technologisch Onderzoek (VITO)".
- 1.3 The *ETC Manager* shall mean the manager assigned by the Coordinator.
- 1.4 The *ETC Management Committee* consists of nominated representatives from each Partner and discusses and agrees on the Action Plan, the budget and other executive issues as well as key products.
- 1.5 *Background rights* shall mean the Intellectual Property Rights owned or used by a Partner prior to the accession to the Consortium Agreement, whether under license or otherwise, that predate the Project or have arisen independently of the Project, which it introduces for the purpose of carrying out the Project or any activities under the terms of this Consortium Agreement.
- 1.6 *Intellectual Property Rights (IPR)* shall mean without limitation all designs, registered designs, design rights, patents, patent applications, utility models, trade secrets, trade and service marks, trade and business names, applications for any of the foregoing, copy-rights, rights in semi-conductor chip topography, computer software, rights in databases, inventions, drawings, documents, processes, methodologies, know-how and other industrial property rights, and in each case whether protectable or not and, if protectable, whether an application has been made for protection or not, and all similar industrial, commercial, monopoly or other intellectual property rights, whether present or future, vested or contingent, and wherever protected.
- 1.7 *Non-commercial purposes:* The use of the Background rights, the Results and Resulting Rights for (internal) research or teaching purpose only which does not include Exploitation.
- 1.8 *Exploitation:* the granting to a licensee the right to exploit the Results and Resulting Rights (including the grant of any option over a sub-license) for the development by the owning Partner(s) or a third party of a licensed product.
- 1.9 *Results* shall mean all thing produced, arising from and developed or created by on behalf of one or the other of the Partners in carrying out the Project or any other activities under the terms of this Agreement, including but not limited to papers, publications, maps, plans, sketches, drawings, diagrams, organograms, flowcharts, worksheets, presentations, videos, photographs, tapes, CDs, DVDs, datasets, databases, statistical data, experimental data, field data, analysis of results, published and unpublished results and reports, inventions, know-how, computer hardware and software, computer code, computer programs, training manuals and other material,

user documentation, progress reports and audit reports, and any other records documentation, data and information whatsoever (and in whatever media).

- 1.10 *Resulting Rights* shall mean all Intellectual Property Rights in the Results.
- 1.11 *Software* means sequences of instructions to carry out a process in, or convertible into, a form executable by a computer and fixed in any tangible medium of expression.

2. Objectives

- 2.1 The objectives of this Consortium Agreement are to facilitate the implementation of the work set out in Annex I to the Framework Partnership Agreement in accordance with the conditions in the Framework Partnership Agreement and in any Specific Agreements that may be signed under the Framework Partnership Agreement.
- 2.2 Further, the purpose shall be to specify conditions pursuant to which the Partners agree to function and to cooperate in the performance of their respective tasks under the Framework Partnership Agreement and any Specific Agreements agreed between the partners.

3. Nature of the Agreement

- 3.1. Nothing contained in this Consortium Agreement shall constitute either a partnership, agency or any other formal business organisation or legal entity between the Partners. Nothing in this Agreement shall prevent or fetter the proper exercise of obligations that any Partner may have in accordance with legal duties or responsibilities.
- 3.2 An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by its duly authorised representative.
- A Party enters the Consortium upon signature of the Accession Form (form A of Annex IV of the Framework Partnership Agreement) by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.
- 3.3 Changes of the Consortium shall be subject to Article I.2 of the Framework Partnership Agreement. The accession to the Consortium of any new Partner (upon signature of Form B of Annex IV of the Framework Partnership Agreement) shall be approved by the ETC Management Committee. Any new Partner acceding to the Framework Partnership Agreement is automatically bound to the provisions of this Consortium Agreement.

4. Duration

- 4.1 This Consortium Agreement shall have effect from 1 January 2019. This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Framework Partnership Agreement and under this Consortium Agreement.
- 4.2 However, this Consortium Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of this Consortium Agreement and clause II.12 Termination of the Framework Partnership Agreement.

- 4.3 The provisions relating to Confidentiality and Ownership/Use of the results, for the time period mentioned therein, as well as for Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Consortium Agreement.
- 4.4 Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the Management Committee and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its partnership to this Consortium.

5. Responsibilities of the Coordinator

- 5.1 The Coordinator shall be the focal point of contact between the Agency and the Consortium. In this function, the Coordinator shall:
 - Negotiate and sign the Framework Partnership Agreement and the Specific Agreements with the Agency on behalf of the Consortium;
 - Collect from the Partners reports, statements and other documents for submission to the Agency according to the Framework Partnership Agreement and the Specific Agreements;
 - Receive and distribute payments received from the Agency to the partners.
- 5.2 Except as specifically shown in the Framework Partnership Agreement or in this Consortium Agreement, the Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other partner.

6. Responsibilities of the Partners

- 6.1 Each Partner undertakes with respect to the other Partners to perform and fulfil all its obligations under the Framework Partnership Agreement, including its obligations under any Specific Agreement and this Consortium Agreement.
- 6.2 Each Partner is obliged to notify the ETC Manager of any event or difficulty that occurs or may occur, which may jeopardise the Partner's proper performance of the work so that the Coordinator and the Partner can work together to try to resolve difficulties at an early stage.
- 6.3 Each Partner undertakes to promptly supply the Coordinator with all such information or documents as the Coordinator needs to fulfil obligations pursuant to this Consortium Agreement and the Framework Partnership Agreement and as requested by the Agency, the Court of Auditors and/or the European Commission.
- 6.4 Each Partner shall ensure the accuracy of any information or material it supplies hereunder or under the Framework Partnership Agreement and correct any error therein, of which it is notified.
- 6.5 The persons designated to manage the work of each Partner are mentioned in Annex A. In case of replacement, the Partner shall inform the ETC Manager in writing of the name and contact details of the new person designated to manage the work of the Partner.
- 6.6 The names of the duly authorized responsible financial officers are mentioned in Annex A. In the case of replacement, the Partner shall inform the ETC Manager in writing of

the name and contact details of the new officer responsible for the financial information of the Partner.

- 6.7 The persons likely to work in the framework of the ETC/WMGE are those identified in the offer made to the European Environment Agency (Annex II of the Framework Partnership Agreement). Each Partner shall endeavour to appoint the most qualified staff to perform the tasks and activities under each Specific Agreement. Each Partner may appoint other staff to perform the work, but the ETC Manager shall be informed of the staff involved in each activity. The Partner shall inform the ETC Manager in writing of any replacement of task leaders or other key staff, by sending the curriculum vitae of the new staff and motivation to include them, so that the Coordinator can inform the Agency and request approval.
- 6.8 The Partners may subcontract part of their work accordingly to the provisions of the Framework Partnership Agreement. The ETC Manager shall be informed of the subcontractors involved in each activity and details shall be reported in the periodic progress report and final annual reports. If a Partner engages subcontractors, such Partner is fully responsible for the work of the subcontractor and undertakes to ensure that the conditions in Article II.10 of the Framework Partnership Agreement are fulfilled and are applicable to the subcontractor. The Partner shall retain full responsibility for carrying out its tasks under the work program under each specific agreement.

7. Organisation and management structure

- 7.1 The general organisation and operation of the Consortium is described in the proposal for the ETC/WMGE submitted by this Consortium (see Annex II of the Framework Partnership Agreement).
- 7.2 The following roles and structures are set by the Consortium to develop, implement and monitor the Action Plans of the ETC/WMGE:
- ETC Manager
 - Deputy ETC Manager
 - ETC Financial Manager
 - ETC Strategic Advisor
 - ETC Management Committee
 - Work Package Leaders
 - Task Leaders
- 7.3 The **ETC Manager** shall be the representative of the Coordinator. The ETC Manager is responsible for the supervision of the development and implementation of the work by the Partners and to manage the ETC on a daily basis:
- day-to-day coordination of the ETC management team at the coordinator, other ETC Partners and coordination of the preparation of the ETC Action Plan in line with the EEA Annual Work Program (in cooperation with Agency's Heads of Group and Project Managers and Partners);
 - ensuring direct communication with the Agency and keeping Partners informed about relevant decisions and events;
 - liaising with Work Package Leaders and Task Leaders, and ensuring quality and timeliness of all deliverables in line with the Specific Agreements;
 - monitoring the work, identifying and solving problems;
 - deciding on possible changes of tasks and activities in agreement with the Agency's Project Managers and the Partners involved up to changes of 10% of the task budget,

and recording those changes in change request forms and/or amendments to the annual subvention (Action Plan). For changes involving more than 10% of the budget, agreement from the ETC Management Committee and the Agency is required;

- drafting the ETC progress reports and final reports in collaboration with the Partners;
- act as secretary to the Management Committee and ensure that the minutes of meeting are distributed to the Partners.

7.4 The **Deputy ETC Manager** will serve as back-up of the ETC manager, and will

- support the ETC Manager in the daily work;
- follow up on ongoing work in order to up-to-speed when stepping in is needed;
- attend, when possible, the Management Committee Meetings and support the ETC Manager and ETC Financial Manager in fulfilling the reporting obligations.

7.5 The **Financial Manager**, shall be responsible for:

- coordinating all financial efforts, i.e. collecting all cost statements, checking cost statements, consolidating them and handling the requests for clarification;
- serving as the main contact person for EEA and all partners on financial issues.

7.6 The **ETC Strategic Advisor**, as a member of the Coordinator, shall be responsible for:

- liaising with the Work Package Leaders, to discuss future activities and cross-cutting issues;
- liaising with the Agency's Head of Program, Heads of Group and Project Managers, to identify future needs and opportunities for the work of the ETC/WMGE and to identify cross-work package and cross-ETC issues;
- supporting the ETC manager as sounding board and by extending and sustaining the ETC networks in an international context.

7.7 The **Management Committee**

7.7.1 The Management Committee (hereinafter referred to as "the MC") is the body that is responsible for the organisation and operation of the Consortium under the Framework Partnership Agreement.

7.7.2 Each Partner agrees to nominate a representative as a member of the MC. The Partners may exceptionally appoint an alternate member if the circumstances require this. In such case, the ETC Manager shall be notified.

7.7.3 The MC's meeting shall be called by the ETC Manager. The MC usually meets twice a year. The MC's meetings shall be sought planned back-to-back with other meetings or as conference calls as much as possible.

7.7.4 The quorum for Management Committee meetings is 50% and should always include the ETC Manager.

7.7.5 The MC's meeting shall be called no later than 14 days before the MC's meeting and shall include a proposal for an agenda.

7.7.6 Each Partner can request an MC meeting, should they find it necessary. Such unforeseen MC meetings can be convened at a notice shorter than 14 days but not shorter than 62 hours.

7.7.7 The Coordinator encourages the full participation of representatives of the Agency as observers in the MC meeting. The European Commission (DG Environment and Eurostat) may attend the meeting of the MC as observers.

7.7.8 The MC decisions shall be taken, wherever possible, by consensus. In exceptional cases, and only if consensus is not possible, decisions shall be taken by a simple

majority of votes of the Partners that are present: each Partner shall have one vote; the ETC Manager has a casting vote.

- 7.7.9 No Partner can be allocated an ETC Task as described in the Action Plan that this Partner does not expressly accept in writing.
- 7.7.10 Minutes of meetings of the MC shall be considered accepted by all members of the MC present at the meeting, if no objections have been received by the Coordinator within three weeks after the distribution – by email – of the minutes.

7.8 The Work Package Leaders

- 7.8.1 The Work Package Leaders (hereinafter referred to as “WPL”) are appointed by the ETC Manager in consultation with the Partners and the MC and after approval of the Partner concerned. The WPL are experts that have an outstanding overview over their respective work areas. They shall be responsible for overseeing strategic and content developments that are of relevance for the future work of the consortium (Action Plans), as well as cross-cutting issues.
- 7.8.2 The WPL will keep a close relation to the ETC Manager and the ETC Strategic Advisor, as well as the Agency’s Project Managers in order to guarantee coordinated strategic actions in the development of Action Plans or other activities.

7.9 The Task Leaders

- 7.9.1 The Task Leaders (hereinafter referred to as “TL”) are appointed by the ETC Manager in consultation with the MC and the Agency to implement the specific tasks and activities contracted to the Consortium and after approval of the concerned Partner. TL shall be members of the staff of the Coordinator or of the Partners.
- 7.9.2 The responsibilities of TL are the following:
- planning of the work to be done;
 - assisting the ETC Manager in the preparation and technical development of the task plan in line with the Specific Agreement specifications;
 - day-to-day coordination of the staff members of the involved Partners within the task plan;
 - progress reporting to the ETC Manager on technical and scientific issues, possible delays, and ways to solve them;
 - ensuring the quality of draft deliverables provided to the Agency’s Project Managers, keeping the ETC Manager informed;
 - ensuring that the content of the reports and other deliverables is in line with the task plan.

8. Financial provisions

- 8.1 The financial management of the Consortium is fully subject to the provisions set in the Specific Conditions and General Conditions of the Framework Partnership Agreement.
- 8.2 The yearly budget of the ETC/WMGE is specified in the Specific Agreements. The budget allocation by Partner shall be identified in the Specific Agreements. Any modification of the initial budget allocation shall be made in writing and using the form in Annex B. Each Partner shall bear its own costs incurred in connection with the performance under the Framework Partnership Agreement, any Specific Agreement and the Consortium Agreement.

- 8.3 The Coordinator and the other Partners undertake to provide co-financing of the Project required by Article I.5 - Financing the actions - of the Framework Partnership Agreement, amounting to no less than 10% of the estimated total eligible costs of the Project. Partners shall provide co-financing pro rata to their share of the annual budget, as indicated in the Specific Agreements. The rule of pro rata co-financing can be abandoned, should one or more of the Partners offer to cover a higher percentage of the co-financing under a Specific Agreement, thereby making it possible for other Partners to reduce their share of the annual co-financing.
- 8.4 The Coordinator shall receive all payments made by the Agency and distribute the relevant amount to the other Partners according to their proportion pursuant to the relevant Specific Agreement.
- 8.5 The Coordinator will transfer the appropriate sums to the respective Partner with a minimum delay, but no later than 30 calendar days from the receipt thereof from the Agency.
- 8.6 The Coordinator shall notify each Partner of the date and amount transferred to the respective bank accounts and shall give all the relevant references.
- 8.7 Partners established outside the Eurozone shall submit cost statements in Euro and national currency. In accordance with article II.19 Cost statements of the Framework Partnership Agreement, a conversion of actual costs into euro shall be based on monthly exchange rates, as published by the Commission on its website.
- 8.8 Suspension of payment
- 8.8.1 In the case a Partner has not provided its deliverables or has provided them late or provided non-compliant deliverables, such Partner shall not receive its budget allocation until it remedies such non-delivery, late delivery or non-compliant delivery. Any extra costs that may occur are on the account of the late or non-performing Partner and will be deducted from the payment to that Partner. If in certain cases it is explicitly agreed with the Agency that deliverables can be delayed, changed or dropped, this will be recorded using the form (Change Request) in Annex B.
- 8.8.2 The deadline for submitting the cost statement to the Agency is conform article II.19 of the Framework Partnership Agreement. The Partners should submit the cost statement at the latest mid-period before the deadline, in order for the Coordinator to fine-tune and prepare the integrated cost statement for the whole Consortium. The coordinator will remind each Partner in due time and at least thirty (30) days in advance of the deadline for submitting the cost statements.
- 8.8.3 Where a Partner fails to submit its interim cost statement, the Coordinator will submit the Consortium's integrated interim cost statement to the Agency without this Partners' cost statement and no interim payment shall be paid to this Partner.
- 8.8.4 Where a Partner fails to submit its final cost statement by the deadline stipulated by the Coordinator, the Coordinator may extend the deadline by one month. If the Partner still fails to submit its final cost statement, the Coordinator may – after consultation with the Agency – extend the deadline for yet another month. If the Partner still fails to submit after the two-month extension of the deadline, the Coordinator will submit the Consortium's integrated final cost statement to the Agency without this Partner's cost statement and no final payment shall be paid to this Partner.

- 8.8.5 Where a Partner fails to submit its interim cost statement as well as final cost statement, the pre-financing will have to be returned to the Agency.

9. Reporting and quality checks

- 9.1 Each Partner shall supply the Coordinator/ETC Manager with the required information to allow the delivery completion and delivery of progress reports and financial reports to the Agency. The information to be provided shall include:
- a short *technical progress report* using the model from provided by the Agency (can be consulted on the Eionet Forum) (4 times each year, or otherwise as specified by the provisions of the Framework Partnership Agreement and Specific Agreements);
 - *financial statements* using the models provided by the Coordinator (4 times each year, or otherwise as specified by the provisions of the Framework Partnership Agreement and Specific Agreements). The financial statement for Q2 and Q4 are used for calculating the annual midterm and final payment respectively and shall include a full cost overview. The Coordinator will prepare and provide a model for these financial statements. The partner will compile the financial statement according to the EEA Guidelines for ETC cost statements (version June 2017 or later) that clarify the procedures and documentation relating to cost statements (see latest version of Guidelines as Annex D);
 - *monthly time sheets* using the models provided by the Coordinator, preferably also providing information on and proof of other costs, such as travel and subsistence and payments on subcontracts, if applicable.
- 9.2 All deliverables shall be written in English. Partners will endeavour to ensure proper use of the English language and use a clear writing style. Contributions to EEA (Technical) Reports will follow the style prescribed by the Agency.
- 9.3 Before submitting final draft deliverables to the Agency, to enhance quality, the TL shall ensure that these are subject to an internal ETC review. For this purpose (and where appropriate), an internal ETC expert in the task team will be appointed during the process of drafting task descriptions and appointing of task teams for the annual Action Plan. Review will be an integrated part of the work; focus will primarily be on Key Deliverables and Technical Papers prepared by the ETC/WMGE.
- 9.4 Technical progress reports, final reports and draft financial progress reports shall be sent by email to the Coordinator/ETC Manager. After approval by the Coordinator, a scanned version of the definite financial reports, signed by the legal representative of the Partner, shall be sent by email to the Coordinator (attention of the ETC Manager).
- 9.5 The TL are responsible for uploading to the Eionet Forum the draft and the final deliverables, as well as the final approval of the deliverables received from the Agency's Project Manager. Also other relevant documentation (including comments received from reviewers and the way these comments are dealt with in the (final) draft report) shall be uploaded in the respective folder.

10. Confidentiality

- 10.1 The Partners agree to treat as confidential all data and information, including business, technical and other commercial information which may or may not have commercial value and which is by its nature confidential or is disclosed in conditions of confidence or which is identified by the other Partners as being confidential ("Confidential Information"). Confidential Information may not be limited to that owned or held by the Partners themselves.
- 10.2 Confidential Information includes but is not limited to:
- a) commercial information about the contracting and commercial or business activities of the Partners or third parties;
 - b) methods of information or know-how acquisition, software design, financial information and statistical methods;
 - c) information relating to ownership, protection and exploitation of any IPR developed in connection with this agreement; and
 - d) any other information identified by the disclosing Partner as being confidential.
- 10.3 Confidential Information does not include information which:
- a) is or becomes generally available to the public or is in the public domain other than as a result of disclosure by a Partner or their staff or subcontractors contrary to its responsibilities of confidentiality;
 - b) is already known to the receiving Partner (as evidenced by written records) at the time of its disclosure and was not otherwise acquired by the receiving Partner under any responsibilities of confidentiality;
 - c) is or becomes available to the receiving Partner from a third party having a right to disclose that information otherwise than pursuant to this Consortium Agreement and free of any restriction as to the use or disclosure;
 - d) is independently developed by the receiving Partner outside the terms of this Consortium Agreement; or
 - e) is required by operation of law or governance obligations to be made public
- 10.4 Each Partner, when providing to another Partner or Partners information which it considers to be confidential, shall mark such clearly. If disclosed in other than tangible form, notified by the disclosing Partner before disclosure that it will be disclosing Confidential Information and such Confidential Information is later within fourteen (14) calendar days of the disclosure recorded in a written notification given to the receiving Partner(s).
- 10.5 Each Partner shall use its best endeavours, and shall procure that its staff shall use their best endeavours to ensure that it does not:
- a) use the Confidential Information except for the purposes of this Consortium Agreement and on any specific terms stipulated by the owner;
 - b) use the Confidential Information so as to procure any commercial advantage over the disclosing Partner;
 - c) disclose the Confidential Information to any person except to the extent necessary to perform the receiving Partner's obligations in accordance with this Consortium Agreement; and
 - d) disclose to any third party any Confidential Information.
- 10.6 The obligations of confidentiality shall survive the termination of this Consortium Agreement until five (5) years from the termination of this Consortium Agreement.

- 10.7 The provision in this Clause 10 shall not prevent the Partners or any of them from passing on Confidential Information to third parties as required by legislation in force at any time. The owner of the Confidential Information shall be free to disclose it. The partner disclosing the Confidential Information shall not be liable to anyone owning the Confidential Information for passing it on where that Partner has done so in compliance with the requirements of any such legislation.

11. Breach

- 11.1 In the event of a breach by a Partner of its obligations under this Consortium Agreement, a Specific Agreement or the Framework Partnership Agreement which is not remedied within 30 calendar days of receipt of a written notice sent by registered mail from the Coordinator requiring such breach to be remedied, the MC may decide after hearing of the Coordinator to terminate without further notice the Partners' participation in this Consortium Agreement. The Coordinator shall give notice of this decision by registered mail to the Partner in breach.

12. Liabilities

- 12.1 Each Partner shall indemnify each of the Partners in respect of its own negligence or omissions, or the negligence or omissions of its employees or subcontractors provided that such indemnity shall not, unless caused by a wilful act or as gross negligence, extend to claims for indirect or consequential loss or damage, such as loss of profit, loss of contracts or revenue. A Partner's aggregate liability towards the other Partners collectively shall be limited to once the Partner's share of the total costs of the Specific Agreement concerned provided such damage was not caused by a wilful act or gross negligence.
- 12.2 In any case where the Agency claims reimbursement in accordance with the Framework Partnership Agreement, Article II.16, from Partners other than the Partner in breach, the other Partners shall be entitled to full reimbursement and compensation from the Partner in breach, which has caused the recovery by the Agency. The liability of the Partner in breach is financially limited to the Partner's share of the total cost of the Specific Agreement provided such damage was not caused by a wilful act or gross negligence.
- 12.3 Each partner shall be solely liable for any loss, damage or injury to third parties resulting from the execution of its assigned tasks.

13. Ownership/Use of the results

- 13.1 Background Rights shall remain the property of the Partner introducing them to the Partners, and the Partners each agree not to use the other's Background Rights in any way that is inconsistent with the operation of this Consortium Agreement.

The Partners shall give access to the other Partners to such Results or Background Rights that are needed for the execution of such other Partner's work in the Project

and shall give each other the right to receive a non-exclusive user right to such Results or Background Rights for the execution of the Project without any additional compensation. The Partner granting the user right may require a separate agreement to be made between the concerned Partners.

If the Results or Background Rights are later needed for Exploitation of a Partner's own Results, user rights to such Results or Background Rights and terms relating thereto shall be agreed separately in writing between the Partners concerned.

- 13.2 Each Partner shall grant the Agency a right to use its Background Rights in accordance with Article II.4.3 of the Framework Partnership Agreement. No Partner shall supply Background Rights to another Partner under this Consortium Agreement in the knowledge, information or belief that the use of the Background Rights by that Partner will infringe the Intellectual Property Rights of any third party. Notwithstanding the foregoing, each Partner shall be solely liable for the use of another Partner's Background Rights and no warranties or representations of any kind is made, given or to be implied by the granting Partner to the recipient Partner.
- 13.3 Each Partner shall own the Results and Resulting Rights created by or on behalf of that Partner and its staff. Where one or more Partners (or their staff) have created any specific Results or Resulting Rights, they shall be owned by those Partners jointly in proportion to the Partners' contribution to their creation.
- 13.4 The owning Partner or Partners hereby grant to the other Partners a non-exclusive, non-transferable, irrevocable royalty-free license, in respect of all Resulting Rights necessary in order for the other Partners to use the Results for Non-commercial purposes.
- 13.5 The owning Partners shall:
 - a) be able individually to use and exploit the Result and the Resulting Rights and sub-license them as they see fit;
 - b) reach an agreement in order to manage the procedure of protection of any application, according to Clause 13.4.
- 13.6 If a Partner is prevented from carrying out its obligations under this Consortium Agreement due to any infringement or alleged infringement of any Intellectual Property Rights, that Partner may, without prejudice to any other rights and remedies, exercise the powers and remedies available to it under Clauses 11 and 16 (Breach and Termination).
- 13.7 The Partners each agree not to use, exploit or deal with the Resulting Rights or the Results or any of them in any way that is:
 - a) inconsistent with the operation of this Consortium Agreement;
 - b) might damage or prejudice the reputation of another Partner; or
 - c) might damage or prejudice another Partner's commercial or other business interests to the extent it is or should reasonably be aware of the same.
- 13.8 Each Partner shall maintain adequate security measures to protect the integrity and security of Intellectual Property Rights held by them and/or their employees, agents of contracts under the terms of this Agreement. Each Partner shall promptly notify the others of breach or suspected breach of such security measures.

- 13.9 No Partner guarantees the total accuracy of any Background Rights or Resulting Rights, data, information or materials or know how supplied or that they are free from errors, defects, viruses, Trojan horses or any other destructive code of any kind.

14. **Publicity**

- 14.1 Unless the Agency requests otherwise, any communication or publication by the Partners about the work programme, including at a conference or seminar, shall indicate that the work programme has received funding from the Agency. No communication of publication by the Partners, in any form and medium, shall be done without explicit authorization on the Agency.

- 14.2 The Partners authorize the Agency to publish the following information in any form and medium, including via the Internet:

- The Partners' names and addresses;
- The subject and purpose of the grant;
- The amount granted and the proportion of the action's total cost covered by the funding.

Upon a reasoned and duly substantiated request by a Partner, the Agency may agree to forgo such publicity if disclosure of the information indicated above would risk compromising the Partner's security or prejudicing his commercial interests.

15. **Assignment**

- 15.1 No Partner shall without the prior written consent of all other Partners represented by the MC, partly or totally assign any of its rights and obligations under this Consortium Agreement.
- 15.2 If a Partner engages subcontractors, such Partner undertakes to ensure that the conditions in Article II.10 of the Framework Partnership Agreement are fulfilled and are applicable to the subcontractor. The Partner shall continue to have the full responsibility for fulfilling the tasks.

16. **Termination**

- 16.1 This Consortium Agreement may be terminated by registered mail at any time by a Partner giving 90 calendar days' written notice to the Coordinator. However, each Partner must undertake the complete implementation of any Specific Agreement, which has been agreed prior to the date of the termination notice.
- 16.2 As regards termination of the Framework Partnership Agreement and the Specific Agreements reference is made to these documents.
- 16.3 If the Agency terminates the Framework Partnership Agreement, a Specific Agreement or the participation of a Partner, this Consortium Agreement shall be considered terminated partly or wholly in accordance with the termination made by the Agency.

17. Language

17.1 The Consortium Agreement is executed in English and all documents, notes and meetings for its application and/or extension shall be in English.

18. Notice

18.1 Any notice to be given under this Consortium Agreement shall be in writing to the Management Committee members, cf. Annex A.

18.2 Any notice served in accordance with this clause will be deemed to have been served:
a) if delivered personally at the time of delivery;
b) in the case of postal service, 7 calendar days from the date of posting.

19. Entire agreement and amendments

19.1 This Consortium Agreement including its Annexes, the Framework Partnership Agreement including its Annexes and the Specific Agreements shall constitute the entire agreement between the Partners.

19.2 Amendments or changes to the Consortium Agreement shall be valid only if made in writing and signed by an authorised officer of each Partner.

20. Applicable law

20.1 This Consortium Agreement shall be construed according to and governed by the laws of Denmark without regard to the conflict-of-law principle.

21. Resolution of disputes

21.1 Any disputes or claims arising out of or in connection with this Consortium Agreement, the termination or validity hereof shall be settled amicably.

21.2 Failing amicable resolution, such disputes and claims shall be finally settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules.

21.3 The venue of arbitration shall be in Copenhagen, Denmark.

21.4 The language of the arbitration proceedings shall be in English.

22. Force majeure

22.1 *Force majeure* shall mean any unforeseeable exceptional situation or event beyond the Partner's control which prevents that Partner from fulfilling any of its obligations under

the framework agreement and specific agreements, was not attributable to error or negligence on its part, and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available (unless due to force majeure), labour disputes, strikes or financial difficulties cannot be invoked as force majeure by the defaulting party.

- 22.2 If a Partner is affected by force majeure then that Partner shall be excused from performance of the obligation for the duration of the force majeure event.
- 22.3 If a Partner is faced with force majeure then that Partner shall inform the Coordinator without delay by registered letter with advice of delivery or equivalent, starting the nature, probable duration and foreseeable effect.

23. **Personal Data and privacy**

- 23.1 The Parties agree to process personal data, as defined in the General Data Protection Regulation (EU 2016/679) of April 27th, 2016, only on a need-to-know basis and in accordance with applicable laws and regulations and to comply with all transfer of personal data laws and regulations of all countries under whose jurisdiction the transfers of personal data occur.

24. **Counterparts**

This Consortium Agreement is executed in 9 counterparts, each of which shall be deemed to be an original.

25. **Annexes**

- Annex A List of contact persons and responsible financial officers
- Annex B Format for change requests
- Annex C Format technical progress report
- Annex D Guidelines for ETC cost statements

Mol, Belgium, 15.11.2018

For VITO:

Dirk Fransaer
Managing Director VITO

For Česká informační agentura životního prostředí (CENIA):

Miroslav Havránek
Director

