



DESCA

Horizon 2020 Model
Consortium Agreement
www.DESCA-2020.eu

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CONSORTIUM AGREEMENT

THIS CONSORTIUM AGREEMENT is based upon REGULATION (EU) No 1290/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2013 laying down the rules for the participation and dissemination in "Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)" (hereinafter referred to as "Rules for Participation"), and the European Commission Multi-beneficiary General Model Grant Agreement and its Annexes, and is made on <1st January 2017>, hereinafter referred to as the Effective Date

BETWEEN:

Vysoke uceni technicke v Brne (Brno University of Technology),

a non-for profit public research organisation, duly organised and existing under the laws of Czech Republic and having its registered seat at Antonínská 548/1, Brno, 602 00, ID Number: 00216305, legally represented by prof. RNDr. Ing. Petr Štěpánek, CSc., rector
the Coordinator

Vysoká škola báňská – Technická univerzita Ostrava (VŠB-Technical University of Ostrava)

is a state university, founded by Act no. 111/1998 Coll., also non-for profit public research organization, duly organized and existing under the laws of Czech Republic and having its registered seat at Ostrava – Poruba, 17. listopadu 2172/15., ID Number 61989100 legally represented by prof. Ing. Ivo Vondrák, CSc.. rector.

CEMMAC a.s., a legal for profit non-SME legal person, dully organised and existing under the laws of Slovak Republic and having its registered seat at Cementárská 14/14, 914 42 Horne Srnie. ID number: 2020383695, legally represented by Ing. Martin Kebisek, the chairman of the board.

ZPSV, a.s., a for profit legal non-SME person, dully organised and existing under the laws of Czech Republic and having its registered seat at Trebizskeho 207, 687 24 Uhersky Ostroh, ID Number: 46346741, legally represented by Ing. Jan Spevak, vice-chair of the board.

Agencia estatal consejo superior de investigaciones científicas established in CALLE SERRANO 117, MADRID 28006, Spain, ESQ2818002D.

hereinafter, jointly or individually, referred to as "Parties" or "Party"

relating to the Action entitled

Utilization of secondary raw material in geopolymers production

in short

GeoDust

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 as part of the Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)

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 Parties and the Funding Authority (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:

1. Section: Definitions

1.1. Definitions

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

1.2. Additional Definitions

“Consortium Body“:

Consortium Body means any management body described in the Governance Structure section 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 Executive Board.

“Funding Authority”

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

“Defaulting Party”

Defaulting Party means a Party which the Executive 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.

Background means: data, know-how or information whatever its form or nature, tangible or intangible, including any rights such as intellectual property rights that:

- a) is held by a Party before they acceded to the CA, and
- b) is Needed to implement the Project or Exploit the Results. Or
- c) is developed or acquired by a Party independently from the work in the Project even if in parallel with the performance of the Project, but in either way solely to the extent that such data, information, know-how and/or IPRs are introduced into the Project by the owning Party and is Needed to implement the Project or Exploit the Results.

Confidential Information has the meaning given in Section 10.1 of this CA.

Indirect Utilization means a Party to have a third party making or providing, only for the account of and for the use, sale or other disposal by the Party, products and/or services provided that the substantial portion of the specifications of such products and/or services has been designed by or for such Party.

Intellectual Property Rights or IPR(s) means: patents, patent applications and other statutory rights in inventions; copyrights (including without limitation copyrights in software); registered design rights, applications for registered design rights, unregistered design rights and other statutory rights in designs; and other similar or equivalent forms of statutory protection, wherever in the world arising or available, but excluding rights in Confidential Information and/or trade secrets.

Legitimate Interest means a Party's interest of any kind, in particular a commercial interest, that may be claimed in the cases provided for in this CA such as : (i) for protection the Party must show that failure to take account of its interest would result in its suffering disproportionately high level of harm, (ii) for Dissemination the Party has to state and show that its legitimate interests in relations to its Results or Background could suffer disproportionately great harm.

2. Section: 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. Section: 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.

A new entity becomes a 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 Funding 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 Consortium incurred prior to the date of termination, unless otherwise agreed between the Executive Board and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

4. Section: 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 Belgian law.

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

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 or, if the Coordinator is in breach of its obligations, the Party appointed by the Executive 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 Executive 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 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. It 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.

5. Section: Liability towards each other

5.1. No warranties

In respect of any information or materials (incl. Results and Background) supplied by one Party to another under the Project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials, and
- no Party granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Party exercising its Access Rights.

5.2. Limitations of contractual liability

No Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by a wilful act or by a breach of confidentiality.

For any remaining contractual liability, a Party's aggregate liability towards the other Parties collectively shall be limited to twice the Party's share of the total costs of the Project as identified in Annex 2 of the Grant Agreement provided such damage was not caused by a wilful act or gross negligence.

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. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

6. Section: Governance structure

Governance structure for Small Collaborative Projects

6.1 General structure

The Executive Board is the ultimate decision-making body of the Consortium.

The Coordinator is the legal entity acting as the intermediary between the Parties and the Funding 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.

The WP leaders are appointed personell of the Parties in charge of their respective work package

The Supervisory Board is the body responsible for strategic direction of the Project.

6.2 Members

The Executive Board shall consist of one representative of each Party (hereinafter referred to as "Member"). The Members shall be the WP leaders.

Each Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Section 6.3.6 of this Consortium Agreement.

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

The Parties agree to abide by all decisions of the Executive Board.
This does not prevent the Parties from submitting a dispute for resolution in accordance with the provisions of settlement of disputes in Section 11.8 of this Consortium Agreement.

6.3 Operational procedures for the Executive Board:

6.3.1 Representation in meetings

Any Member:

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

6.3.2 Preparation and organisation of meetings

6.3.2.1 Convening meetings:

The chairperson shall convene ordinary meetings of the Executive Board at least once every six months and shall also convene extraordinary meetings at any time upon written request of any Member.

6.3.2.2 Notice of a meeting

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

6.3.2.3 Sending the agenda:

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

6.3.2.4 Adding agenda items:

Any agenda item requiring a decision by the Members must be identified as such on the agenda. Any Member may add an item to the original agenda by written notification to all of the other Members no later than 7 calendar days preceding the meeting.

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

6.3.2.6 Meetings of the Executive Board may also be held by teleconference or other telecommunication means.

6.3.2.7 Decisions will only be binding once the relevant part of the minutes has been accepted according to Section 6.3.5

6.3.2.8 Any decision may also be taken without a meeting if the Coordinator circulates to all Members of the Consortium Body a written document, which is then agreed by the defined

majority (see Section 6.3.3) of all Members of the Consortium Body. Such document shall include the deadline for responses.

Decisions taken without a meeting shall be considered as accepted if, within the period set out in article 6.3.4.4, no Member has sent an objection in writing to the chairperson. The decisions will be binding after the chairperson sends to all Members of the Consortium Body and to the Coordinator a written notification of this acceptance.

6.3.3 Voting rules and quorum

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

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

6.3.3.2 Each Member present or represented in the meetings shall have one vote.

6.3.3.3 A Party which the Executive Board has declared according to Section 4.2 to be a Defaulting Party may not vote.

6.3.3.4 Decisions shall be taken by a majority of two-thirds (2/3) of the votes cast.

6.3.4 Veto rights

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

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

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

6.3.4.4 When a decision has been taken without a meeting a Member may veto such decision within 15 calendar days after written notification by the chairperson of the outcome if the vote.

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

6.3.4.6 A Party may neither veto decisions relating to its identification to be in breach of its obligations nor to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the Consortium or the consequences of them.

6.3.4.7 A Party requesting to leave the Consortium may not veto decisions relating thereto.

6.3.5 Minutes of meetings

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

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

6.3.5.3 The chairperson shall send the accepted minutes to all the Members of the Executive Board, and to the Coordinator, who shall safeguard them. If requested the Coordinator shall provide authenticated duplicates to Parties.

6.3.6 Decisions of the Executive Board

The Executive Board shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein.

The following decisions shall be taken by the Executive Board:

Content, finances and intellectual property rights

- Proposals for changes to Annexes 1 and 2 of the Grant Agreement to be agreed by the Funding Authority
- Changes to the Consortium Plan
- Modifications to Attachment 1 (Background Included)

Evolution of the Consortium

- Entry of a new Party to the Consortium and approval of the settlement on the conditions of the accession of such a new Party
- Withdrawal of a Party from the Consortium and the approval of the settlement on the conditions of the withdrawal
- Identification of a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement
- Declaration of a Party to be a Defaulting Party
- Remedies to be performed by a Defaulting Party
- Termination of a Defaulting Party's participation in the Consortium and measures relating thereto
- Proposal to the Funding Authority for a change of the Coordinator
- Proposal to the Funding Authority for suspension of all or part of the Project
- Proposal to the Funding Authority for termination of the Project and the Consortium Agreement

6.4 Coordinator

6.4.1 The Coordinator shall be the intermediary between the Parties and the Funding Authority and shall perform all tasks assigned to it as described in the Grant Agreement and in this Consortium Agreement. The tasks of the Coordinator are performed by the Project Manager, who is an employee of the Coordinator.

6.4.2 In particular, the Coordinator shall be responsible for:

- monitoring compliance by the Parties with their obligations
- keeping the address list of Members and other contact persons updated and available

- collecting, reviewing to verify consistency and submitting reports, other deliverables (including financial statements and related certification) and specific requested documents to the Funding Authority
- preparing the meetings, proposing decisions and preparing the agenda of Executive Board meetings, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings
- transmitting promptly documents and information connected with the Project to any other Party concerned,
- administering the financial contribution of the Funding Authority and fulfilling the financial tasks described in Section 7.3
- providing, upon request, the Parties with official copies or originals of documents that are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims.

If one or more of the Parties is late in submission of any project deliverable, the Coordinator may nevertheless submit the other parties' project deliverables and all other documents required by the Grant Agreement to the Funding Authority in time.

6.4.3 If the Coordinator fails in its coordination tasks, the Executive Board may propose to the Funding Authority to change the Coordinator.

6.4.4 The Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party or of the Consortium, unless explicitly stated otherwise in the Grant Agreement or this Consortium Agreement.

6.4.5 The Coordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the Grant Agreement.

6.5 WP leaders

6.5.1 WP Leader is in charge of a particular work package. The WP Leaders' duties are as follows:

- Day-to-day management and implementation of the work package;
- Responsibility for timely preparation of the WP deliverables, he/she ensures that respective milestones are met on time, in case of delays, he/she informs the Project Coordinator and suggests corrective measures;
- Reporting every 3 months to the Project Coordinator on WP progress as well as on related administrative and financial issues, planning the work for the next 3 months;
- Quality assurance of the WP outcomes;
- Appointing task leaders, if necessary, who will be responsible for particular tasks;
- Communication with other WP Leaders.

6.5.1 The Parties appoint the following WP Leaders:

WP1 -
WP2 -
WP3 -
WP4 -
WP5 and WP6 -

6.6 Supervisory Board

6.6.1 The Supervisory Board is chaired by the Coordinator and will be composed of representatives of each Parties. The Supervisory Board meets according to the needs of the

Project, preferably during other Project-related events, but at least once a year. Procedural rules for the Executive Board shall apply *mutatis mutandis*.

6.6.2 The Supervisory Board oversees the strategic direction of the Project and is responsible for the overall Project strategy. It will solve the major problems which could not be solved at the operational level and which could affect the Project implementation (objectives, finances, deliverables, milestones etc.). It will deal with any contractual changes if necessary.

6.7 Changes of representatives

A Party may appoint another representative in a Consortium Body, the change shall be effective when notified to all other Parties. A Party shall fill any sudden vacancy no later than 10 working days from the day its representative in a Consortium Body is missing.

7. Section: Financial provisions

7.1. General Principles

7.1.1. Distribution of Financial Contribution

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

- the Consortium Plan
- the approval of reports by the Funding Authority, and
- the provisions of payment in Section 7.3.

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 with respect to the Project towards the Funding 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 Funding 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 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. Return of excess payments; receipts

7.1.4.1. In any case of a Party having received excess payments, the Party has to return the relevant amount to the Coordinator without undue delay.

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

7.1.5. Financial Consequences of the termination of the participation of a Party

A Party leaving the Consortium shall refund all payments it has received except the amount of contribution accepted by the Funding Authority or another contributor. Furthermore 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 its and their tasks.

7.2. Budgeting

The budget set out in the Consortium Plan shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties.

7.3. Payments

7.3.1. Payments to Parties are the exclusive tasks of the 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 Funding 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 Articles 21.2 and 21.3.2 of the Grant Agreement, no Party shall before the end of the Project receive more than its allocated share of the maximum grant amount from which the amounts retained by the Funding Authority for the Guarantee Fund and for the final payment have been deducted.

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

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

The Coordinator is entitled to withhold any payments due to a Party identified by a responsible Consortium Body 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. The Coordinator is equally entitled to withhold payments to a Party when this is suggested by or agreed with the Funding Authority.

7.3.3. The Parties agreed on the following specific rules regarding financing:

7.3.3.1. The Parties make traveling plans for their employees and are financed in respect of the expected expenses in the first quarter of each year of the Project. The Coordinator shall distribute the first payment in the first year of the Project no later than May 31, 2017.

7.3.3.2. Reporting of traveling costs shall be made to the Coordinator biannually. The Parties shall document by appropriate means that the travel did actually take place.

7.3.3.3. The Coordinator is entitled to withhold any payments due to a Party if that Party has not fulfilled all duties related to accounting for the previous period.

7.3.3.4. The Coordinator reserves 20% of managerial costs for every seconded staff member (traveling employee).

7.3.3.5. Unspent finances shall be allocated by the Executive Board at the end of the 4th year.

8. Section: Results

8.1. Ownership of Results

8.1.1. Results shall be owned by the Party whose employee(s) generated such Results, or on whose behalf such Results have been generated.

For the avoidance of doubt, Results generated by the seconded staff members during their secondment shall be owned by the Party that employs them.

8.1.2. A Party shall take all necessary steps to secure ownership of Results from its employees in the fullest extent possible under its respective national laws, in any case secure such rights as will allow the Party to fulfil its obligations under the GA and this CA, including granting Access Rights to other Parties. A Party involving a subcontractor or other third parties in the execution of the project shall ensure and procure from the subcontractor or third parties concerned, that any Results generated by such subcontractor or by third parties in the execution of the project shall be fully owned by the Party having involved such subcontractor or third parties.

8.2. Joint ownership

8.2.1. In accordance with the first paragraph of Article 26.2 of the Grant Agreement, two or more Parties shall own Results jointly if:

- a) they have jointly generated them; and
- b) it is not possible to:
 - (i) establish the respective contribution of each Party; or
 - (ii) separate them for the purpose of applying for, obtaining or maintaining their protection.

8.2.2. In case of infringement of the joint intellectual property rights, joint solution is desired and preferred. Nevertheless, a joint owner shall not be obligated to sue or partake in any voluntary court proceedings. In case no agreement on joint approach is reached in 30 days from the notification of an infringement case, each joint owner shall have the right to bring an action for infringement of any such jointly owned Intellectual Property Rights in its own risk and costs and the other joint owner shall be obligated to cooperate only in the necessary procedural matters as cannot be avoided without a loss of title of the other joint owner.

8.2.3. Following generation of a joint Result, the joint owners shall enter into good faith discussions in order to agree on an appropriate course of project for filing application(s) for Intellectual Property Rights in such joint Result, including the decision as to which Party is to be entrusted with the preparation, filing and prosecution of such application(s) and in which countries of the world such application(s) for Intellectual Property Rights are to be filed. The filing of any application(s) for Intellectual Property Rights on joint Results shall require mutual agreement between the Parties and the agreement on related costs.

8.2.4. In all other matters of joint ownership of Results the Parties wish to be governed by the default provisions of Article 26.2 of the Grant Agreement until the joint owners agree in writing something different.

8.3. Transfer of Results

8.3.1. Each Party may transfer ownership of its own Results following the procedures of the Grant Agreement Article 30.

8.3.2. Not used.

8.3.3. Any transfer of ownership of Results made under this Section 8.3 shall be made subject to the Access Rights, the rights to obtain Access Rights and the right to Disseminate Results that are granted to the other Parties in the GA and/or this CA. Therefore, each transferor shall ensure that such transfer does not prejudice such rights of the other Parties, and the transferor shall pass on its obligations regarding the transferred Results to the transferee, including the obligation to

pass them on to any subsequent transferee. The obligations under this Section 8.3 apply for as long as other Parties have - or may request - Access Rights.

8.3.4. The Parties recognize 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 the full 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, nothing in this Section 8.4 has impact on the confidentiality obligations set out in Section 10.

8.4.2. Dissemination of own Results

During the Project and for the period of confidentiality obligations as stated in Section 10.2 of this CA, the Dissemination of own Results by one or several Parties including but not restricted to publications of whatever form (excluding patent applications(s) and other registrations of IPRs), shall be governed by the procedure of Article 29.1 of the Grant Agreement subject to the following provisions:

Any publication planned by a Party shall be submitted through written notice to the other Parties at least forty-five (45) days before the planned publication submission date. Any objection to the planned publication shall be made in writing to all Parties within thirty (30) days after receipt of the written notice. If no objection is made within the time limit stated above, the publication is permitted.

An objection to a planned publication by a Party is justified if:

- a) the protection of the objecting Party's Results or Background would be adversely affected; or
- b) the proposed publication includes Confidential Information of the objecting Party; or
- c) the objecting Party's Legitimate Interests would be significantly harmed as sufficiently proven by the objecting Party.

Any and all objection(s) shall include, to the extent possible, a precise request for necessary modifications.

If an objection has been raised on one or more of the above mentioned grounds, the objecting Party and the publishing Party 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 Confidential Information before publication) and whereby the scientific quality of the publication is maintained. The objecting Party shall not unreasonably continue the opposition if appropriate measures are taken following the discussion.

8.4.3. Dissemination of another Party's unpublished Results or Background

In case a Party wishes to include in a Dissemination activity another Party's owned or jointly-owned Results (which are not publically available or protected by IPR), Background and/or Confidential Information, it needs to first obtain that Party's prior written approval.

If the notification according to 8.4.1 specifically identifies the affected Results, Background and/or Confidential Information of the other Party, its approval shall be deemed granted if the owning Party does not raise an objection in the objecting period.

8.4.4. Cooperation obligations

The Parties undertake to co-operate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree which includes their Results and/or Background subject to the confidentiality and publication provisions agreed in this CA.

8.4.5. Use of names, logos or trademarks

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

8.4.6. Contributions to Standards

No Party shall have the right to contribute to a standard or allow the contribution to a standard of any data which constitutes Result, Background or Confidential Information of another Party, even where such data is amalgamated with such first Party's Result, Background, or Confidential Information or other information, document or material, without that Party's prior written approval. The approval shall be granted unless it would adversely affect that Party's Legitimate Interest.

8.4.7. Exclusive licenses

Where a Party wishes to grant an exclusive licence to its Results and seeks the written waiver of the other Parties pursuant to Grant Agreement Article 30.2, the other Parties shall respond to the requesting Party within 45 calendar days of the request. Any Party's failure to respond (whether in the negative or the positive) to the request within such 45 calendar days shall be deemed to constitute written approval of the waiver by the non-responding Party.

8.4.8. Notification rights of a hosting Party towards Results created by a seconded staff member

Each Party shall notify the hosting organization of any Result created by a seconded staff member (researcher) appointed and employed by that Party.

9. Section: Access Rights

9.1. Background included

9.1.1. Each Party identifies in Attachment 1 references to its Background, which means it is prepared to grant Access Rights for the implementation of the Project or Exploitation of any Results. In addition, each Party may, during the term of the Project, add to Attachment 1 a reference to any of its Background not yet so listed.

9.1.2. There shall be no obligation to grant, and no right to be granted, Access Rights to any Background that is not listed as included in Attachment 1 to this CA ("Unlisted Background"). Each Party agrees not to use, in the implementation of the Project, any of its Unlisted Background, if such use would result in such Unlisted Background being Needed by any other Party for implementation of the Project or Exploitation of Results. However, if a Party uses any of its Unlisted Background held by it in a manner that such Unlisted Background becomes Needed by any other Party for the implementation of the Project or Exploitation of any Results, then such Unlisted Background shall be deemed included in Attachment 1.

9.2. General Principles

9.2.1. For the sake of clarity, any Access Rights granted under this Agreement expressly exclude any rights to grant sub-licences, unless expressly stated otherwise in this CA or agreed in writing between the Parties concerned.

9.2.2. Save in exceptional circumstances, the granting of Access Rights shall be free of any administrative transfer costs. Any and all Access Rights granted under this CA shall be granted on a non-exclusive, non-transferable, if not otherwise agreed in writing by the Parties concerned.

9.2.3. Any requests for receiving Access Rights to be granted under this CA shall be made within twenty four (24) months after the date of termination of the Project. The Party receiving Access Rights must at all times be able to demonstrate with all due care and in good faith that Access Rights are Needed.

9.3. Have Made Rights

9.3.1. Any and all Access Rights for Exploitation granted pursuant to this CA include the right of Indirect Utilisation as such term is defined in Section 1 of this CA.

9.4. Access Rights for implementation

9.4.1. Access Rights to Results

Access Rights to Results Needed for internal research, development, and teaching are hereby requested (in accordance with the requirements of the GA), and shall be deemed granted, as of the date of the Result arising, on a royalty-free basis to and by all Parties for whom such Access Rights are Needed.

Access Rights to Results Needed for any other Exploitation shall be granted on Fair and Reasonable Conditions.

The Party requiring the grant of such Access Rights shall make a written request to the Party from which it requires the Access Rights. The written request shall identify the Results concerned and shall provide reasons why Access Rights to the relevant Results are Needed for the use of Results.

9.4.2. Access Rights to Background

Access Rights to Background, if Needed for Exploitation of Results, or for internal research, development, and teaching as demonstrated to the satisfaction of the Party owning or controlling such Background, shall be granted upon written request, on Fair and Reasonable Conditions to be negotiated in good faith between the concerned Parties.

9.5. Access Rights for seconded staff members

The Parties must – on a royalty-free basis – give access to the seconded staff members to Background and Results necessary for their and innovation activities under this Project.

9.5.1. Access Rights for a Party hosting a seconded staff member (researcher)

Notwithstanding the provisions on joint ownership of Results (Sec 8.2), the hosting Party shall have, unless otherwise agreed in writing between the Parties concerned, a right to non-exclusive licence upon Fair and Reasonable Conditions to Results created by a seconded staff member during her secondment with the hosting Party. The Parties have agreed that Fair and Reasonable Conditions for Exploitation by internal research and teaching is a royalty-free access.

9.6. Inability to grant Access Rights due to third party rights

When a Party is unable, because of third party rights, to grant Access Rights to its own Background, it will notify the other Parties.

9.6.1. A request for Access Rights may be made up to twelve months after the end of the Project or after the termination of the requesting Party's participation in the Project.

9.7. Not used

9.8. 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.

9.9. Access Rights for Parties entering or leaving the Consortium

9.9.1. 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.

9.9.2. Parties leaving the Consortium

9.9.2.1. Access Rights granted to a leaving Party

9.9.2.1.1. Defaulting Party

Any and all 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 Executive Board to terminate its participation in the Consortium.

A Defaulting Party shall continue to grant Access Rights pursuant to the GA and this CA in respect of its Background and Results existing at the time of such termination as prescribed in the present CA, as if it were still a Party to the CA.

9.9.2.1.2. Non-defaulting Party

The obligations contained in this CA with regards to Access Rights to Results and Background Needed for the Exploitation of a Party's Results, to be granted to or by a leaving Party, shall continue in effect until the end of the period of time referred to in Article 9.2.3 calculated as from such effective date of termination of the CA for such leaving Party.

Notwithstanding anything to the contrary in this CA, Access Rights granted to and by a leaving Party shall continue after the effective date of termination.

9.9.2.2. 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.

10. Section: 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 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 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.

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.

The Parties shall ensure that the seconded staff members are legally bound to maintain confidentiality of the Confidential Information disclosed by a hosting Party during their secondment.

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

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

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.

11. Section: Miscellaneous

11.1. Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and Attachment 1 (Background included)

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

Except as otherwise provided in Section 6.4.4, 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. Notices and other communication

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

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 or telefax with receipt acknowledgement.

Other communication:

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

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

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 not explicitly listed 6.3.6 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, which 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 Belgium excluding its conflict of law provisions.

11.8. Settlement of disputes

The parties shall endeavour to settle their disputes amicably.

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.

WIPO Mediation Followed, in the Absence of a Settlement, by WIPO Expedited Arbitration

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, it shall, upon the filing of a Request for Arbitration by either Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 60 calendar days, either Party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be Brussels unless otherwise agreed upon. The language to be used in the arbitral proceedings shall be English unless otherwise agreed upon.

12. Section 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.

Vysoke uceni technicke v Brne

Signature

Name

Title **rector**

Date

05-12-2016

VYSOKA SKOLA BANSKA - TECHNICKA UNIVERZITA OSTRAVA

Signature

Name

Title **rector**

Date 08. 12. 2016

A handwritten signature in black ink, appearing to be 'S. J.', is located in the bottom left corner of the page.

CEMMAC, a.s.

Signature

Name

Title **chairman of the board**

Date

Signature

Name

Title **authorized representative**

Date

ZPSV, a.s.

Signature

Name

Title **vice-chair of the board**

Date *16. 12. 2016*

Signature

Name

Title **member of the board**

Date

AGENCIA ESTATAL CONSEJO SUPERIOR DE INVESTIGACIONES CIENTIFICAS

Signature

Name

Vice president for Scientific and Technical Research

Title

Date

~ 3 FEB. 2017