**CONSORTIUM AGREEMENT**

**Article 1: Consortium Partners**

**Principal beneficiary/lead organization on the Czech side
INOTEX spol. s r.o.**Address: Štefánikova 1208, 544 01 Dvůr Králové nad Labem
Phone: XXXXXXXXXX, Fax: XXXXXXXXXX
Website: XXXXXXXXXX
Contact Person
Name: XXXXXXXXXX

Position: XXXXXXXXXX
Phone (direct): XXXXXXXXXX

Email: XXXXXXXXXX

**Principal beneficiary/lead organization on the Zhejiang side
Zhejiang Henglan Technology CO., LTD.**Address: Xiaoshan district, Zhejiang P.R.China
Phone: XXXXXXXXXX, Fax: XXXXXXXXXX
Website: XXXXXXXXXX
Contact Person
Name: XXXXXXXXXX

Position: XXXXXXXXXX
Division/Department: Xiaoshan district, Zhejiang, P.R.China
Phone (direct): XXXXXXXXXX

Email: XXXXXXXXXX

**Participating organization on the Czech side**

**Technická univerzita v Liberci/ Technical University of Liberec**

Studentská 1402/2, 46117 Liberec
Phone: XXXXXXXXXX, Fax: XXXXXXXXXX
Website: XXXXXXXXXX
Contact Person
Name: XXXXXXXXXX
Division/Department: XXXXXXXXXX
Phone (direct): XXXXXXXXXX
Email: XXXXXXXXXX

 **Participating organization on the Zhejiang side**

**Zhejiang Sci-tech University**Address: 928 NO.2 Avenue, Xiasha, Hangzhou, China
Phone: XXXXXXXXXX
Website: XXXXXXXXXX
Contact Person
Name: XXXXXXXXXX
Division/Department: XXXXXXXXXX
Phone (direct): XXXXXXXXXX
Email: XXXXXXXXXX

Hereinafter, jointly or individually, referred to a Parties or Party

**Article 2: Contracting Parties**

* 1. The consortium intends to collaborate on the Project titled: **SMARTTHERM – "Intelligent thermoregulatory fibers and functional textile coatings based on temperature resistant encapsulated PCM”** accepted by the Technology Agency of the Czech Republic and ZSTD to be realized as part of the complementary programmers (DELTA 6th public call) under the following Project Numbers **TF06000048 on the Czech side** and **2019C54003 on the Zhejiang side** (herein after referred to as „Project“).
	2. The purpose of this Consortium Agreement is to specify with respect to the Project the relationship among the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, intellectual property rights and dispute resolution.
	3. The consortium will take all necessary and reasonable measures to ensure that the project will be carried out in accordance with Article 4 of this Consortium Agreement and in a timely manner. *Duration of Project 36 months starting January 2019 till December 2021.*

**Article 3: Project description**

**Article 4: Roles of each Lead organization and Participating organization**

4.1. Project managements

Each project party will contribute to performing and fulfilling of overall project tasks as defined in project roles defined below (4.3). Each party shall promptly provide all information and necessary assistance reasonably required by another party to carry out its tasks under this Agreement. Further details of the assistance parties shall give to each other in order to secure the proper execution of the project as designed in deliverables herein after.

4.2. Basis for cooperation

4.3. Roles of each of Participating Organization

4.3.1. Principal beneficiary (P-Czech side) INOTEX spol. s r.o.

|  |  |  |  |
| --- | --- | --- | --- |
| Task No | Task name | Description | Deliverables |
| 1 | Research and development of PCM and components of multifunctional coatings |  | Research report about comparison of various coatings types |
| 2 | Research and development of microcapsules use for polyester fibers and coatings |  | Research report about comparison of multifunctional coatings and intensity of effects for different substrates. Lab samples of PCM treated textiles.  |
| 3 | Industrialization and evaluation of polyester fibers and multifunctional coatings. |   | Utility model – thermally regulated multifunctional coating– functional samples of smart textiles- Certified technology for PCM application |

4.3.2. Participating Organization (D-Czech side) TUni Liberec

|  |  |  |  |
| --- | --- | --- | --- |
| Task No | Task name | Description | Deliverables |
| 1 | Research and development of PCM and components of multifunctional coatings |   | Research report about selection of PCM and their characterization including modeling |
| 2 | Research and development of microcapsules use for polyester fibers and coatings | .  | Research report about evaluation of microcapsules properties and particles bringing functional effects suitable for coatings.  |
| 3 | Industrialization and evaluation of polyester fibers and multifunctional coatings. |  | ~~U~~tility model – thermally regulated multifunctional coatingO – publication in impacted journal  |

4.3.3. Principal beneficiary (Zheijang side) Zhejiang Henglan Technology CO., LTD.

|  |  |  |  |
| --- | --- | --- | --- |
| Task No | Task name | Description | Deliverables |
| 1  | Research and development of PCM and components of multifunctional coatings |  | Report about processing of micro capsules in melt spinning of polyester |
| 2 | Research and development of microcapsules use for polyester fibers and coatings  |  | Report about technology of fibers preparation Laboratory samples of fibers. |
| 3 | Industrialization and evaluation of polyester fibers and multifunctional coatings.Comparison |  | Final report about technology of fibers production properties and utilization. Industrial samples of fibers. |

4.3.4. Participating Organization (Zheijang side) Zhejiang Sci-tech University

|  |  |  |  |
| --- | --- | --- | --- |
| Task No | Task name | Description | Deliverables |
| 1 | Research and development of PCM and components of multifunctional coatings |  | Research report about synthesis of PCM and selection of suitable core material. Lab samples of PCM capsules |
| 2 | Research and development of microcapsules use for polyester fibers and coatings |  | Research report about steps of microcapsules preparationFunctional sample of customized PCM capsules |
| 3 | Industrialization and evaluation of polyester fibers and multifunctional coatings. |  | Final report about technology of microcapsules preparation.utility model – modified polyester fibers containing microcapsules  |

4.4. Implementation Path

Steadily rising demand for functional/multifunctional new materials encompass the protective properties against heat and temperature shocks as part of the barrier protective and comfort properties. Textiles overtake the positions of new – responding carrier of such functionalities. Smart (multi)functional textiles lead to the high value added markets. New PCM based systems for textiles – applied inherently in the PES fiber as well as encapsulated for coating post-treatment of textile substrates will extend the portfolio of functionalities for protective textiles against heat shock and severe thermal exposures. Certified technology of PCM application including the trendy combined multifunctional coatings will be demonstrated on set of functional samples – those application, comfort and durability properties will be evaluated to get results ready for next industrialization. INOTEX, using the PCM encapsulates delivered by Zhejiang partners utilizing its own low volume finishing/coating facility will support the scale-up phase to speed-up the process of customization of the project results for potential industrial partners. Both university partners will care about detailed study and evaluation of functional properties of selected innovative products heat protective textiles based on both coated textiles with PCM and textile constructions with PCM inherent modified PES fibres. Results of these innovation help to positive influence both – the safety and comfort needs of users and the urgent need of energy efficiency in the area of barrier technical textiles.

**Article 5: Financial issues**

The total budget of the SMARTTHERM project and the planning of expenses for each participant is determined in the public co-financing. Rest of the project costs of each participant will be covered by use of each participant own profile created by sales and innovation activity parties of industrial or additional activities and contracted research of the universities. If the planning is not observed, any necessary adjustment of the budget has to be agreed upon separately between the concerning Party and the public sponsor.
All national requirements (e.g. financial reports) shall be complied with the Party receiving such public funding according to the provisions of the public grant.
Each Party is responsible for financing the work performed for the project and has no claims for reimbursement of costs against another Party under this Agreement, if not agreed upon separately or provided by legal provisions.

**Article 6: Intellectual Property Rights**

6.1. Ownership

Ownership of project intellectual property shall be determined by the following principles.

6.1.1. During the process of the project, the intellectual property created by either party alone belongs to the party which makes the creation. If the intellectual property is created by both parties together, the project intellectual property is the joint intellectual property belonging to two parties.

6.1.2. Each party could grant another party the right to use its own project intellectual property for the R&D purpose only. Both parties shall have the right to use the joint intellectual property for the own R&D purpose.

6.1.3. Neither part of this agreement shall commercialize the joint project intellectual property before the parties have reached a written agreement in this regard.

6.1.4. Or each party keeps the right to commercialize the joint project intellectual property on its own. Nevertheless, each party shall obtain the written consent from another party before allowing any third party to implement the commercialization.

6.1.5. Or both parties have the right to commercialize the joint project intellectual property on their own and/or determine at their own discretion to allow any third parties to implement such commercialization.

6.1.6. After the expiration or termination of this agreement, each party shall be entitled to improve or/and further develop the project intellectual property. Any results generated therefore shall become the property of the party that performs such improvement or further development.

6.2. Protection of The Background and The Project results

6.2.1. It´s up to the sole discretion of each party to care for the legal protection of their own

background information and background IPR. The crucial background information and

corresponding background IPR are declared in the “Pre-existent knowledge” –

attachment 1 of this CA.

6.2.2. Filing for Protection of Knowledge/Results

6.2.2.1. In the case of Knowledge/Results, the parties shall agree who shall be responsible for the filing, protection and maintenance of the Knowledge/Results in the names of the parties (Filing Party). The cost of protecting such Knowledge/Results shall be borne equally by the parties unless otherwise agreed.

6.2.2.2. In the case that one of the Joint parties does not wish to pursue protection of Joint Knowledge, the other Joint Parties shall be free to continue with such protection at their own expense. In this case the Joint Parties shall discuss and agree in writing the rights of the Joint Party who does not wish to pursue protection.

6.2.2.3. In the event that the Filing Party elects not to continue to bear the cost of such protection of the Knowledge/Results in any or all jurisdictions, any other Party (Requesting Party) may request the Filing Party to continue with such protection in any or all of such jurisdictions where no filing has taken place at the cost of the Requesting Party who shall be granted an option to exclusive rights in the chosen jurisdictions on fair and reasonable terms taking into account the payment of the costs of protection. Unless the Filing Party can demonstrate that its legitimate interests will be significantly impaired by such granting of an option to exclusive rights.

6.2.2.4. For the avoidance of doubt ownership of the Knowledge/Results shall not be affected by payment of the cost protection.

6.3. Access rights

6.3.1. All access rights needed for the execution of the project and for use are granted on a non-exclusive, non-transferable basis and save in exceptional circumstances, no transfer costs shall be charged for the granting of access rights.

6.3.2. Each Party grants to the other Parties a non-exclusive, non-transferable, royalty-free licence or access to Background Knowledge needed for the execution of the project.

**Article 7: Confidentiality**

7.1. Period of confidentiality

For any document, information, knowledge, pre-existing know-how or other material communicated as being confidential, the period of confidentiality shall be at least 5 (five) years from the date of such communication, unless a longer period of confidentiality is provided for in the funding agency contract.

7.2. Confidentiality obligations

In respect of all information of whatever nature or form as is disclosed to a party in connection with the project each party agrees such information is communicated on a confidential basis and its further disclosure may be prejudicial to the owner of the information, and undertakes that:

• it will not during a period of five (5) years from the date of disclosure to the party use any such information for any purpose other than in accordance with the terms of the funding agency contract and of this CONSORTIUM AGREEMENT; and

• it will during the period of five years treat the same as (and use reasonable endeavours to procure that the same be kept) confidential and not disclose the same to any other third party without the prior written consent of such owner in each Consortium Agreement which shall not be unreasonably withheld; provided always that such agreement and undertaking shall not extend to any information which the receiving party can show:

1. was at the time of disclosure to the party published or otherwise generally available to the public, or

2. has after disclosure to the party been published or become generally available to the public otherwise than through any act or omission on the part of the receiving party, or

3. was already in the possession of the receiving party, without any restrictions on disclosure, at the time of disclosure to the party, or

4. was rightfully acquired from others without any undertaking of confidentiality, or

5. was developed independently of the work under the SMARTTHERM contract by the receiving party

6. has to be disclosed due to official order or warrant or mandatory legal provisions

7.3. Communication to third parties

As respects any permitted communication of any of the information referred to in the previous section by the recipient party to a third party (including but not limited to its affiliates) such party will use reasonable endeavours to procure due observance and performance by such third party of the undertakings referred to in the previous section of this CONSORTIUM AGREEMENT and all relevant undertakings in the funding agency contract.

**Article 8: Dissemination of the projects results**

8.1. The IPR beneficiaries are responsible for organizing the dissemination of the research results.

8.2. The project partners/IPR beneficiaries will decide in which form the project results will be disseminated nondiscriminatingly.

8.3. On the same base will be decided under which non-discriminating conditions interesting enterprises being or not-being members of the IPR beneficiaries will receive the results of the project.

8.4. The parties agree to put available their information channels (leaflets, websites) for the dissemination of the project results that were agreed upon to be disseminated freely.

8.5. In all disseminations within the public domain it will be mentioned that the results are obtained within an international DELTA-SMARTTHERM research project co-financed by TACR and ZSTD.

**Article 9: Liability**

9.1. No Warranties

In respect of any information or materials supplied by one party to another under the project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient party shall in all cases be entirely and solely liable for the use to which it puts such information and materials, and

- no party granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Party (or its Affiliates) exercising its Access Rights.

9.2. Limitations of contractual liability

No Party shall be responsible to any other Party for any direct or indirect loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by a wilful act or by a breach of confidentiality.

9.3. Damage caused to third parties

Each party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said party’s obligations by it or on its behalf under this consortium agreement or from its use of foreground or background.

9.4. Force Majeure

No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify the Coordinator of any Force Majeure as soon as possible. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided subsequently.

**Article 10: Final clauses**

10.1. Entry into force

This Consortium Agreement shall enter into force on the date of signature of all Parties and into effective as of the date of its publication in the Register of Contracts according to the Act No. 340/2015, Coll. (on the Register of Contracts), but not before the date of the effective decision about the Allocation of funds. The duration shall be determined by the term set forth by the allocation of the funds. The Agreement shall be published in the Register of Contracts by the Technical University of Liberec.

10.2. Termination

This Consortium Agreement shall continue in full force and effect until the end of the Project term set forth by the allocation of the funds. Each Party may terminate its participation in the joint project for good cause, for instance if further co-operation has become unacceptable or a cancellation or substantial reduction of funding has occurred. In the event of termination the responsible national authorities shall be notified about the withdrawal from the joint project.

In the event of the withdrawal of a Party

- its rights shall be limited to the research results which were communicated to it until the receipt of notice. It shall not be entitled to divulge such research results.

- the licenses or rights of use granted to the other Parties on the basis of this agreement shall not be affected;

- the tasks of the withdrawing Party which have not been carried out yet may be taken on by a new partner based on mutual written agreement of all of the remaining Parties, as far as this seems to make sense for the continuation of the joint project.

The obligations of the other Parties to the withdrawing Party set forth in items 6-9 of this agreement shall be applicable only for research results that were attained prior to the receipt of the notice. The obligations of the withdrawing Party set forth in the aforementioned provisions shall continue to apply, even after its withdrawal, for all research results and property rights that are granted to the withdrawing Party on the basis of activities whose implementation it took on or started in the framework of the joint project.

10.3. Annexes

Attachment 1 (Pre existing knowledge)

10.4. Amendment

No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties’ prior formal approval. Amendments and modifications to the text of this Consortium Agreement require a separate agreement between all Parties.

10.5. Language

This Consortium Agreement is drawn up in English, which language shall govern all documents, notices, meetings, arbitral proceedings and processes relative thereto.

10.6. Settlement of disputes

All disputes between the Parties arising from this Agreement shall be solved amicably.

10.7. Inconsistencies and *severability*

Should any provision of this Consortium Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Consortium Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

**Signatures of statutory representative/member of a statutory body/representative with authorization to sign on behalf of the organization (according to the commercial or other register)**

|  |  |  |
| --- | --- | --- |
| *(signature) (Date) 28.2.2019****Principal Beneficiary on the Czech side*** |  | *(signature) (Date)****Principal Beneficiary on the Zhejiang side*** |
| *(Print Name) XXXXXXXXXX(Position) XXXXXXXXXX(Name of Organization) INOTEX spol s.r.o* |  | *(Print Name)* XXXXXXXXXX*(Position)XXXXXXXXXX(Name of Organization)**Zhejiang Henglan  Technology CO., LTD.* |
|  |
|  |

|  |  |  |
| --- | --- | --- |
| *(signature) (Date) 27.2.2019****Paticipation Organization on the Czech side*** |  | *(signature) (Date)****Paticipation Organization on the Zhejiang side*** |
| *(Print Name)*  XXXXXXXXXX*(Position) XXXXXXXXXX (Name of Organization) Technical university  of Liberec* |  | *(Print Name) XXXXXXXXXX (Position)XXXXXXXXXX (Name of Organization)**Zhejiang Sci-tech  University* |
|  |
|  |