

TA CR-MoEA Bilateral Co-funding R&D Project CONSORTIUM AGREEMENT

THIS AGREEMENT is made on the 9th day of July, 2021

BETWEEN: *Buffalo Machinery Co., Ltd.* whose registered office is at **56, Lane 318, Desheng Road, Daya District, Taichung City 428-417, Taiwan, R.O.C.** (hereinafter referred to as **Buffalo**)

AND *Precision Machinery Research & Development Center*, whose registered office is at **No.27, 37th Road, Taichung Industrial Park, Taichung, Taiwan, R.O.C.** (hereinafter referred to as **PMC**)

AND *TGS nástroje-stroje-technologické služby spol. s r.o.*, whose registered office is at **Plzeňská 610, 338 05 Mýto, Czech Republic.** (hereinafter referred to as **TGS**)

AND *Czech Technical University in Prague Faculty of Mechanical Engineering*, whose registered office is at **Jugoslávských partyzánů 1580/3, 160 00 Praha 6, Czech Republic.** (hereinafter referred to as **CTU**)

(hereinafter referred to 2-group parties, an individually as "Party" means Buffalo and PMC referred as "TW", TGS and CTU referred as "CZ", and collectively as "the Parties")

WHEREAS the Parties wish to co-operate over **TA CR-MoEA Bilateral Co-funding R&D Project**,

AND WHEREAS this Consortium Agreement sets out the relationship between the Parties and the organisation of the work.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

1.1 In this Agreement, the following terms shall have the following meanings:

"Background IPR"	means all patents, designs, copyright (including copyright in software), database rights, and any other intellectual property rights excluding Foreground IPR, owned by any of the Parties, in the field and which are necessary for the exploitation of Foreground IPR in accordance with this Agreement.
"Business Day"	means any day other than a Saturday or Sunday or a public or bank holiday in the United Kingdom.
"Confidential Information"	means all information that is marked as Confidential and that is disclosed by one Party to the others for the purpose of conducting the Project, including, without prejudice to the generality of the foregoing, any ideas; finance; financial, marketing, development or manpower plans; computer systems and software; products or services, including but not limited to know-how and information concerning relationships with other parties and all records, reports, documents, papers and other materials whatsoever originated pursuant to this Agreement.
"Consortium"	means the Parties collectively.
"Effective Date"	means the date when all Parties have signed this Agreement.

“Foreground IPR”	means all patents, designs, copyright (including copyright in software), database rights and any other intellectual property rights arising as a direct result of and in the performance of this Agreement.
“Intellectual Property Rights”	means patents, trademarks, trade names, design rights, copyright (including rights in computer software and moral rights), database rights, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any of the foregoing and all rights or forms of protection having equivalent or similar effect to any of the foregoing which may subsist anywhere in the world.
“Project”	means the collaborative TA CR-MoEA Bilateral Co-funding R&D Project as described in Common Proposal .
“TW”	means the consortium party of Buffalo and PMC
“CZ”	means the consortium party of TGS and CTU

1.2 Headings contained in this Consortium Agreement are for reference purposes only and shall not be deemed to be an indication of the meaning of the clause to which they relate.

2. PURPOSE OF THE CONSORTIUM

The purpose of the Consortium is:

- to specify the organisation of the work between the Parties in carrying out the Project and to set out the rights and obligations of the Parties;
- carry out the Project and to produce the Deliverables as described in **Common Proposal**.

3. COMMENCEMENT AND DURATION

This Agreement shall commence on the Effective Date and shall continue until the completion of the Project **for 36 months. (1th Jan 2022 – 31 Dec. 2024)**

4. OVERRIDING CONDITIONS

In all instances, until the completion of the Project, conditions laid down for the Project by the **TA CR / MoEA** or its successor will override any agreement between the Parties concerning the Project, including any terms contained in this Agreement.

5. RESPONSIBILITIES OF THE PARTIES

5.1 Each Party shall be responsible for the part of the Project that it is professionally addressing on the basis of the Common Proposal and undertakes to each other Party to perform and fulfil on time the tasks assigned to it and all other of its obligations under this Agreement and Common Proposal.

5.2 Towards each other, each Party undertakes to:

- 5.2.1** notify each of the other Party as a Party becomes aware of any significant delay in performance;

- 5.2.2** inform other Party of relevant communications it receives from third parties in relation to the Project.
- 5.3** Each Party shall use all best efforts to ensure the accuracy of any information or materials it supplies hereunder and promptly to correct any error therein of which it is notified.
- 5.4** Each Party agrees not to issue any press releases or other such publicity materials relating to the work of the Consortium without obtaining prior written approval (via email) from the other Parties.
- 5.5** If the Party subcontracts any of its tasks under this Agreement, this shall not affect its own obligations under this Agreement. The Party concerned shall ensure that the subcontractor complies with all the obligations of this Agreement, in particular as regards confidentiality, and that the results obtained by the subcontractor are made available to the other Parties.

6. CONFIDENTIALITY

- 6.1** Each Party hereby undertakes to the other Parties that it shall procure that its employees, agents and sub-contractors shall:
 - 6.1.1** Keep confidential all information of a confidential nature (whether written or oral) concerning this Agreement and the business affairs of another Party that it shall have obtained or received as a result of the discussions leading up to or entering into or performance of this agreement (the "Information");
 - 6.1.2** Not without the prior written consent of the relevant other Party disclose the Information either in whole or in part to any other person save those of its employees, agents and sub-contractors involved in the implementation or evaluation of the Project who have a need to know the same for the performance of their duties;
 - 6.1.3** Use the Information solely in connection with the implementation of the Project and not otherwise for its own benefit or the benefit of any third party.
 - 6.1.4** These provisions above shall not apply to the whole or any part of the Information to the extent that it can be shown by the receiving Party to be:
 - 6.1.4. 1.** Known to the receiving Party prior to the date of this Agreement and not obtained directly or indirectly from any other party; or
 - 6.1.5.1** Obtained from a third party who lawfully possesses such Information which has not been obtained in breach of a duty of confidence owed to any party by any person; or
 - 6.1.6.1** In the public domain in the form in which it is possessed by any other party other than as a result of a breach of a duty of confidence owed to such other party by any person; or
 - 6.1.7.1** Required to be disclosed by legal process, law or regulatory authority.
- 6.2** Each Party hereby undertakes to the other Parties to make all relevant employees, agents and sub-contractors aware of the confidentiality of the Information and provisions of this clause and without prejudice to the generality of the foregoing to ensure compliance by such employees, agents and sub-contractors with the provisions of this clause.

7. INTELLECTUAL PROPERTY

7.1 IPR WARRANTIES

Each Party shall obtain the necessary assignments of Intellectual Property Rights or licences from all staff, agents, or sub-contractors involved in the development and production of the Deliverables on its behalf. Each Party warrants to the other Parties that it is the owner of the

Intellectual Property Rights in the Deliverables, or that it is duly licensed to use the Deliverables, and that the use of the content of the Deliverables as contemplated in this Agreement does not infringe any Intellectual Property Rights or other proprietary or rights of any natural or legal person.

7.2 BACKGROUND IPR

All Background IPR used in connection with this Agreement shall remain the property of the Party introducing the same or any other third parties. Each Party shall take responsibility for ensuring that all necessary permissions have been sought to use Background IPR.

7.3 FOREGROUND RIGHTS

All Foreground IPR arising from this Agreement shall belong to the Party generating the same.

7.4 ACCURACY

Each Party shall use reasonable endeavours to ensure the accuracy of any information or materials that it supplies to the other Parties under this clause and shall promptly correct any error therein of which it is notified. The donating Party will provide no warranties to recipient Parties in respect of the information and materials, and the recipient Parties shall be entirely responsible for the use to which they put such information and materials.

7.5 ACCESS RIGHTS

The Parties shall inform each other about the attained research results or work progress, and shall exchange interim and final reports as given in their respective Funding Authority notifications. The Parties shall draw up common final reports for the Funding Authorities.

Each Party to this Agreement shall retain the sole ownership of the intellectual properties which are solely developed and generated by the Partner without any other Partner's contribution during the Project.

The joint owners of the Joint Proprietary Rights may use them with prior written consent of the other joint owners.

To avoid any doubt, the offering Party who is not interested in pursuing or maintaining the Joint Proprietary Rights in a certain country shall not have any right to use the Joint Proprietary Rights in the certain country.

8. PUBLICATION

- 8.1** Publication activities shall be compatible with the protection of intellectual property rights, confidentiality obligations and the legitimate interests of the owner(s) of the Project results.
- 8.2** The other Parties shall receive at least four (4) weeks' written notice of any publication activity, including sufficient information on the planned publication activity and the information to be published.
- 8.3** Following notification, any Party may object within three (3) weeks of receiving notification of the intended publication activity if it considers that its legitimate interests in relation to the results to its Project or already existing inventions or intellectual property rights could suffer from the publishing activity. In such cases, the publication activity may not take place unless appropriate steps are taken to safeguard these legitimate interests. If neither Party objects to the intended publication within the specified period of three (3) weeks, the publication shall be deemed to have been approved by all other Parties. Notwithstanding the foregoing, all Parties reserve the right, under non-discriminatory conditions, to publish and disseminate their own project results that will not harm or adversely affect the legitimate interests of the other Parties.

- 8.4** The Parties may undertake to cooperate to allow the timely submission, examination, publication and defense of any dissertation or thesis for a degree which includes their Project results. However, confidentiality and publication clauses shall be respected.
- 8.5** Nothing in this Agreement shall be construed as conferring rights to use, whether in advertising, publicity or otherwise, the name of the Parties or any of their logos or trademarks without their prior written approval.

9. TERMINATION

- 9.1** Each Party may withdraw from the Project (i.e. terminate its participation in the Project) subject to a three (3) months prior written notice to all other Parties for good cause only and also subject to the approval of TA CR or MoEA. This applies in particular if further co-operation has become unacceptable or funding has been reduced significantly. In the event of withdrawal the respective TA CR or MoEA shall be notified in writing by the withdrawing Party about the withdrawal from the Project at least three (3) months before the effective date of withdrawal.
- 9.2** In the event of withdrawal of a Partner:
- the licenses or rights of use granted to the other Parties on the basis of this Agreement shall not be affected;
 - its obligation in accordance with Article 6 (Confidentiality) shall remain unaffected; and
 - this Agreement shall remain in force between the other Parties and, as far as the continuation of the Project is reasonable, the tasks of the withdrawing Party which have not been carried out yet may be taken on by a new partner after mutual written agreement of the remaining Party, subject to the approval of TA CR or MoEA.
- 9.3** In the event that the Parties mutually agree that the development goal of the Project cannot be attained and that thus the basis for this Agreement ceases to exist, the Parties may decide to terminate this Agreement. Upon taking such decision, the Parties may discuss any matters including but not limited to any rights to already attained research results and may conclude a separate agreement, if necessary, subject to the approval of TA CR or MoEA.

10. GOVERNING LAW AND DISPUTE RESOLUTION

- 10.1** This Agreement and all further documents executed pursuant to it shall be governed by, construed with the laws of Belgium excluding its conflict of law rules. The Parties undertake to proceed in solving the Project in accordance with this Agreement, as well as Common Proposal and the conditions of TA CR and MoEA.
- 10.2** The Parties agree to use best efforts to resolve disputes in an informal manner. Where the Parties agree that a dispute arising out or in connection with this Agreement would best be resolved by the decision of an expert, they will agree upon the nature of the expert required and together appoint a suitable expert by agreement.
- 10.3** Any person to whom a reference is made under Article 10.2 shall act as expert and not as an arbitrator and his decision (which shall be given by him in writing and shall state the reasons for his decision) shall be final and binding on the parties except in the case of manifest error or fraud.
- 10.4** Each Party shall provide the expert with such information and documentation as he may reasonably require for the purposes of his decision.

- 10.5** The costs of the expert shall be borne by the Parties in such proportions as the expert may determine to be fair and reasonable in all circumstances or, if no determination is made by the expert, by the parties in equal proportions.
- 10.6** If it is not possible to settle the dispute amicably or in accordance with Articles 10.2 to 10.5, in this case the dispute will be settled exclusively by the competent court in Brussels.

11. GENERAL PROVISIONS

11.1 SOLE AGREEMENT

This Agreement contains all the terms which the Parties have agreed in relation to the subject matter of this Agreement and supersede any prior written or oral agreements, representations or understandings between the Parties relating to such subject matters.

No Party to this Agreement has been induced to enter into this Agreement by a statement or promise which it does not contain save that this clause shall not exclude any liability which one party would otherwise have to the other in respect of any statements made fraudulently by that party.

11.2 COMMON PROPOSAL

The Common Proposal shall have the same force and effect as if expressly set in the body of this Agreement and any reference to this Agreement shall include the Common Proposal.

11.3 WAIVER

No failure or delay by any Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

11.4 ASSIGNMENT

Save as permitted for under this Agreement, neither this Agreement nor any of the rights and obligations under it may be sub-contracted or assigned by any party without obtaining the prior written consent of the other parties. In any permitted assignment, the assignor shall procure and ensure that the assignee shall assume all rights and obligations of the assignor under this Agreement and agrees to be bound to all the terms of this Agreement.

11.5 VARIATION

This Agreement may be amended at any time by written agreement of the Parties. No variation to this Agreement shall be effective unless in writing signed by a duly authorised officer of each of the written Parties. Any variation during the term of the Project shall be subject to the approval of the Funder.

11.6 NOTICE

Any notice in connection with this Agreement shall be in writing and may be delivered by hand, pre-paid first class post, Special Delivery post, or facsimile, e-mail, addressed to the recipient at its registered office or its address or facsimile number as the case may be (or such other address, or facsimile number as may be notified in writing from time to time).

(signature) (Date)
Principal Applicant on the Czech side

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
**TGS nástroje-stroje-technologické služby
spol. s r.o.**

(signature) (Date)
Principal Applicant on the Taiwanese side

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
Buffalo Machinery Co., Ltd.

(signature) (Date)
Participation Organization
on the Czech side

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
**Czech Technical University in Prague
Faculty of Mechanical Engineering**

(signature) (Date)
Participation Organization
on the Taiwanese side

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
**Precision Machinery Research &
Development Center**