

## CONSORTIUM AGREEMENT

THIS CONSORTIUM AGREEMENT is based upon  
The Erasmus + Programme KA2 Strategic Partnerships for higher education - 3 year Grant Agreement and Annexes, Agreement number: 2020-1-CZ01-KA203-078483.

### BETWEEN:

#### Coordinator:

#### Mendel University in Brno (CZ)

Address: Zemědělská 1/1665, Brno, Czech Republic,  
Legal representative: prof. Ing. Danuše Nerudová, Ph.D., Rector,  
Contact person: [REDACTED]

And

### PROJECT PARTNERS

#### UNIVERSITAET HAMBURG (DE)

Address: Mittelweg 177, 20148 Hamburg  
Legal representative: Univ.-Prof. Dr. Dr. h.c. Dieter Lenzen  
Contact person: [REDACTED]

#### UNIVERZA V LJUBLJANI (SI)

Address: Kongresni trg 12, 1000 Ljubljana, Slovenia  
Legal representative: prof. dr. Igor Papič, Rector  
Contact person: [REDACTED]

#### UNIVERSITAET FUER BODENKULTUR WIEN (AT)

Address: Gregor Mendel Strasse 33, A – 1180 Vienna, Austria  
Legal representative: Ao.Univ.Prof.DI Dr. Sabine Baumgartner, Vice-Rector for Teaching and Continuing Education  
Contact person: [REDACTED]

relating to the Project entitled

### **Interdisciplinary, collaborative learning and teaching for resilient wood resources and innovations in a digital world**

in short

### **Wood+**

hereinafter referred to as "Project."

### WHEREAS:

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the Funding Authority within the framework of Erasmus + (KA2 - Cooperation for Innovation and the Exchange of Good Practices, Strategic Partnerships for higher education).

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the specific Grant Agreement to be signed by the Coordinator and the National Agency (hereinafter "Grant Agreement").

The Parties are aware that this Consortium Agreement is based upon the DESCA model consortium agreement.

NOW, THEREFORE, 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 Rules or the Grant Agreement, including its Annexes.

### 1.2 Additional Definitions

#### "Background"

Any data, know-how or information – whatever it is form or nature (tangible or intangible), including any rights such as intellectual property rights – that:

- (a) is held by the Parties before they acceded to this Agreement, and
- (b) is needed to implement the Project or exploit the Results.

#### "Force Majeure"

means any circumstances beyond the reasonable control of any Party (including, without limitation, any strike, lock-out or another form of industrial action);

#### "Funding Authority"

Funding Authority means the body awarding the grant for the Project.

#### "Defaulting Party"

Defaulting Party means a Party which has been identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Section 4.2 of this Consortium Agreement.

#### "Needed"

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 impossible, significantly delayed, or require significant additional financial or human resources.

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.

#### "Results"

Any (tangible or intangible) output of the Project such as data, knowledge or information – whatever it is form or nature, whether it can be protected or not – that is generated in the Project, as well as any rights attached to it, including intellectual property rights.

#### "Software"

Software means sequences of instructions to carry out a process in, or convertible into, a form executable by a computer and fixed in any tangible medium of expression.

## **Section 2: Purpose**

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, Access Rights and dispute resolution.

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

### 3.1 Entry into force

An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by a duly authorised representative.

This Consortium Agreement shall have an effect on the day of its publication in the Register of Contracts administered by the Ministry of Interior of the Czech Republic at <https://smlouvy.gov.cz/> .

### 3.2 Duration and termination

This Consortium Agreement shall continue in full force and effect until the complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and this Consortium Agreement.

However, this Consortium Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of this Consortium Agreement.

If the Grant Agreement

- is not signed by the Funding Authority or the Coordinator, or
- is terminated,

or if a Party's participation in the Grant Agreement is terminated, this Consortium Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Section 3.3 of this Consortium 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 this Consortium Agreement.

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

## **Section 4: 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 fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by the Law of Czech Republic.

In line with Article II.2.1 Appendix 2 — GENERAL CONDITIONS a) each Party undertakes to notify immediately, the Coordinator, or in the case of the Coordinator, the other Parties, any significant information, fact, problem likely to affect or delay implementation of the Project.

Each Party shall promptly provide all information reasonably required by a Consortium Body or by the Coordinator 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 a responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement (e.g. improper implementation of the Project), the Coordinator will give formal notice to such Party requiring that such breach will be remedied within 30 calendar days.

If such breach is substantial and is not remedied within that period or is not capable of remedy, the Coordinator 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

Subject always to Articles II.10 and II.11 Appendix 2 — GENERAL CONDITIONS a Party can enter into a subcontract or otherwise involve third parties in the Project but will remain responsible for carrying out its relevant part of the Project, and for such third party's compliance with the provisions of this Consortium Agreement and the Grant Agreement. The Party has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties under this Consortium Agreement and the Grant Agreement.

### **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 (or its Affiliated Entities) exercising its Access Rights.

#### 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. However, 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.

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 Appendix 1 provided a wilful act, or gross negligence did not cause such damage.

The terms of this Consortium 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 this Consortium Agreement or from its use of Results or Background.

#### 5.4 Force Majeure

No Party shall be considered to be in breach of this Consortium Agreement if it is prevented from fulfilling its obligations under the Consortium Agreement by Force Majeure.

Each Party will notify the competent Consortium Bodies of any Force Majeure without undue delay. Suppose the consequences of Force Majeure for the Project are not overcome within six weeks after such notification. In that case, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

### **Section 6: Financial provisions**

- The contribution and payment for the Parties will be as detailed in Appendix 1. Payments will be made to the Parties subject always to receipt of funds detailed in the Grant Agreement from the Funding Body.

- First, pre-financing payment – Coordinator will pay within 30 days following the entry into force of the Consortium Agreement a first pre-financing payment which will be corresponding to 40% of the maximum grant for each project partner – Estimated budget is in Appendix 1, Annex II – Estimated budget.
  - Further pre-financing payment is described in Appendix 1 Article 1.4.2.
  - Payment of the balance is described in Appendix 1 Article 1.4.3.
- 
- All Parties must provide any information required by the Coordinator to prepare the final report to request the payment of the balance of the grant as per Article 1.4.3 of the Grant Agreement.
  - The Parties must adhere to the financial provisions as detailed in the Grant Agreement.

The Coordinator is entitled to withhold any payments due to a Party identified to be in breach of its obligations under this Consortium Agreement or the Grant Agreement.

The Coordinator is entitled to recover any payments already paid to a Defaulting Party. The Coordinator is equally entitled to withhold payments to a Party.

## **Section 7: Results**

### 7.1 Ownership of Results

Results are owned by the Party that generates them. The Parties grant the Funding Body the right to use the Results of the Project as detailed in Article II.9.3 Appendix 2 — GENERAL CONDITIONS.

### 7.2 Joint ownership

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s), and
- each of the joint owners shall be entitled to Exploit the jointly owned Results otherwise and to grant non-exclusive licenses to third parties (without any right to sub-license) if the other joint owners are given:
  - (a) at least 45 calendar days advance notice; and
  - (b) Fair and Reasonable compensation.

### 7.3 Dissemination

#### 7.3.1 Dissemination of own Results

7.3.1.1 the dissemination of own Results by one or several Parties including but not restricted to publications and presentations, shall be governed by the procedure of Articles II.8.1 and II 8.2 of the Grant Agreement subject to the following provisions.

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

#### 7.3.1.2 An objection is justified if

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

The objection has to include an explicit request for necessary modifications.

7.3.1.3 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 the amendment to the planned publication and/or by protecting information before publication), and the objecting Party

shall not unreasonably continue the opposition if appropriate measures are taken following the discussion.

The objecting Party can request a publication delay of not more than 90 calendar days from the time it raises such an objection. After 90 calendar days, the publication is permitted, provided that Confidential Information of the objecting Party has been removed from the Publication as indicated by the objecting Party.

#### 7.3.2 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.

#### 7.3.3 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 this Consortium Agreement.

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

Nothing in this Consortium 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.

### **Section 8: Access Rights**

#### 8.1 Background included – not applicable

#### 8.2 General Principles

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

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

8.2.3 Access Rights shall be free of any administrative transfer costs.

8.2.4 Access Rights are granted on a non-exclusive basis.

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

8.2.6 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.

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

#### 8.3 Access Rights for implementation

Access Rights to Results and Background Needed for the performance of the own work of a Party under the Project shall be granted on a royalty-free basis.

#### 8.4 Access Rights for Exploitation

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



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

8.4.2 Access Rights to Background if Needed for Exploitation of a Party's own Results, including for research on behalf of a third party, shall be granted on Fair and Reasonable conditions to be agreed.

8.4.3 A request for Access Rights may be made up to twelve months after the end of the Project.

#### 8.5 Additional Access Rights

For the avoidance of doubt any grant of Access Rights not covered by the Grant Agreement or this Consortium 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.

#### 8.6 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 Coordinator to terminate its participation in the Consortium.

##### 8.6.1 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 Section 8.4.3.

##### 8.6.2 Access Rights to be granted by any leaving Party

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

#### 8.7 Specific Provisions for Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 8 also apply to Software.

Parties' Access Rights to Software do not include any right to receive source code or object code ported to a specific 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 9: Non-disclosure of information**

9.1 All information in whatever form or mode of communication, 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" at the time of disclosure, or when disclosed orally has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 calendar days from oral disclosure at the latest as confidential information by the Disclosing Party, is "Confidential Information".

9.2 The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the Grant Agreement, for a period of 4 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. The Recipients may keep one (1) copy to the extent it is required to maintain, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations.

9.3 The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees or third parties involved in the Project. They 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.

9.4 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 to the best knowledge of the Recipient 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 Grant Agreement;
- the Confidential Information, at any time, can be shown by written documentation to have been developed or created by the Recipient and/or its Affiliated Entities completely independently without access to the Confidential Information of the respective 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 to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 10.7 hereunder.

9.5 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.

9.6 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.

9.7 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.

## **Section 10: Notices**

### 10.1 Notices and other communication

Any notice to be given under this Consortium Agreement shall be in writing to the addresses and recipients as listed as project partners at the beginning of this Agreement.

Formal notices:



If it is required that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party. It shall be sent by mail with recorded delivery with receipt acknowledgement.

Any change of persons or contact details shall be notified immediately by the respective Party to the Coordinator.

## **Section 11: Miscellaneous**

### 11.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and

Appendix 1 (Grant Agreement)

In case the terms of this Consortium Agreement conflict with the terms of the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the attachments and the core text of this Consortium Agreement, the latter shall prevail.

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.

### 11.2 No representation, partnership or agency

No Party shall be entitled to act or to make legally binding declarations on behalf of any other Party or of the Consortium. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any different kind of formal business grouping or entity between the Parties.

### 11.3 Assignment and amendments

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 written agreement to be signed between all Parties.

### 11.4 Mandatory national law

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

### 11.5 Language

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

### 11.6 Applicable law

This Consortium Agreement shall be construed in accordance with and governed by the laws of the Czech Republic.

### 11.7 Settlement of disputes

The Parties shall endeavour to settle their disputes amicably.

If the Parties can not settle their dispute amicably within a reasonable time (not exceeding two months), this will then be escalated to senior representatives from the Parties involved in the

dispute. If no resolution is achieved following this, then the Parties involved will follow the WIPO steps below.

Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Brussels unless otherwise agreed upon. The language to be used in the mediation shall be English unless otherwise agreed upon.

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 calendar days of the commencement of the mediation, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. The arbitral tribunal shall consist of a sole arbitrator. The place of arbitration shall be Brussels. The language to be used in the arbitral proceedings shall be English. The dispute, controversy or claim shall be decided in accordance with the law of the Czech Republic.

Nothing in this Consortium Agreement shall limit the Parties' right to seek injunctive relief in any applicable competent court.

## **Section 12: Signatures and bank account**

### **AS WITNESS:**

The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in separate signature pages the day and year first above written.

### **MENDEL UNIVERSITY IN BRNO (CZ)**

prof. Ing. Danuše Nerudová, Ph.D., Rector,

.....  
Name of legal representative(s)

.....  
Signature of legal representative(s)

.....  
Date

.....  
Stamp of the organisation

### **UNIVERSITAET HAMBURG (DE)**

Bank account number: DE4120000000020101532

Owner of the bank account: Universität Hamburg

Address of the owner: Mittelweg 177, 20148 Hamburg

IBAN code: DE4120000000020101532

SWIFT CODE (BIC): MARKDEF1200

If there is no SWIFT CODE (BIC):

Bank name:

Bank address (City, Street):

Appointed to sign on behalf of Univ.-Prof. Dr. Dr. h.c. Dieter Lenzen:

Courtney Peltzer-Hönicke

Department Head

Department of International Affairs

Jens Benecke

Section Head

External Funding Management

.....  
Name of legal representative(s)

.....  
Signature of legal representative(s)

.....  
Date

.....  
Stamp of the organisation





**APPENDIX 1 - Grant Agreement**

**APPENDIX 2 — GENERAL CONDITIONS**