

## KAPPA Programme Partnership Agreement

### The Partnership Agreement

is based upon the *Regulation on the implementation of the European Economic Area (EEA) / Norwegian Financial Mechanism 2014-2021* (hereinafter the “Regulation”, adopted on 2016-09-23) and the KAPPA Project Contract (hereinafter the “Project Contract”) [KAPPA Terms and Conditions](#),

and is concluded on 1.1.2021 (hereinafter the “Effective Date”)

between:

*InoCure s.r.o., Politických vězňů 13, 110 00 Praha 1, IČ 03835243* referred- the Project Promoter –

*[OFFICIAL NAME OF THE PROJECT PARTNERS AS IDENTIFIED IN THE PROJECT CONTRACT],*

SINTEF AS by its institute SINTEF Industry, Strindvegen 4, 7034 Trondheim, Norway (SINTEF)

Vysoká škola chemicko-technologická v Praze, established in Technická 5, Praha 166 28, Czech Republic (VSCHT)

Univerzita Jana Evangelisty Purkyně, v Ústí nad Labem established in Pasteurova 3544/1, 400 96 Ústí nad Labem-město, Czech Republic (UJEP)

(hereinafter, jointly or individually, referred to as “Parties” or “Party”)

relating to the Project no. T001000329 entitled

»Advanced hybrid organic-inorganic nanofibers for CO2 capture and photocatalysis.«

in short

»METAMOPRH«

(hereinafter the “Project”)

Whereas:

*The Parties, having considerable experience in the field concerned, have submitted a project proposal to the Programme Operator's Call for Proposals within the KAPPA Programme.*

*The Parties wish to make appropriate internal arrangements and binding commitments among themselves in addition to the provisions of the Project Contract to be signed by the Programme Operator and the Project Promoter.*

*The Parties are aware that the Partnership Agreement is based upon the DESCA model Partnership Agreement and that explanations to the DESCA model are available at [www.DESCA-2020.eu](http://www.DESCA-2020.eu).*

It is hereby agreed as follows:

## **Section 1: Definitions**

### **1.1 Definitions**

Words beginning with a capital letter shall have the meaning defined either herein or in the Regulation including its Annexes or in the Project Contract including its Annexes without the need to replicate said terms herein.

### **1.2 Additional Definitions**

*"Access Rights"* - licences and user rights relating to Results and/or Background. *"Affiliated Entities"* - any legal entity:

- in which a Party of a subsidiary of a Party owns or controls more than fifty (50) % of the equity share capital in that entity, or
- in which a Party controls fifty (50) % or less of the voting rights, but none the less has determining influence in that entity; or
- which owns or controls more than fifty (50) % of the equity share capital of a Party and any subsidiary of such entity, as well as any entity being owned or controlled by more than fifty (50) % of this entity or its subsidiaries.

*"Background"* - any data, know-how or information whatever its form or nature, tangible or intangible, including any rights such as intellectual property rights, which is; (i) held by the Parties

prior to their accession to the action; (ii) needed for carrying out the Project or for exploiting the Results of the Project; and (iii) identified by the Parties. *"Defaulting Party"* - a Party which the Steering Committee has identified to be in breach of the Partnership Agreement and/or the Project Contract as specified in Article 4.2 of the Partnership Agreement.

*"Dissemination"* - making information publicly available, in articles, workshop/conference presentations, press releases or by any other means including but not limited to scientific publication.

*"Defaulting Party"* - a Party which the Steering Committee has identified to be in breach of the Partnership Agreement and/or the Project Contract as specified in Article 4.2 of the Partnership Agreement.

*"Fair and Reasonable Conditions"* - appropriate conditions, including possible financial terms considering the specific circumstances of the request of access, for ex. the actual or potential value of the Results or Background knowledge to which access is requested and/ or the scope, duration or other characteristics of the use envisaged.

*"Needed"* - means; (i) For the implementation of the Project: Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient Party would be technically or legally impossible, significantly delayed, or require significant additional financial or human resources; (ii) For exploitation of own Results: Access Rights are Needed if, without the grant of such Access Rights, the Exploitation of own Results would be technically or legally impossible.

*"Project Plan"* - the description of the work as set out in Annex 1 of the Project Contract.

*"Partnership Budget"* - the allocation of all the resources in cash or in kind for the activities as defined in the Project Contract and in the Project Plan thereafter.

*"Results"* - any tangible or intangible output of the Project, such as data, knowledge or information, that is generated in the Project, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights.

*"Software"* - 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.

*"Steering Committee"* - the management body described in the Governance Structure section of this Partnership Agreement.

## Section 2: Purpose

The purpose of the Partnership Agreement is to specify with respect to the Project the roles and responsibilities among the Parties, in particular concerning the organization of the work between the Parties, the management of the Project, the financial arrangements between the Parties, and the rights and obligations of the Parties concerning, inter alia, liability, Access Rights and dispute resolution.

## Section 3: Entry into force, duration and termination

### **3.1 Entry into force**

An entity becomes a Party to the Partnership Agreement upon signature of the Partnership Agreement by a duly authorized representative.

The Partnership Agreement shall have effect from the Effective Date identified at the beginning of this Partnership Agreement. The Effective Date of this Partnership Agreement will not have any effect on the first date of eligibility of expenditure as identified in the Project Contract.

A new entity becomes a Party to the Partnership Agreement upon signature of the accession document [Attachment 2] by the new Party and the Project Promoter. Such accession shall have effect from the date identified in the accession document. A new entity could substitute a Partner if the Partner has not anymore, the needed resources to implement the Project.

### **3.2 Duration and termination**

The Partnership Agreement shall continue in full force and effect until complete fulfillment of all obligations undertaken by the Parties under the Project Contract and the Partnership Agreement, or until the Partnership Agreement has been terminated according to the terms of termination below.

However, the Partnership Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of the Partnership Agreement and the Project Contract.

If the Project Contract is not signed by the Programme Operator or the Project Promoter, or is terminated, or if the Project Promoter's participation in the Project Contract is terminated, this Partnership Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Art. 3.3 of the Partnership Agreement.

### **3.3 Survival of rights and obligations**

The provisions relating to Access Rights and Confidentiality, for the time period mentioned therein, as well as for Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of the Partnership Agreement.

Termination shall not affect any rights or obligations of a Party leaving the Partnership incurred prior to the date of termination, unless otherwise agreed between the Steering Committee and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

## **Section 4: Roles and responsibilities of Parties**

### **4.1 General principles**



Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfill, promptly and on time, all of its obligations under the Project Contract and the Partnership Agreement as may be reasonably required from it and in a manner of good faith.

Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.

Research inherently entails uncertainty regarding the desired Results to be achieved, and each Party shall therefore in accordance with the paragraph above give notice to the Project Promoter if the implementation of the Project indicates that a specific project target should be adjusted.

Each Party shall promptly provide all information reasonably required by Steering Committee or by the Project Promoter to carry out its tasks.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

#### **4.2 Breach**

In the event that the Steering Committee identifies a breach by a Party of its obligations under the Partnership Agreement or the Project Contract (e.g.: a partner producing poor quality work; improper implementation of the Project), the Project Promoter or the Party appointed by the Steering Committee if the Project Promoter is in breach of its obligations under the Partnership Agreement or the Project Contract will give written notice to such Party requiring that such breach be remedied within thirty (30) calendar days from the date of receipt of the written notice by the Party.

If such breach is substantial and is not remedied within that period or is not capable of remedy, the Steering Committee may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of its participation.

#### **4.3 Involvement of third parties and subcontractors**

A Project Partner that enters into a subcontract or otherwise involves third parties in the Project remains solely responsible for carrying out its relevant part of the Project and for such third party's compliance with the provisions of the Partnership Agreement and of the Project Contract. The Project Partner must notify such involvement to the other Parties. The notification shall contain at least the name, the address and the activity of the subcontractor or third party. It has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties under the Partnership Agreement and the Project Contract.

#### **4.4 Export laws and regulations**

Notwithstanding anything to the contrary contained in this Partnership Agreement it is understood that the supply, export or transfer of goods, technologies, software, results, services and information

under this Partnership Agreement may be subject to import or export laws and regulations or any other governmental authorization.

The Parties do not warrant that if any import or export licence or any other governmental authorization is required for the fulfilment of any of its contractual obligations, such licence or authorization shall be issued or extended or shall be issued or extended in due time.

The Parties, where they are legally able to do so, will inform other affected Parties as soon as they are aware of a requirement for such licences or any other governmental authorisations.

The Parties shall not be obliged to supply, export or transfer goods, technologies, software, results, services and information or to perform other contractual obligations of this Partnership Agreement if such supply would violate applicable import or export control laws or regulations of the Member States of the European Union.

In any such case, the Parties will make reasonable efforts to resolve the matter in a way such that a violation can be avoided. If this is not possible, each Party concerned shall be entitled to terminate its participation in this Partnership Agreement with immediate effect.

Compensation claims shall be excluded in case of any restriction resulting from import or export laws and regulations and/or any delay of the granting or extension of the import or export licence or any other governmental authorization.

## **Section 5: Liability towards each other**

### **5.1 No warranties**

In respect of any information or materials (incl. Results and Background) 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 exercising its Access Rights.

However, each Party shall promptly inform the other Party/ies of any claims of third parties that come to their knowledge.

### **5.2 Limitations of contractual liability**

No Party shall be responsible to any other Party for any indirect or consequential 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 gross negligence.

For any remaining contractual liability, a Party's aggregate liability towards the other Parties collectively shall be limited to the Party's share of the total costs of the Project as identified in Project Contract, provided such damage was not caused by a wilful act or gross negligence.

The terms of the Partnership Agreement shall not be construed to amend or limit any Party's statutory liability.

### **5.3 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 the Partnership Agreement or from its use of Results or Background.

### **5.4 Force Majeure**

No Party shall be considered to be in breach of the Partnership Agreement if such breach is caused by Force Majeure. Each Party will notify the Steering Committee of any Force Majeure without undue delay. 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 by the Steering Committee and the Programme Operator will be informed in due time.

### **5.5 COVID – 19 Reservation**

The Parties acknowledge that this Partnership Agreement is being negotiated and entered during the Covid-19 pandemic. That has caused global disruption with consequence that have not necessarily fully materialized. The Parties are therefore not fully able to predict how the pandemic will influence the Project. Therefore, the Parties agree to mitigate and collaborate on any needed measures as much as possible.

The Parties shall at a regular basis discuss if any change to the Project is needed, if any parts are not possible to complete, if any work around obstacles are possible.

## **Section 6: Governance structure**

### **6.1 General structure**

The organizational structure of the Partnership shall comprise the following Bodies:

The Steering Committee as the ultimate decision-making body of the Partnership.



The Project Promoter is the legal entity acting as the intermediary between the Parties and the Programme Operator. The Project Promoter shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Project Contract and the Partnership Agreement.

## **6.2 Members of the Steering Committee**

The Steering Committee shall consist of one representative of each Party (hereinafter referred to as "Member").

Each Member shall have a mandate of decision-making on behalf of the Party it is representing.

Each Member shall be duly authorized to deliberate negotiate and decide on all matters listed in Article 6.3.6 of this Partnership Agreement. The Project Promoter shall chair all meetings of the Steering Committee unless decided otherwise in a meeting of the Steering Committee.

The Parties agree to abide by all decisions of the Steering Committee. This does not prevent the Parties from submitting a dispute for resolution in accordance with the provisions of settlement of disputes in Article 12.8 of the Partnership Agreement.

## **6.3 Operational procedures for the Steering Committee**

### **6.3.1 Representation in meetings**

All Members:

- shall be present or represented at any meeting of the Steering Committee;
- may appoint a substitute or a proxy to attend and vote at any such meeting;
- and shall participate in a cooperative manner in the Steering Committee meetings.

### **6.3.2 Preparation and organisation of meetings**

#### **6.3.2.1 Convening meetings:**

The chairperson shall convene ordinary meetings of the Steering Committee at least once every six (6) months and shall also convene extraordinary meetings at any time upon written request of any Member.

#### **6.3.2.2 Notice of a meeting:**

The chairperson shall give notice in writing of a meeting to each Member as soon as possible and no later than fourteen (14) calendar days preceding an ordinary meeting and seven (7) calendar days preceding an extraordinary meeting.

#### **6.3.2.3 Sending the agenda:**

The chairperson shall send each Member a written original agenda no later than fourteen (14) calendar days preceding the meeting, or seven (7) calendar days before an extraordinary meeting.



#### 6.3.2.4 Adding agenda items:

Any agenda item requiring a decision by the Members must be identified as such on the agenda.

Any Member may add an item to the original agenda by written notification to all of the other Members no later than seven (7) calendar days preceding the meeting.

6.3.2.5 During a meeting of the Steering Committee the Members present or represented can unanimously agree to add a new item to the original agenda.

6.3.2.6 Any decision may also be taken without a meeting if the chairperson circulates to all Members a written document which is then signed by the defined majority of Members (see Article 6.3.3 of the Partnership Agreement). Such document shall include the deadline for responses.

Decisions taken without a meeting shall be considered as accepted if, within the period set out in Article 6.3.4.3, no Member has sent an objection in writing to the chairperson. They will be binding after the chairperson sends to all Members a written notification of this acceptance.

6.3.2.7 Meetings of the Steering Committee may also be held by teleconference or other telecommunication means.

6.3.2.8 Decisions will only be binding once the relevant part of the minutes has been accepted according to Article 6.3.5 of the Partnership Agreement.

#### 6.3.3 Voting rules and quorum

6.3.3.1 The Steering Committee shall not deliberate and decide validly unless two-thirds (2/3) of its Members are present or represented (quorum).

In projects with two project partners, one of which is the Project Promoter, the Steering Committee shall not deliberate and decide validly unless both Members are present or represented.

If the quorum is not reached, the chairperson of the Steering Committee shall convene another ordinary meeting within fifteen (15) calendar days. If in this meeting the quorum is not reached once more, the chairperson shall convene an extraordinary meeting, which shall be entitled to decide even if less than the quorum of Members are present or represented.

6.3.3.2 Each Member shall have one vote.

6.3.3.3 Defaulting Parties may not vote.

6.3.3.4. The Steering Committee shall strive to make decisions by consensus. In projects with more than two partners, if consensus cannot be achieved, decisions shall be taken by a majority of two-thirds (2/3) of the votes.

#### 6.3.4 Veto rights

6.3.4.1 A Member which can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of the Steering Committee may exercise a veto with respect to the corresponding decision or relevant part of the decision.

6.3.4.2 When the decision is foreseen on the original agenda, a Member may veto such a decision during the meeting only.

6.3.4.3 When a decision has been taken on a new item added to the agenda before or during the meeting, a Member may veto such decision during the meeting and within fifteen (15) days after the draft minutes of the meeting are sent.

6.3.4.4 In case of exercise of veto, the Members shall make every effort to resolve the matter which occasioned the veto to the general satisfaction of all Members.

6.3.4.5 A Party may not veto decisions relating to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the Partnership or the consequences of them.

6.3.4.6 A Party requesting to leave the Partnership may not veto decisions relating thereto.

#### 6.3.5 Minutes of meetings

6.3.5.1 The chairperson shall produce written minutes of each meeting which shall be the formal record of all decisions taken. He shall send draft minutes to all Members within ten (10) calendar days of the meeting.

6.3.5.2 The minutes shall be considered as accepted if, within fifteen (15) calendar days from sending, no Member has objected in writing to the chairperson with respect to the accuracy of the draft of the minutes.

6.3.5.3 The chairperson shall send the accepted minutes to all the Members of the Steering Committee, and to the Project Promoter, who shall safeguard them. If requested the Project Promoter shall provide authenticated duplicates to Parties.

#### 6.3.6 Decisions of the Steering Committee

The Steering Committee in collaboration with the Project Promoter is responsible for the overall direction and follow-up of the Project. The Steering Committee shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein.

The following decisions shall be taken by the Steering Committee:

Content, finances and intellectual property rights

- Proposals for changes to Project Contract and its Annexes to be agreed by the Programme Operator
- Changes to the Project Plan (including the Partnership Budget, which do not require a new Annex to the existing Project Contract)
- Withdrawals from Attachment 1 (Background included)
- Additions to Attachment 3 (List of Third Parties) if case

#### Evolution of the Partnership

- Entry of a new Party to the Partnership and approval of the settlement on the conditions of the accession of such a new Party
- Withdrawal of a Party from the Partnership Agreement and the approval of the settlement on the conditions of the withdrawal
- Declaration of a Party to be a Defaulting Party
- Remedies to be performed by a Defaulting Party
- Termination of a Defaulting Party's participation in the Partnership and measures relating thereto
- Proposal to the Programme Operator for a change of the Project Promoter
- Proposal to the Programme Operator for suspension of all or part of the Project
- Proposal to the Programme Operator for termination of the Project and this Partnership Agreement

In the case of abolished tasks as a result of a decision of the Steering Committee, Members shall rearrange the tasks of the Parties concerned. Such rearrangement shall take into consideration the legitimate commitments taken prior to the decisions, which cannot be cancelled.

### 6.4 Project Promoter

6.4.1 The Project Promoter shall be the intermediary between the Parties and the Programme Operator and shall perform all tasks assigned to it as described in the Project Contract and in the Partnership Agreement.

6.4.2 In particular, the Project Promoter shall be responsible for:

- monitoring compliance by the Parties with their obligations,
- keeping the address list of Members and other contact persons updated and available,
- collecting, reviewing and submitting information on the progress of the Project and reports and other deliverables (including financial statements and related certification), and all specific requested documents.
- preparing the meetings, proposing decisions and preparing the agenda of Steering Committee meetings, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings,
- transmitting promptly documents and information connected with the Project,



- providing, upon request, the Parties with official copies or originals of documents, which are in the sole possession of the Project Promoter when such copies or originals are necessary for the Parties to present claims,
- communicating all relevant information in connection with the Project,
- preparing annual project reports and a final report based on the individual reports and the supporting documents to be provided to the Project Promoter by the Parties.

Each Party undertakes to the best of its abilities and by exercising commercially reasonable efforts:

- Without undue delay, to submit all Results, reports, accounting documentation and other documents that the Project Promoter reasonably requires fulfilling its obligations;
- To promptly notify any delay in performance or any event that may impact the Project to the Steering Committee, the Project Promoter and the Programme Operator;
- To inform the Project Promoter of relevant communications it receives from third parties in relation to the Project;
- To ensure the accuracy of any information it supplies to the Project Promoter and to promptly correct any error therein of which it is notified;
- Not to use knowingly any proprietary rights of a third Party for which it has not acquired the corresponding right of use;
- To act at all times in good faith and in a manner, that reflects the good name, goodwill and reputation of the Partnership and in accordance with good ethics;
- To participate in a cooperative manner in the meetings of the Steering Committee.

6.4.3 If the Project Promoter fails in its coordination tasks, the Steering Committee may propose to the Programme Operator to change the Project Promoter.

6.4.4 The Project Promoter shall not be entitled to act or to make legally binding declarations on behalf of any other Party except for signing the Project Contract with the Programme Operator.

6.4.5 The Project Promoter shall not enlarge its role beyond the tasks specified in the Partnership Agreement and in the Project Contract.

## **Section 7: Financial provisions**

### **7.1 General Principles**

#### **7.1.1 Distribution of Financial Contribution**

The financial contribution of the Programme Operator to the Project shall be distributed by the Project Promoter according to:

- the Partnership Budget (Budget Breakdown)
- the approval of reports by the Programme Operator, and



- the provisions of payment in Article 7.3.

A Party shall be funded only for its tasks carried out in accordance with the funding application.

#### 7.1.2 Justifying Costs

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Project towards the Programme Operator. Neither the Project Promoter nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the Programme Operator.

#### 7.1.3 Funding Principles

A Party which spends less than its allocated share of the Partnership Budget will be funded in accordance with its actual duly justified eligible costs only.

A Party that spends more than its allocated share of the Partnership Budget will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share.

The funding of each Party is in accordance with the State Aid Scheme approved for the Research Programme. 7.1.4 Financial Consequences of the termination of the participation of a Party

The Programme Operator will initiate an intermediary evaluation of the Project implementation when a Party is leaving the Partnership. A Party leaving the Partnership shall refund all payments it has received except the amount of contribution accepted by the Programme Operator. Furthermore a Defaulting Party shall, within the limits specified in Article 5.2 of the Partnership Agreement, bear any reasonable and justifiable additional costs occurring to the other Parties in order to perform its and their tasks. Any additional costs which are not covered by the Defaulting Party shall in principle be apportioned to the remaining Parties pro rata to their share in the total costs of the Project as identified in the Partnership Budget.

### 7.2 Budgeting

The Partnership Budget shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties.

### 7.3 Payments

#### 7.3.1 Payments to Parties are the exclusive tasks of the Project Promoter

In particular, the Project Promoter shall:

- transfer the amounts to parties according to the payment schedule (point 7.3.2);
- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references;

- perform diligently its tasks in the proper administration of any funds;
- undertake to keep the Programme Operator financial contribution to the Project separated from its normal business accounts, its own assets and property, except if the Project Promoter is a Public Body or is not entitled to do so due to statutory legislation.

7.3.2 The payment schedule, which contains the transfer of advance payment and interim payments (pre-financing) to the Parties, will be handled according to the following:

- An **advance payment** will be transferred to each Party after the signature of the Project Contract between the Programme Operator and the Project Promoter and after the transfer of funds from the Programme Operator to the Project Promoter.

The value of the advance payment will cover the estimated expenditure of each Parties for the project first year of implementation.

The advance payment will be transferred by the Project Promoter in maximum fifteen (15) calendar days after receiving the funds from the Programme Operator.

- **Interim payments** will be transferred by the Project Promoter to each Party at the beginning of each implementation year.

The value of the interim payment, normally, will cover the estimated expenditure of each Party for one year of implementation.

The interim payments will be transferred by the Project Promoter in maximum fifteen (15) calendar days after receiving the funds from the Programme Operator.

7.3.3 The Project Promoter is entitled to withhold any payments due to a Party identified by the Steering Committee to be in breach of its obligations under the Partnership Agreement or the Project Contract.

7.3.4 The Project Promoter is entitled to recover any payments already paid to a Defaulting Party.

7.3.5 The Project Promoter is equally entitled to withhold payments to a Party when this is agreed with the Programme Operator.

7.3.6. The payments from the Programme Operator to the Project Promoter are made in Czech Crowns (CZK). The maximum amounts of funding and costs are fixed in Czech Crowns (CZK) (counted from the amounts in EUR in the project proposal by applying the exchange rate 1 EUR = 25,54 CZK) in compliance with the Key project parameters.

The payments from the Project Promoter to the Czech Partner (Vysoká škola chemicko-technologická v Praze and Univerzita Jana Evangelisty Purkyně, v Usti nad Labem) are made in Czech Crowns (CZK) and payments from the Project Promoter to the Norwegian Partner (SINTEF AS) are made in EUR.

For payment transactions between the Project Promoter and Norwegian Partner (**SINTEF AS**), the exchange rate between Czech (CZK) and EUR will be used a daily exchange rate of a Czech National Bank of the day when the payment is transferred to the Norwegian Project Partner.

7.3.7 The costs of the Parties shall be reported in Czech Crowns (CZK). The reports will be submitted to the Programme Operator for each year of the Project.

If the costs are incurred in other currency than CZK, they shall be calculated using the daily exchange rate of a Czech National Bank of the day when the payment of the financial contribution for the respective calendar year was transferred to Norwegian Partner. The Project Promoter will provide to the Norwegian Partner the bank account statement for each financial contribution transfer including the daily exchange rate.

7.3.8 Exchange rate costs linked to payment transactions between Project Promoter and Norwegian partners are not allowed as eligible costs according to *KAPPA Terms and Conditions* (Article 3(6) and 17) and have to be covered by the Project Promoter and budgeted separately.

## Section 8: Results

### 8.1. Ownership of Results

Results are owned by the Party that generates them.

### 8.2 Joint ownership

8.2.1 In case of joint ownership of Results developed in the Project jointly by two or more Parties and it is not possible to separate such jointly developed Results for the purpose of applying for, obtaining and/or maintaining the relevant patent protection or any other intellectual property right, the Parties shall have joint ownership of such Results.

8.2.2 The joint owners shall use their best efforts to establish, within a six (6) month period as from the date of the generation of such Results, a written separate joint ownership agreement regarding the allocation of ownership and terms of exercising, protecting, the division of related costs and exploiting such jointly owned Results on a case by case basis.

The joint ownership agreement shall as a minimum include:

- i) a detailed definition of the relevant Results having joint ownership
- ii) a description of which of the joint owners shall have the operative responsibility for protecting and managing the jointly owned Results (hereinafter named IP Manager), including a clear description of the IP Manager's Power of Attorney; in case of a disagreement, the owner with the largest ownership stake shall take the lead.



- iii) a detailed description of how the jointly owned Result shall be protected, defended, managed and Used.

where no joint ownership agreement has yet been concluded:

- i) each of the joint owners shall be entitled to Use their jointly owned Results on a royalty-free basis, and without requiring the prior consent of the other joint owner(s), however only for carrying out non-commercial R&D projects alone or with third parties, including for permitting the said third parties to use such Results if required to carry out their own tasks in the above-mentioned projects,
- ii) save for the cases provided under 1, each of the joint owners shall be entitled to Use their jointly owned Results (directly or by granting non-exclusive licenses to third parties, without any right to sub-license), subject to the following conditions:
- at least forty-five (45) days prior notice must be given to the other joint owner(s); and
  - Fair and Reasonable compensation must be provided to the other joint owner(s).

For the avoidance of doubt, this compensation shall not be due in case of non-commercial Use of the jointly owned Results. Non-commercial Use includes contract research for third- parties. If third parties need access to jointly owned Results for commercial exploitation, such access will be dependent upon on Fair and Reasonable Conditions to the other joint owner(s).

### 8.3 Transfer of Results

8.3.1 Each Party may transfer ownership of its own Results. It shall however ensure that its obligations under the Partnership Agreement and the Project Contract also apply to the new owner and that this owner has the obligation to pass them on in any subsequent transfer.

8.3.2 It may identify specific third parties it intends to transfer the ownership of its Results to in Attachment (3) to the Partnership Agreement. The other Parties hereby waive their right to prior notice and their right to object to a transfer to listed third parties.

8.3.3 The transferring Party shall, however, at the time of the transfer, inform the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer.

Any addition to Attachment (3) after signature of this Agreement requires a decision of the Steering Committee.

8.3.4 The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, a Party may be subject to confidentiality obligations which prevent it from giving the full forty-five (45) days prior notice for the transfer as foreseen in the Project Contract.



8.3.5 The obligations above apply only for as long as other Parties still have -or still may request- Access Rights to the Results.

## 8.4 Dissemination

For the avoidance of doubt, nothing in this Section has impact on the confidentiality obligations set out in Section 10.

### 8.4.1 Dissemination of own Results

8.4.1.1 During the Project and for a period of 1 year after the end of the Project, the dissemination of own Results by one or several Parties including but not restricted to publications and presentations, shall be governed by the following provisions.

Prior notice of any planned publication shall be given to the other Parties at least forty-five (45) calendar days before the publication. Any objection to the planned publication shall be made in writing to the Project Promoter and to the Party or Parties proposing the dissemination within thirty (30) calendar days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted.

8.4.1.2 An objection is justified if

- (a) the objecting Party's legitimate academic or commercial interests in relation to the Results or Background would be significantly harmed; or
- (b) the protection of the objecting Party's Results or Background would be adversely affected.

The objection has to include a precise request for necessary modifications.

8.4.1.3 If an objection has been raised the involved Parties shall discuss how to overcome the justified grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting information before publication) and the objecting Party shall not unreasonably continue the opposition if appropriate actions are performed following the discussion.

The objecting Party can request a publication delay of not more than ninety (90) calendar days from the time it raises such an objection. After ninety (90) calendar days the publication is permitted.

### 8.4.2 Dissemination of another Party's unpublished Results or Background

A Party shall not include in any dissemination activity another Party's Results or Background without obtaining the owning Party's prior written approval, unless they are already published.

### 8.4.3 Cooperation obligations

The Parties undertake to cooperate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree which includes their Results or Background subject to the confidentiality and publication provisions agreed in the Partnership Agreement.

#### 8.4.4 Use of names, logos or trademarks

Nothing in the Partnership Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the Parties or any of their logos or trademarks without their prior written approval.

#### 8.4.5 Open Access to scientific publications

8.4.5.1. Each Party shall ensure open access (free of charge, online access for any user) to all peer-reviewed scientific publications relating to its Results.

In particular:

- (a) as soon as possible and at the latest on publication, deposit a machine-readable electronic copy of the published version or final peer-reviewed manuscript accepted for publication in a repository for scientific publications.

Moreover, the Parties must aim to deposit at the same time the research data needed to validate the results presented in the deposited scientific publications.

- (b) ensure open access to the deposited publication — via the repository — at the latest:
  - (i) on publication, if an electronic version is available for free via the publisher, or
  - (ii) within six (6) months of publication (twelve (12) months for publications in the social sciences and humanities) in any other case.
- (c) ensure open access — via the repository — to the bibliographic metadata that identify the deposited publication, which must include a persistent identifier.

8.4.5.2 All Parties shall ensure that they or the authors retain sufficient intellectual property rights to comply with their open access requirements.

8.4.5.3 All Parties shall establish a Data Management Plan and shall ensure a responsible management of research data in line with the principles 'Findability', 'Accessibility', 'Interoperability' and 'Reusability' (FAIR).

Open access to the digital research data generated in the Project shall be ensured in line with the principle 'as open as possible, as closed as necessary'. Open access to such research data shall be the general rule, but the Steering Committee may decide to apply exceptions if justified, taking into consideration the legitimate interests of the Parties, the Project objectives and any other constraints, such as data protection rules, security rules or intellectual property rights. In this case, the data management plan must contain the reasons for not giving access.

Unless such exceptions apply, all Parties shall

- (a) deposit in a research data repository and take measures to make it possible for third parties to access, mine, exploit, reproduce and disseminate — free of charge for any user — the following:
  - (i) the data, including associated metadata, needed to validate the results presented in scientific publications as soon as possible;
  - (ii) other data, including associated metadata, as specified in the data management plan;
- (b) provide information — via the repository — about tools and instruments at the disposal of the Parties and necessary for validating the results (and — where possible — provide the tools and instruments themselves).

## Section 9: Access Rights

### 9.1 Background included

9.1.1 In Attachment 1, the Parties have identified and agreed on the Background for the Project and have also, where relevant, informed each other that Access to specific Background is subject to legal restrictions or limits.

Anything not identified in Attachment 1 shall not be the object of Access Right obligations regarding Background. The Parties agree, however, to negotiate in good faith additions to Attachment 1 if a Party asks them to do so, provided its Needed.

9.1.2 Any Party may add further own Background to Attachment 1 during the Project by written notice to the other Parties. However, approval of the Steering Committee is needed should a Party wish to modify or withdraw its Background in Attachment 1.

### 9.2 General Principles

9.2.1 Each Party shall implement its tasks in accordance with the Project Plan and shall bear sole responsibility for ensuring that its acts within the Project do not knowingly infringe third party property rights.

9.2.2 As provided in the Project Contract, all Parties shall inform the other Parties as soon as possible of any limitation to the granting of Access Rights to Background or of any other restriction which might substantially affect the granting of Access Rights (e.g. the use of open source code software in the Project).

9.2.3 If the Steering Committee considers that the restrictions have such impact, which is not foreseen in the Project Plan, it may decide to update the Project Plan accordingly.

9.2.4 Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise.



Access Rights shall be free of any administrative transfer costs.

Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties according to the Project Contract.

9.2.5 Results and Background shall be used only for the purposes for which Access Rights to it have been granted.

9.2.6 All requests for Access Rights shall be made in writing.

The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

9.2.7 The requesting Party must show that the Access Rights are Needed.

### **9.3 Access Rights for implementation**

Access Rights to Results and Background Needed for the performance of the own work of a Party under this Project shall be granted on a royalty-free basis, unless otherwise agreed for Background in Attachment 1.

### **9.4 Access Rights for Exploitation**

9.4.1 Access Rights to Results if Needed for Exploitation of a Party's own Results shall be granted on Fair and Reasonable conditions.

Access rights to Results for internal research activities shall be granted on a royalty-free basis.

9.4.2 Access Rights to Background if Needed for Exploitation of a Party's own Results shall be granted on Fair and Reasonable conditions.

9.4.3 A request for Access Rights may be made up to twelve (12) months after the end of the Project or, in the case of Art. 9.6.2.1.2, after the termination of the requesting Party's participation in the Project.

#### **9.4.4 Access Rights for Affiliated Entities**

Affiliated Entities have Access Rights to this Partnership Agreement to the extent the Party affiliated with such Affiliates has itself such Access Rights.

Such Access Rights must be requested by the Affiliated Entity from the Party that holds the Background or Project Results. Alternatively, the Party granting the Access Rights may individually agree with the Party requesting the Access Rights to have the Access Rights include the right to sublicense to the latter's Affiliated Entities [listed in Attachment 3]. Access Rights to Affiliated Entities shall be granted on Fair and Reasonable Conditions and upon written bilateral agreement.



Affiliated Entities which obtain Access Rights in return fulfil all confidentiality and other obligations accepted by the Parties under this Consortium Agreement as if such Affiliated Entities were Parties.

Access Rights may be refused to Affiliated Entities if such granting is contrary to the legitimate interests of the Party which owns the Background or the Project Results.

Access Rights granted to any Affiliated Entity are subject to the continuation of the Access Rights of the Party to which it is Affiliated and shall automatically terminate upon termination of the Access Rights granted to such Party.

Upon cessation of the status as an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse.

Further arrangements with Affiliated Entities may be negotiated in separate agreements

## **9.5 Additional Access Rights**

For the avoidance of doubt any grant of Access Rights not covered by the Project Contract or the Partnership Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

## **9.6 Access Rights for Parties entering or leaving the Partnership**

### **9.6.1 New Parties entering the Partnership**

As regards Results developed before the accession of the new Party, the new Party will be granted Access Rights on the conditions applying for Access Rights to Background.

### **9.6.2 Parties leaving the Partnership**

#### **9.6.2.1 Access Rights granted to a leaving Party**

##### **9.6.2.1.1 Defaulting Party**

Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the Steering Committee to terminate its participation in the Partnership.

##### **9.6.2.1.2 Non-defaulting Party**

A non-defaulting Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the Results developed until the date of the termination of its participation.

It may request Access Rights within the period of time specified in Art. 9.4.3.

#### **9.6.2.2 Access Rights to be granted by any leaving Party**

Any Party leaving the Project shall continue to grant Access Rights pursuant to the Project Contract and the Partnership Agreement as if it had remained a Party for the whole duration of the Project.

### **9.7 Specific Provisions for Access Rights to Software**

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software.

Parties' Access Rights to Software do not include any right to receive source code or object code ported to a certain hardware platform or any right to receive respective Software documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

## **Section 10: Non-disclosure of information**

10.1 All information in whatever form or mode of transmission, which is disclosed by a Party (the "Disclosing Party") to any other Party (the "Recipient") in connection with the Project during its implementation and which has been explicitly marked as "confidential", or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within fifteen (15) calendar days from oral disclosure at the latest as confidential information by the Disclosing Party, is "Confidential Information".

10.2 The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the Project Contract, for a period of 5 years after the end of the Project:

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
- to return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Recipients may however request to keep a copy for archival purposes only.

10.3 The Recipients shall be responsible for the fulfillment of the above obligations on the part of their employees or third parties involved in the Project and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of the contractual relationship with the employee or third party.

10.4 The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

- the Confidential Information becomes publicly available by means other than a breach of the Recipient's confidentiality obligations;
- the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
- the disclosure or communication of the Confidential Information is foreseen by provisions of the Project Contract;
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or
- the Confidential Information was already known to the Recipient prior to disclosure or
- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Art. 10.7 hereunder.

10.5 The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care.

10.6 Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

10.7 If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure

- notify the Disclosing Party, and
- comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information.

10.8 The confidentiality obligations under the Partnership Agreement and the Project Contract shall not prevent the communication of Confidential Information to the Programme Operator.

## **Section 11: Auditing**



Other communication:

Other communication between the Parties may also be effectuated by other means such as e-mail with acknowledgement of receipt, which fulfils the conditions of written form.

Any change of persons or contact details shall be notified immediately by the respective Party to the Project Promoter. The address list shall be accessible to all Parties.

#### **12.4 Assignment and amendments**

Except as set out in Section 8.2, no rights or obligations of the Parties arising from the Partnership 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 the Partnership Agreement not explicitly listed in Article 6.3.6 require a separate agreement between all Parties.

#### **12.5 Mandatory national law**

Nothing in the Partnership Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.

#### **12.6 Language**

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

#### **12.7 Applicable law**

The Partnership Agreement shall be construed in accordance with the legal framework governing the EEA Financial Mechanism 2014-2021 and governed by the laws of Belgium excluding its conflict of law provisions.

#### **12.8 Settlement of disputes**

The Parties shall endeavor to settle their disputes amicably.

All disputes arising out of or in connection with this Partnership Agreement, which cannot be solved amicably, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

The place of arbitration shall be Brussels if not otherwise agreed by the conflicting Parties.

The award of the arbitration will be final and binding upon the Parties.

### **13. Ethical Standards, Conflicts of Interest and Anti-corruption**

#### **13.1 Ethical Standards**

Each Party is committed to maintain the highest ethical standards in its work for the Project. Each of the Parties shall ensure that all of its employees, board members and sub-contractors undertake the same commitment.

### 13.2 Conflicts of Interest

Each of the Parties shall avoid conflicts of interest in its contact with organisations and/or persons performing tasks associated with the Project.

### 13.3 Anti-corruption

Each of the Parties shall carry out the Project in a manner designed to counter any corruption, misappropriation of funding and improprieties. The Parties shall, without undue delay, inform the Steering Committee if there are indications of corruption and misappropriation of funding of which the Party becomes aware during the implementation of the Project. Furthermore, the Parties agree, in the performance of the activities under the Partnership Agreement, not to accept or offer any form of gift, offer, payment or other type of advantage that entails unlawful or corrupt practice.

## Section 14: Signatures

AS WITNESS:

The Parties signed the Partnership Agreement on separate pages by the authorized representatives on the above-mentioned day and year.

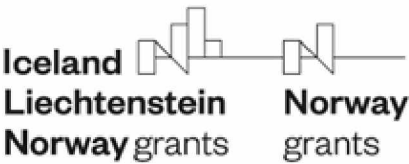
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Signature(s)

Name(s)

Title(s)

Date



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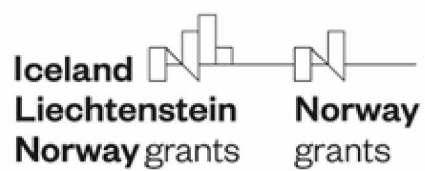
Vysoká škola chemicko-technologická v Praze

Signature(s)

Name(s)

Title(s)

Date



**T A**  
**Č R**

Univerzita Jana Evangelisty Purkyně, v Ústí nad Labem

Signature(s)

Name(s)

Title(s)

Date