

## LIFE22-NAT-CZ-LIFE in Salt Marshes

### Other Annexes

#### Part 2: Draft of Consortium agreement

##### CONSORTIUM AGREEMENT

THIS CONSORTIUM AGREEMENT is based upon Regulation (EU) No 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), laying down its rules for participation and dissemination (hereinafter referred to as “Horizon Europe Regulation”), and on the European Commission’s General Model Grant Agreement and its Annexes, and is made on 1.8. 2023, hereinafter referred to as the Effective Date

##### BETWEEN:

**Masarykova Univerzita**, based in Žerotínovo nám. 617/9, 601 77 Brno, IČO 00216224, represented by [REDACTED]  
[REDACTED] the Coordinator (The Coordinating Party)

**Výzkumný ústav meliorací a ochrany půdy, v.v.i.**, based in Žabovřeská 250, 156 27 Praha 5 - Zbraslav, IČO 00027049, represented by [REDACTED] the director; contact person [REDACTED]

**Česká společnost ornitologická Jihomoravská pobočka**, based in Lidická 971/25, 602 00 Brno, IČO 65353391, contact person [REDACTED]

**World from Space s.r.o.**, based in Pellicova 624/3, Staré Brno, 602 00 Brno, IČO 06403166, contact person [REDACTED]

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

relating to the Action entitled

##### **Complex ecological restoration of degraded and disappeared salt marshes in Moravian Pannonia**

in short

##### **LIFE in Salt Marshes**

hereinafter referred to as “Project”

##### WHEREAS:

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the Granting Authority as part the Programme for Environment and Climate Action (LIFE), call LIFE-2022-SAP-NAT-NATURE.

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 Coordinating Party and the Granting Authority (hereinafter "Grant Agreement").

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

## **1 Definitions**

### **1.1 Definitions**

Words beginning with a capital letter shall have the meaning defined either herein or in the Horizon Europe Regulation or in the Grant Agreement including its Annexes.

### **1.2 Additional Definitions**

#### **"Consortium Body"**

Consortium Body means any management body described in Section 6 (Governance Structure) of this Consortium Agreement.

#### **"Consortium Plan"**

Consortium Plan means the description of the Action and the related agreed budget as first defined in the Grant Agreement and which may be updated by the Steering Board.

#### **"Granting Authority"**

means the body awarding the grant for the Project.

#### **"Defaulting Party"**

Defaulting Party means a Party which the Steering Board has 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"**

means:

*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.

*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.

## **“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.

## **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.

## **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 effect from the Effective Date identified at the beginning of this Consortium Agreement.

An entity becomes a new Party to the Consortium Agreement upon signature of the accession document (Attachment 2) by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.

### **3.2 Duration and termination**

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under 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 Granting Authority or a Party, or
- the Grant Agreement is terminated, or
- 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, Dissemination 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 Project incurred prior to the date of termination, unless otherwise agreed between the Steering Board and the leaving Party. This includes the obligation to provide all necessary input, deliverables and documents for the period of its participation.

## **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 Czech law.

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

Each Party shall promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks and shall responsibly manage the access of its employees to the EU Funding & Tenders Portal.

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 Board 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 or, if the Coordinator is in breach of its obligations, the Party appointed by the Steering Board, will give formal notice to such Party requiring that such breach will be remedied within 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 Board 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**

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities or other Participants) in the Project remains 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 of the Grant Agreement. Such 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.

### **4.4 Specific responsibilities regarding data protection**

Where necessary, the Parties shall cooperate in order to enable one another to fulfil legal obligations arising under applicable data protection laws (the *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and*

on the free movement of such data and relevant national data protection law applicable to said Party) within the scope of the performance and administration of the Project and of this Consortium Agreement.

In particular, the Parties shall, where necessary, conclude a separate data processing, data sharing and/or joint controller agreement before any data processing or data sharing takes place.

## **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 entities under the same control) 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, but not limited to, loss of profit, loss of revenue or loss of contracts, except in case of breach of confidentiality.

A Party's aggregate liability towards the other Parties collectively shall be limited to once the Party's share of the total costs of the Project as identified in Annex 2 of the Grant Agreement.

A Party's liability shall not be limited under either of the two foregoing paragraphs to the extent such damage was caused by a willful act or gross negligence or to the extent that such limitation is not permitted by law.

### **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 Steering Board of any Force Majeure without undue delay. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notice, the transfer of tasks - if any - shall be decided by the Steering Board.

## 5.5 Export control

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 due to a restriction resulting from import or export laws and regulations and/or any delay of the granting or extension of the import or export license or any other governmental authorisation, provided that the Party has used its reasonable efforts to fulfil its tasks and to apply for any necessary license or authorisation properly and in time.

Each Party will notify the Steering Board of any such restriction without undue delay. If the consequences of such restriction for the Project are not overcome within 6 weeks after such notice, the transfer of tasks - if any - shall be decided by the Steering Board.

## 6 Governance structure

### 6.1 General structure

Management and control systems are in place to ensure effective implementation of the research plan. With this in mind, and considering the complexity and scale of the project the following management structure is proposed for the project LIFE in Salt Marshes:

1. The Coordinator
2. The Steering Board
3. The Project manager and group leaders representing the partner institutions

The **Steering Board** is the decision-making body of the consortium.

The **Coordinator** is the legal entity acting as the intermediary between the Parties and the Granting Authority. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Grant Agreement and this Consortium Agreement.

### 6.2 Members

The Coordinator together with the group leaders appointed by each project partner will compose the Steering Board. The consortium of LIFE in Salt Marshes project consists of 4 partners, a size which easily allows to integrate representatives of all partners into a manageable Steering Board. Thanks to Coordinator's experience with international projects the management as described below seems appropriate to the complexity and scale of the project.

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

The Coordinator shall chair all meetings of the Steering Board, unless decided otherwise by the Steering Board.

The Parties agree to abide by all decisions of the Steering Board.

### **6.3 Operational procedures for The Steering Board:**

The Steering Board will be set up exclusively for the project LIFE in Salt Marshes and is composed of one voting group leader representing each project partner. The Steering Board chaired by the Coordinator will make key decisions regarding the project within its annual meetings. In the intervening period personal or online conferences will be organized at least every 3 months. Extraordinary meetings may be called at any other time at the request of the Coordinator or by at least two other consortium members. More than 50% of the Steering Board members entitled to vote must be present at the meeting to achieve a quorum.

The fundamental responsibilities of the Steering Board include:

- Negotiations on the content and change of the Consortium Agreement
- Decision making regarding all matters beyond the approved budget and other important issues
- Definition of the overall strategy
- Ensuring the timely delivery and quality of results produced
- Implementation of measures according to the risk management and contingency plan
- Coordination of resources to meet schedules and outputs
- Tracking of costs related to the overall budget
- Resolution of crisis and conflicts, especially regarding IPR issues
- Supervision of the dissemination activities and coordination of the publication policy
- Ensuring compliance with legal and ethical obligations

### **6.4 Coordinator**

#### **6.4.1**

The Coordinator shall be the intermediary between the Parties and the Granting Authority and shall perform all tasks assigned to it as described in the Grant Agreement and in this Consortium Agreement.

The coordinator is Mgr. Marie Kotasová Adámková, Ph.D. (MU) who is responsible for project execution, day-by-day management, scientific oversight of the project, interaction between partners, and representation of the project consortium amongst the scientific communities.

Key management roles of the Coordinator include as stated in the model grant agreement:

- Monitor that the action is implemented properly
- Act as the intermediary for all communications between the beneficiaries and the EC unless the Agreement specifies otherwise;
- Request and review any documents or information required by the EC and verify their completeness and correctness before passing them on to the EC.
- Submit the deliverables and reports to the EC

- Ensure that all payments are made to the other beneficiaries without unjustified delay. Inform the EC of the amounts paid to each beneficiary, when required under the Agreement or requested by the EC
- The coordinator has a casting vote in the event of a tie.

## **6.5 The Project Manager and group leaders [Optional, where foreseen in the Grant Agreement or otherwise decided by the consortium: External Expert Advisory Board (EEAB)]**

***The project manager*** will support the Coordinator with a whole package of management skills and expertise. The Project Manager will assist the Coordinator in the organisational, administrative and financial part of the *LIFE in Salt Marshes* project. The project manager will assist the Coordinator with coordination of dissemination activities (distribution of knowledge and publications produced thanks to the project between partners, archiving publications and press activities related to the project), reporting (distribution of a reporting timetable and the reporting requirements to all partners, provision of reporting templates to project partners, composition of the management section of the reports, compilation of reports and assistance with editing), dealing with queries from project partners, and mediating internal communication between the consortium members.

Each consortium member will appoint one ***group leader*** who will be responsible for the implementation and supervision of the project tasks on site. The main responsibilities of group leaders are:

- Overseeing of all administrative, scientific and technical activities related to the particular tasks of his/her institution/company
- Implementation of the work program and any modifications in the work packages and individual tasks in an appropriate way
- Timely production of milestones and deliverables assigned to the particular partner
- Communication of all enquiries to the Coordinator and the project manager
- Timely delivery of the progress and technical reports to the Coordinator

## **6.6 Management procedures**

**Opening Meeting :** The first meeting of the Steering Board will take place approx. two months after signature of the Grant Agreement.

**Decision making:** Any decision possibly affecting particular work tasks will be negotiated between the Coordinator and the group leader responsible for the respective task. Any changes in the work plan will be communicated to all consortium members as soon as possible. Furthermore, all changes will be documented to maximize transparency and to record the course of the project. In the case of difficulties reaching consent on changes between the consortium members, the Coordinator of the project will take the final decision after discussing this matter in detail with all partners. Major decision will require support from 3/4 of the Steering Board.

**Financial management:** Following the signature of the Grant Agreement, the Consortium Agreement and the receipt of EC funding by the Coordinator, she will distribute the respective fraction of the budget to each partner



as agreed with no delays. The group leaders representing partner institutions will monitor its appropriate use and provide financial reports and audits as requested by the EC, which will be coordinated by the project manager and the Coordinator. Emphasis will put on timely delivery of scientific and financial reports and to the strict adherence to predefined standards and formats.

**Administration and general management tasks:** The project consortium is aware of the great importance of seamless, day-by-day administration of the whole project. The project manager and the Coordinator will establish the administration in a professional way and will keep all administration procedures efficient and at the same time as slim as possible. The Masaryk University possesses an outstanding experience in administration of complex research programs between academia and non-academic sector and can therefore guarantee the professional administrative and general management of the proposed project. Therefore, the project manager will be appointed by MU and will assist the Coordinator in all matters regarding the general management and administration of the LIFE in Salt Marshes project.

## **7 Financial provisions**

### **7.1 General Principles**

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

The financial contribution of the Granting Authority to the Project shall be distributed by the Coordinator according to:

- the Consortium Plan
- the approval of reports by the Granting Authority, and
- the provisions of payment in Section 7.2.

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

#### **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 (and those of its Affiliated Entities, if any) with respect to the Project towards the Granting Authority. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the Granting Authority.

#### **7.1.3 Funding Principles**

A Party that spends less than its allocated share of the budget as set out in the Consortium Plan or – in case of reimbursement via unit costs - implements less units than foreseen in the Consortium Plan will be funded in accordance with its units/actual duly justified eligible costs only.

A Party that spends more than its allocated share of the budget as set out in the Consortium Plan will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share.

#### **7.1.4 Excess payments**

A Party has received excess payment

- a) if the payment received from the Coordinator exceeds the amount declared or
- b) if a Party has received payments but, within the last year of the Project, its real Project costs fall significantly behind the costs it would be entitled to according to the Consortium Plan.

In case a Party has received excess payment, the Party has to inform the Coordinator and return the relevant amount to the Coordinator without undue delay. In case no refund takes place within 30 days upon request for return of excess payment from the Coordinator, the Party is in substantial breach of the Consortium Agreement.

Amounts which are not refunded by a breaching Party and which are not due to the Granting Authority, shall be apportioned by the Coordinator to the remaining Parties pro rata according to their share of total costs of the Project as identified in the Consortium Budget, until recovery from the breaching Party is possible.

### **7.1.5 Revenue**

In case a Party earns any revenue that is deductible from the total funding as set out in the Consortium Plan, the deduction is only directed toward the Party earning such revenue. The other Parties' financial share of the budget shall not be affected by one Party's revenue. In case the relevant revenue is more than the allocated share of the Party as set out in the Consortium Plan, the Party shall reimburse the funding reduction suffered by other Parties.

### **7.1.6 Financial Consequences of the termination of the participation of a Party**

A Party leaving the consortium shall refund to the Coordinator any payments it has received except the amount of contribution accepted by the Granting Authority or another contributor.

In addition, a Defaulting Party shall, within the limits specified in Section 5.2 of this Consortium Agreement, bear any reasonable and justifiable additional costs occurring to the other Parties in order to perform the leaving Party's task and necessary additional efforts to fulfil them as a consequence of the Party leaving the consortium. The Steering Board should agree on a procedure regarding additional costs which are not covered by the Defaulting Party or the Mutual Insurance Mechanism.

## **7.2 Payments**

### **7.2.1 Payments to Parties are the exclusive task of the Coordinator.**

In particular, the Coordinator shall:

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 and in maintaining financial accounts

undertake to keep the Granting Authority's financial contribution to the Project separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.

With reference to Article 22 of the Grant Agreement, no Party shall before the end of the Project receive more than its allocated share of the maximum grant amount less the amounts retained by the Granting Authority for the Mutual Insurance Mechanism and for the final payment.

### **7.2.2**

The transfer of the initial pre-financing, the additional pre-financings (if any) and interim payments to Parties will be handled in accordance with Article 22.1. and Article 7 of the Grant Agreement following this payment schedule:

Funding of costs included in the Consortium Plan will be paid by the Coordinator to the Parties after receipt of payments from the Granting Authority without undue delay and in conformity with the provisions of the Grant Agreement. Costs accepted by the Granting Authority will be paid to the Party concerned.

The Coordinator is entitled to withhold any payments due to a Party identified by the Steering Board to be in breach of its obligations under this Consortium Agreement or the Grant Agreement or to a Beneficiary which has not yet signed this Consortium Agreement.

The Coordinator is entitled to recover any payments already paid to a Defaulting Party except the costs already claimed by the Defaulting Party and accepted by the Granting Authority. The Coordinator is equally entitled to withhold payments to a Party when this is suggested by or agreed with the Granting Authority.

## **8 Results**

### **8.1 Ownership of Results**

Results are owned by the Party that generates them.

### **8.2 Joint ownership**

Joint ownership is governed by Grant Agreement Article 16.4 and its Annex 5, Section Ownership of results, with the following additions:

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research and teaching activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s).
- each of the joint owners shall be entitled to otherwise Exploit the jointly owned Results 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.

The joint owners shall agree on all protection measures and the division of related cost in advance.

### **8.3 Transfer of Results**

#### **8.3.1**

Each Party may transfer ownership of its own Results, including its share in jointly owned Results, following the procedures of the Grant Agreement Article 16.4 and its Annex 5, Section Transfer and licensing of results, sub-section "Transfer of ownership".

### **8.3.2**

Each Party may identify specific third parties it intends to transfer the ownership of its Results to in Attachment (3) of this Consortium Agreement. The other Parties hereby waive their right to prior notice and their right to object to such a transfer to listed third parties according to the Grant Agreement Article 16.4 and its Annex 5, Section Transfer of licensing of results, sub-section "Transfer of ownership", 3rd paragraph.

### **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 under the Consortium Agreement and the Grant Agreement will not be affected by such transfer. Any addition to Attachment (3) after signature of this Consortium Agreement requires a decision of the Steering Board.

### **8.3.4**

The Parties recognise that in the framework of a merger or an acquisition of an important part of its assets, it may be impossible under applicable EU and national laws on mergers and acquisitions for a Party to give at least 45 calendar days prior notice for the transfer as foreseen in the Grant Agreement.

### **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**

### **8.4.1**

For the avoidance of doubt, the confidentiality obligations set out in Section 10 apply to all dissemination activities described in this Section 8.4 as far as Confidential Information is involved.

### **8.4.2 Dissemination of own (including jointly owned) Results**

#### **8.4.2.1**

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 procedure of Article 17.4 of the Grant Agreement and its Annex 5, Section Dissemination, subject to the following provisions.

Prior notice of any planned publication shall be given to the other Parties at least 7 calendar days before the publication. Any objection to the planned publication shall be made in accordance with the Grant Agreement by written notice to the Coordinator and to the Party or Parties proposing the dissemination within 5 calendar days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted.

Excluded from the need of prior notice are submissions of abstracts to poster presentations, slides and abstracts for oral presentations at workshops, seminars, webinars, symposia, conferences and summer schools and social media posts, provided that they do not disclose details of research or confidential information of other Parties, and provided that the submission can be retracted if objections by other Parties occur. Such abstracts need to be sent to the other Parties right away upon submission.

#### 8.4.2.2

An objection is justified if

- a) the protection of the objecting Party's Results or Background would be adversely affected, or
- b) the objecting Party's legitimate interests in relation to its Results or Background would be significantly harmed, or
- c) the proposed publication includes Confidential Information of the objecting Party.

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

#### 8.4.2.3

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 measures are taken following the discussion.

#### 8.4.2.4

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 the objections of the objecting Party have been addressed.

### **8.4.3 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.

### **8.4.4 Cooperation obligations**

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

### **8.4.5 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.

The Contracting Parties agree that any Contracting Party may, as part of its presentation, inform about the Project on its website and include the names and logos of the Parties as part of this presentation.

## **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.

#### **9.1.2**

Any Party may add additional Background to Attachment 1 during the Project provided they give written notice to the other Parties. However, approval of the Steering Board 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 Consortium 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**

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

#### **9.2.3**

Access Rights shall be free of any administrative transfer costs.

#### **9.2.4**

Access Rights are granted on a non-exclusive basis.

#### **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 the 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**

Access Rights to Results if Needed for Exploitation of a Party's own Results 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 months after the end of the Project or, in the case of Section 9.7.2.1.2, after the termination of the requesting Party's participation in the Project. However, there is no obligation to maintain property rights during these twelve months.

### **9.5 Access Rights for entities under the same control**

Entities under the same control have Access Rights under the conditions of the Grant Agreement Article 16.4 and its Annex 5, Section "Access rights to results and background", sub-section "Access rights for entities under the same control".

### **9.6 Additional Access Rights**

The Parties agree to negotiate in good faith any additional Access Rights to Results as might be asked for by any Party, upon adequate financial conditions to be agreed.

### **9.7 Access Rights for Parties entering or leaving the consortium**

#### **9.7.1 New Parties entering the consortium**

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.

#### **9.7.2 Parties leaving the consortium**

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

##### **9.7.2.1.1 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 Board to terminate its participation in the consortium.

#### 9.7.2.1.2 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 Section 9.4.3.

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

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

### 9.8 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.

## 10 Non-disclosure of information

### 10.1

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".

### 10.2

The Recipients hereby undertake in addition and without prejudice to any commitment on non-disclosure under the Grant Agreement, 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 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, or destroy, on request all Confidential Information that has been disclosed to the Recipients including all copies thereof and to delete all information stored in a machine-readable form to the extent practically possible. The Recipients may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations provided that the Recipient complies with the confidentiality obligations herein contained with respect to such copy.



### 10.3

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 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 has become or 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 confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality 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, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party;
- 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 Section 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 Recipient shall promptly inform the relevant Disclosing Party by written notice 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 Recipient 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.

## **11 Miscellaneous**

### **11.1 Attachments, inconsistencies and severability**

This Consortium Agreement consists of this core text and:

- Attachment 1 (Background included)
- Attachment 2 (Accession document)
- Attachment 3 (List of third parties for simplified transfer according to Section 8.3.2)

In case the terms of this Consortium Agreement are in 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 that 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 other kind of formal business grouping or entity between the Parties.

### **11.3 Formal and written notices**

Any notice to be given under this Consortium Agreement shall be addressed to the recipients as listed in the most current address list kept by the Coordinator.

Any change of persons or contact details shall be immediately communicated to the Coordinator by written notice. The address list shall be accessible to all Parties.

Formal notices:

If it is required in this Consortium Agreement (Sections 4.2, 9.7.2.1.1, and 11.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party and shall either be served personally or sent by mail with recorded delivery with acknowledgement of receipt.

Written notice:

Where written notice is required by this Consortium Agreement, this is fulfilled also by other means of communication such as e-mail with acknowledgement of receipt.

#### **11.4 Assignment and amendments**

Except as set out in Section 8.3, 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.

#### **11.5 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.

#### **11.6 Language**

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

#### **11.7 Applicable law**

This Consortium Agreement shall be construed in accordance with and governed by the laws of Czech Republic excluding its conflict of law provisions.

#### **11.8 Settlement of disputes**

The Parties shall endeavour to settle their disputes amicably.

All disputes arising out of or in connection with this Consortium Agreement, which cannot be solved amicably, shall be finally settled by the courts of Czech Republic.

## 12 Signatures

### 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.

#### Masarykova univerzita

Signature: [REDACTED]

[REDACTED]  
[REDACTED]

Date:

#### Výzkumný ústav meliorací a ochrany půdy, v.v.i.

Signature: [REDACTED]

Name: [REDACTED]

Date:

#### Česká společnost ornitologická, Jihomoravská pobočka

Signature: [REDACTED]

Name: [REDACTED]

Title: [REDACTED]

Date:

#### World from space s.r.o.

Signature: [REDACTED]

Name: [REDACTED]

Title: [REDACTED]

Date:

## Attachment 1: Background included

According to the Grant Agreement (Article 16.1) Background is defined as “data, know-how or information (...) that is (...) needed to implement the Action or exploit the results”. Because of this need, Access Rights have to be granted in principle, but Parties must identify and agree amongst them on the Background for the Project. This is the purpose of this attachment.

PARTY 1

As to [NAME OF THE PARTY], it is agreed between the Parties that, to the best of their knowledge, [insert the relevant option here].

[Option 1 start]

the following Background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

<b>Describe Background</b>		

[Option 1 end]

[Option 2 start]

Option 2: No data, know-how or information of [NAME OF THE PARTY] is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

[Option 2 end]

This represents the status at the time of signature of this Consortium Agreement.

[Same for PARTY 2, PARTY 3, etc]

## Attachment 2: Accession document

ACCESSION

**of a new Party to**

**[Acronym of the Project] Consortium Agreement, version [..., YYYY-MM-DD]**

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE Grant Agreement]

hereby consents to become a Party to the Consortium Agreement identified above and accepts all the rights and obligations of a Party starting [date].

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE Grant Agreement]

hereby certifies that the consortium has accepted in the meeting held on [date] the accession of [the name of the new Party] to the consortium starting [date].

This Accession document has been done in 2 originals to be duly signed by the undersigned authorised representatives.

[Date and Place]

[INSERT NAME OF THE NEW PARTY]

Signature(s)

Name(s)

Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]

Signature(s)

Name(s)

Title(s)

**Attachment 3: List of third parties for simplified transfer according to Section  
8.3.2.**