**CONSORTIUM AGREEMENT**

**DESIGNATION OF THE PARTIES**

This Agreement is concluded in electronic form, on the day of the last electronic signature between:

**Warsaw University of Technology**, hereafter named WUT, a Polish University, whose corporate

offices are at Plac Politechniki 1, 00-661 Warszawa, Poland, represented by

Professor Mariusz Malinowski, PhD, DSc – Vice-Rector for Research

and

**NanoStal sp. z o.o.**, hereafter named NanoStal, a Polish SME, whose corporate offices are at ul. Rektorska 4, 00-614 Warszawa, Poland, registered at the Comercial Registry of Warsaw under number 0000570954, VAT UE No PL 9591964130 represented by

Adam Gołaszewski – Company President

and

**Technical University of Liberec**, hereafter named TUL CXI, a Czech University, whose corporate offices

are at Studentská 1402/2, 461 17 Liberec, Czech Republic, represented by

doc. RNDr. Miroslav Brzezina, CSc., dr.h.c. – Rector TUL

and

**Advanced Metal Powders s.r.o.**, hereafter named AMP, a Czech SME, whose corporate offices are at Bolatická 2045/39, 747 21 Kravaře - Kouty, Czech Republic, registered at the Comercial Registry of Ostrava under file mark: C 58828 held at the Regional Court in Ostrava, VAT No CZ02976102

represented by

Ing. Jiří Režnar – CEO

hereafter jointly or individually named "Party" or "Parties", relating to the Project entitled:

**“Iron Alloy Powder for 3D Printed Topologically Optimized Machine Parts”**, acronym PriFeSiC

hereafter named “Project”.

**PREAMBLE**

The Parties have decided to prepare and submit to the EUREKA Network projects Program a Mutual Funding Request for Cooperating in the Realization of the Project.

The Parties have agreed to cooperate in the commercialization of the Project results in Czech Republic,

Poland and other European Union countries.

The purpose of this Consortium Agreement is to specify the organisation of the work between the Parties, to organize the management of the Project, to define the rights and obligations of the Parties, liability, intellectual property rights and dispute resolution.

**ARTICLE 1 – DEFINITIONS**

Now, therefore, in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, desiring to be legally bound hereby, agree as follows:

“National regulations” shall mean funding conditions and eligibility criteria different for each country.

“National Institution” shall mean agency responsible for realization of Eureka program in each country. In Poland the NCBR – National Centre for Research and Development. In Czech Republic MSMT – The Ministry of Education, Youth and Sports

“Contract” shall mean Project funding contract between Parties and their National Institutions.

**ARTICLE 2 - IMPLEMENTATION OF THE EUREKA PROJECT**

Parties have prepared the proposal for realization of the Project, in form of EUREKA PROJECT FORM. The proposal will be submitted, to MSMT and NCBR.

In the case of project proposal rejection, the agreement will be dissolved, on the day the official decision of the rejection will be dated.

In the case of project proposal acceptance, the Parties commit themselves to carrying out the Project.

For this purpose Parties promises to sign an appropriate Contract, each Party with own National Institution.

**ARTICLE 3 - PROJECT MANAGEMENT**

1. The project management will be organised according to the operational structure and

organization described below.

I. The Project Co-ordinator (PC), will be Dawid Myszka nominated by WUT.

II. The PC shall undertake:

1) to take all the steps necessary to prepare for, perform and correctly manage the project set out in this agreement, in accordance with the objectives of the Project and

EUREKA Program;

2) to plan meetings of the consortium Parties,

3) to notify and provide the Parties with any amendment made to the Project and project contract;

4) to define in conjunction with the Parties the role and rights and obligations of the Parties, including those concerning the attribution of the intellectual property rights;

5) to comply with all the provisions of Eureka innovation platform and the national regulations for Administrative and Financial Management and Reporting.

III. Each Party undertake:

1) to notify the PC promptly of any delay in performance or of any event that may impact the Project;

2) to inform the PC of relevant communications it receives from third parties in relation

to the Project;

3) to ensure the accuracy of any information or materials it supplies to the other Parties and to promptly correct any error therein of which it is notified. The recipient Parties shall be responsible for the use to which it puts such information and materials;

4) not to use knowingly any proprietary rights of a third party for which such party has

not acquired the corresponding right of use and/or to Contract licenses;

5) to act at all times in good faith and in a manner that reflects the good name, goodwill

and reputation of the other Parties and in accordance with good business ethics;

6) to participate in a co-operative manner to the meetings of the different bodies under this Consortium

7) use and protect any personal information of individuals collected under this Project

in accordance with any applicable privacy laws. Such information shall be secured to prevent this information from being available outside the Consortium and may be stored only until the expiration or termination of the Consortium Agreement; the Parties obligations under this Consortium Agreement are subject to applicable export control laws and regulations, and the Parties undertake to comply with any

such laws and regulations.

2. The Partners shall establish a Consortium Board to agree and supervise all matters related to the

Consortium's activities in implementing the Project.

3. The Consortium Board meetings are attended by the Project Manager, without voting rights.

4. The Consortium Board's responsibilities include:

1) proposing necessary changes to the Application by the Partners;

2) monitoring the progress of the Project on the basis of periodic payment applications containing a report on the implementation of the Project;

3) resolve disputes between Partners.

5. Each Partner shall appoint one representative to the Consortium Board.

6. The Consortium Board shall be chaired by a Representative of the Consortium Leader.

7. The Consortium Board meetings shall be convened by the Chairman on his own initiative, at least

once every 12 months or at the request of a Partner, within 7 from the date of receipt of the request. The parties allow the possibility of holding Board meetings and adopting resolutions remotely, by means of remote communication.

8. The frequency and schedule of Consortium Board meetings shall be determined by the Chairman of the Board.

9. The Consortium Board will strive for unanimity in making all decisions related to the implementation of the Project. If the votes balance, the Chairman shall have the casting vote.

10. Minutes shall be taken of each meeting of the Council.

11. All Parties will communicate periodically in order to exchange data & information concerning the

status of design, manufacturing and testing results of the new system. Basic communication means will be:

1) electronic mail,

2) telephone-conference,

3) ideo-conference.

12. The quality assurance management will be based on the guidelines of proven project management methodologies, especially the following QA aspects will be addressed to guarantee a timely accomplishment of all planned tasks:

1) Organization: Clear definition, agreement and update of roles and responsibilities.

2) Planning: Preparation of an achievable and agreed statement of what the Project

is to produce, when and how it is to be produced, assigned to the different WPs.

3) Controls: Regular review of the status and update of the Work Plan.

4) Quality Reviews: To identify errors in products by means of a planned and documented inspection, ensuring all deliverables are of acceptable standard before delivery. The quality reviews are reported using Quality Review forms. The process is re-iterated until the product can be signed off by the responsible WP Leader.

**ARTICLE 4 - FINANCIAL ISSUES**

The Parties will jointly submit a project-funding request both in Poland (through NCBR) as well as in Czech Republic (through MSMT), to the Eureka fund.

The financial contribution of the EUREKA Program to the Project shall be distributed by the Parties according to the Contract and in line with the information given in the EUREKA PROJECT FORM (project proposal).

All resources made available for the Project shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties and shall be budgeted.

All Parties will keep financial documentation in accordance with the rules of EUREKA Program and specific national regulations.

**ARTICLE 5 - CONFIDENTIALITY**

1. For the purpose of this agreement "Confidential Information" shall mean any and all information, which is supplied or disclosed, directly or indirectly, in writing or in any other means, by each Party to the other including, but not limited to any documents, drawings, sketches, designs, materials, samples, prototypes, data, know-how, patents, unpublished results, trademarks, service marks, registered designs, copyrights, database rights, design rights, confidential information, applications for any of the above, and any similar right recognized from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above; know-how will include: unpatented technical information (including, without limitation information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) that is not in the public domain which at the time of its disclosure or supply is identified as confidential. Oral information shall be recorded in writing by the Party disclosing it within fifteen (15) days after disclosure, and the resulting document shall specifically state the date of disclosure and designate the information as confidential.

2. For the purpose of this agreement “the Recipient” shall mean the Party receiving the Confidential

Information disclosed by the other Party.

3. Each Party intends to disclose Confidential Information to the other Party in the framework of the

EUREKA Network Projects Program; (i) the preparation and submission of a proposal and (ii) preparation, negotiation and conclusion of the Contract and Consortium Agreement (hereinafter referred to as the “Purpose”). Nothing in this agreement shall be regarded as compelling a Party to disclose any Confidential Information.

4. The Recipient shall:

1) undertake to keep the Confidential Information confidential and not to disclose it nor to permit the disclosure of it to any third party, except in accordance with clause 5.7. of this

agreement, and not to make it available to the public or accessible in any way, except with

the prior written consent of the Party disclosing it;

2) undertake to use the Confidential Information solely for the Purpose of this agreement and not to make any other use, whether commercial or non-commercial, without the prior written

consent of the Party disclosing it.

5. The obligations specified in clause article 5 point 4 above shall not apply in the following cases:

1) the Confidential Information was known to the Recipient prior to the time of its receipt pursuant to this agreement otherwise than as a result of the Recipient’s breach of any legal obligation; or

2) the Confidential Information is in the public domain at the time of disclosure by the Party to

the Recipient or thereafter enters the public domain without any breach of the terms of this agreement; or

3) the Confidential Information becomes known to the Recipient through disclosure by sources,

other than the Party disclosing it, having the legal right to disclose such Confidential Information; or

4) the Recipient proves the Confidential Information has been developed independently by its

employees or collaborators, who had no access to any of the Confidential Information disclosed by the Party disclosing it to the Recipient.

6. The Recipient shall limit and control any copies and reproductions of the Confidential Information.

The Recipient shall return all records or copies of the Confidential Information at the request of the other Party and at the latest on termination of this agreement. This shall not apply to Confidential Information or copies thereof which must be stored by the Recipient according to mandatory law, provided that such Confidentiality Information or copies thereof shall be subject to an indefinite confidentiality obligation.

7. The Recipient undertakes to disclose the Confidential Information only to its employees and collaborators who:

1) reasonably need to receive the Confidential Information for the Purpose of the present agreement; and

2) have been informed by the Recipient of the confidential nature of the Confidential Information and of the terms of the present agreement; and

3) have been advised of and agree to be bound by equivalent obligations to those in the present agreement.

8. All Confidential Information shall remain the exclusive property of each Party as well as all patent, copyright, trade secret, trade mark and other intellectual property rights therein. The Parties agree that this agreement and the disclosure of the Confidential Information do not grant or imply any license, interest or right to the Recipient in respect to any intellectual property right of the other Party.

**ARTICLE 6 - INTELLECTUAL PROPERTY RIGHTS**

1. Ownership

1) The pre-existing patent, know-how and other intellectual property items that is brought into

the Project (Background) will remain the property of the owner.

2) Undersigned Parties agree that the Intellectual Property Rights (IPR) and the rights to knowledge contained in the Project and gained during its realization (Foreground) belong to the responsible for the specific knowledge Party. Foreground shall be jointly owned by the joint owners concerned in shares according to their actual share in the total amount of eligible costs set out in the project budget (for Polish Parties set out in the Contract).

3) Each of the joint owners shall be entitled to use their jointly owned Foreground on a royalty-

free basis for non-commercial research purposes only including third party research, and without requiring the prior consent of the other joint owner(s), and

4) Each of the joint owners shall be entitled to use their jointly owned Foreground for commercial purposes only with prior notice under the condition that fair and reasonable compensation must be provided to the other joint owners, taking into account each joint owner’s relative ownership, and providing the other joint owners have so agreed in writing.

2. Protection of the pre-existing know-how and Project results

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.

2) All Parties will prepare IPR agreement for terms of protection and use of the Project results

after Project termination. This agreement will be signed before end of the Project.

3) IPR agreement will also determine terms for access rights to and exploitation of Project results and pre-existing know-how, provided that all such terms and rights stipulated under the IPR Agreement shall be subject to the National regulation of the respective National Institution.

**ARTICLE 7 - PUBLICATIONS**

1. Publication of knowledge

1) A Party may publish knowledge generated by another Party or any pre-existing know-how of such other Party, even if such knowledge or pre-existing know how is amalgamated with such Party’s knowledge, only with the other Party’s prior written approval.

2) For the avoidance of doubt, for the period of secrecy needed for a successful patent application, there cannot be any publication during such period without prior written approval

of the Party owner of the knowledge.

3) Unless it has granted prior written publication approval, any Party may object to the publication within fifteen calendar days from receipt of the data, if it considers and can reasonably show that the protection of its own Knowledge could thereby be adversely affected.

4) Objection shall be made both to the issuing Party, with a copy to the Coordinator.

2. Dissemination of knowledge after the end of the Project

If dissemination of knowledge does not adversely affect its protection or use and subject to

legitimate interests, the Party shall ensure further dissemination of their own Knowledge as

provided under the Contract and this Consortium Agreement.

3. Dissertation or thesis

The Parties agree to cooperate to allow the timely submission, examination, publication and

defence of any dissertation or thesis for a degree, which includes their knowledge and pre-existing know-how.

**ARTICLE 8 - LIABILITY**

1. No implied warranty

With respect to information or materials supplied by one Party to another hereunder or under the Agreement, the supplying Party shall be under no obligation or liability other than as stated in Article 8, and no warranty condition or representation of any kind is made, given or to be implied as to the sufficiency, accuracy or fitness for purpose of such information or materials. The recipient Party shall therefore in any event, be entirely responsible for any use whatsoever of such information and materials.

2. Exclusion of indirect damages

No Party shall be responsible to another for indirect or consequential loss or damages such as but not limited to loss of profit, loss of revenue, or loss of contracts.

3. Liability towards the National institution

Notwithstanding any joint and several liability of the Parties which may exist towards the National Institutions, each Party shall be liable towards the others for any losses or damages suffered by the National Institutions, as a consequence of any failure to perform the whole or part of its obligations under the Contract or under this Consortium Agreement.

4. Liability towards third parties

Subject always to such other undertakings and warranties as are provided for in this Consortium Agreement and the Contract, each Party shall be solely liable for any loss, damage or injury to third parties resulting solely from the performance of its Work Package.

5. Liability for Subcontractors

Each Party shall remain fully responsible for the performance of any part of its Work Package, or for the performance of its obligations under the Contract by any Subcontractor, provided that in any case appointment of a Subcontractor shall be with the approval of the Steering Committee.

Therefore said Party shall ensure that (i) such subcontracts fully comply with the requirements of the Contract; (ii) the other Parties Access Rights are fully preserved; and (iii) the third party shall have no access to any other Parties knowledge or Pre-existing Know-How without the latter’s prior written consent.

**ARTICLE 9 - ENTRY INTO FORCE AND TERMINATION**

1. This Consortium Agreement shall come into force on the Effective Date. Relations between Polish

Parties are regulated by a separate consortium agreement and a co-financing agreement concluded with the National Institution (NCBR).

2. This Consortium Agreement, shall thereafter remain into force:

- until the fulfilment or termination of the Contract awarded by the National Institutions and resulting from the Proposal and complete discharge of all obligations of the Parties under the Contract and/or under this Consortium Agreement as well as any amendment or extension thereof; or

- until this Consortium Agreement is terminated under any cases under point 3 below;

Whichever occurs first.

3. This Consortium Agreement shall automatically terminate without any further demand and without liability of any Party to the others upon the first to occur of the following events:

i. cancellation of the Project by the National Institutions;

ii. if the National Institutions indicates in writing that the award of the Contract pursuant to the Proposal is conditional upon the exclusion of one or more of the Parties, unless the remaining Parties decide to pursue their co-operation and agree on all consequences thereof, including for taking over the excluded Party(s) Work Package(s);

iii. should any Party enter into bankruptcy or liquidation or any other arrangement for the benefit of its creditors, if the other Parties decide, subject to approval by the National Institutions, to terminate the Project.

4. Other consequences of term or termination

In case of take over of any Party(s) Work Package all rights and obligations under the Contract and this Consortium Agreement shall in good faith be redistributed among the remaining Parties.

Neither Party shall by reason of withdrawal or termination be relieved from:

i. its responsibilities under this Consortium Agreement or the Contract in respect of that part

of that Party’s Work Package which has been carried out (or which should have been

carried out) up to the date of withdrawal or termination; or

ii. any of its obligations or liabilities arising out of such withdrawal or termination.

iii. above shall not apply to a Party who terminated this Agreement due to its breach by the

other Party.

5. The provisions of the Articles of this Consortium Agreement relating to liability, confidentiality, intellectual property rights and publications shall survive the term or termination of this Consortium Agreement for any reason whatsoever to the extent needed to enable the Parties to pursue the remedies and benefits provided for in those Articles.

6. For the avoidance of doubt, termination or withdrawal shall not affect any rights or obligations incurred prior to the date of the termination.

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

**ARTICLE 10 - AMENDMENT**

Any rights or obligations of the Parties arising from this Consortium Agreement may not be assigned or transferred in all or in part to any third party without the other Parties’ prior written approval and such consent shall not be unreasonably withheld if to an Affiliate of the assigning Party.

All amendments and modifications to this Consortium Agreement require documents duly signed by all Parties.

A change in the composition of the Consortium shall require the consent of the Parties and relevant National Institution.

Any Party, may submit a request to withdraw from the Consortium Agreement. The request must be submitted in writing with justification to the PC no later than 60 days before the end of the Project. Such Party submitting a request to withdraw from the Consortium Agreement shall be obliged to stop

all work related to the implementation of the Project and not to assume new financial obligations and applying for withdrawal from the Consortium Agreement shall be obliged to designate its successor, which must, at a minimum, meet the criteria of relevant National regulations and must be accepted by the other Parties. The condition for withdrawal is that the designated entity takes over all rights and obligations under the Consortium Agreement, including on intangible property, unless the withdrawing Party and the ascending Consortium member, with the consent of the other Parties,

decide otherwise. The withdrawal of a Party shall require the consent of the other Parties. Release of the withdrawing Consortium member from its obligations shall require the written consent of the other Parties under pain of nullity.

**ARTICLE 11 - LANGUAGE**

This Consortium Agreement is drawn up in English which language shall govern all documents, notices and meetings for its performance and application and/or extension or in any other way relative thereto.

**ARTICLE 12 - GOVERNING LAW AND COMPETENT COURT**

This Consortium Agreement shall be construed in accordance with, and governed by the Polish law (without regard to the principles of conflicts of law).

The Contractors agree to use reasonable endeavours to try to amicably settle any dispute arising among them in relation to the implementation of the Contract and/or of this Consortium Agreement

and for such purpose, to bring the dispute at the appropriate body level.

If necessary, the Project Coordinator will organise a conflict resolution meeting within 30 days following the reception of a written request transmitted by any of the project Parties. Attempts at arbitration will be performed in increasing order of authority:

i. within the team of each work package under the management of the WP Leader,

ii. within the consortium under management of the Project Coordinator.

Any risks and discrepancy within WPs shall be first resolved on WP level by the means of dialogue and mutual concession. In case of failure, decisions from higher levels will be requested, wherefore hints for potential solutions and answers have to be prepared in a stated time.

Failing to reach an amicable settlement, the dispute arising out of or in connection with the present Consortium Agreement shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

The place of arbitration shall be Warsaw, Poland.

The language to be used in the arbitral proceedings shall be English.

**ARTICLE 13 – PROTECTION OF PERSONAL DATA**

(1) Cooperation in the protection of personal data, in connection with the performance of this Agreement, shall be subject to the generally applicable legislation on the protection of personal data,

in particular the Regulation of the European Parliament and of the Council (EU) 2016/679 of 27 April 2016 on the protection of natural persons in relation to the processing of personal data and on the free movement of such data and the repeal of Directive 95/46/EC.

(2) In the case of provision of personal data, related to the implementation of this Agreement, the Party to whom the personal data in question has been provided shall become the Controller (of the personal data) and shall be obliged to independently comply with generally applicable laws, in the field of personal data protection, and shall be responsible for the personal data provided (from the moment of its provision).

(3) Each Party undertakes to secure the personal data by taking appropriate technical and organizational measures required by the applicable laws on the protection of personal data, and shall bear all liability for damages caused in connection with the processing of personal data.

(4) The parties to this agreement, in connection with its implementation, undertake to fulfill each other's information obligations (with respect to their employees or other persons implementing this agreement).

(5) If necessary, the Parties to this Agreement, shall conclude a separate agreement regulating specific

issues concerning the processing of personal data.

**ARTICLE 14 – Section Signatures**

AS WITNESS:

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

Warsaw University of Technology,

Name(s)

Title(s)

Date 10.10.2024

Signature(s) and Stamp

NanoStal sp. z o.o.

Name(s)

Title(s)

Date 10.10.2024

Signature(s) and Stamp

Technical University of Liberec

Name: doc. RNDr. Miroslav Brzezina, CSc., dr.h.c.

Title: Rector TUL

Date 17.10.2024

Signature(s) and Stamp

Advanced Metal Powders s.r.o.

Name: Ing. Jiří Režnar

Title: CEO

Date 16.10.2024

Signature(s) and Stamp