

## CONSORTIUM AGREEMENT

*under Article 1.2.3 of the Special Conditions of the Framework Partnership Agreement number OPC/EEA/ACC/18/001-ETC/ATNI regarding the operation, cooperation and management of the European Environment Agency's European Topic Centre on Air pollution, Transport, Noise and Industrial pollution (ETC/ATNI) 2019 - 2021*

### 1. Scope and objectives

#### 1.1 The parties to this agreement and their legal representatives are the following:

NILU Stiftelsen Norsk institutt for luftforskning, established in Norway, Instituttveien 18, PO Box 100, 2027 Kjeller, represented by \_\_\_\_\_ Chief Financial Officer, or her authorised representative (hereinafter referred to as "NILU" or "*the Coordinator*").

And the Consortium partners:

- **Aether Limited**, established in United Kingdom, The Oxford Centre for Innovation, New Road, Oxford, OX1 1BY, represented by \_\_\_\_\_, Director, or her authorized representative ("*Partner*").
- **Czech Hydrometeorological Institute (CHMI)**, established in Czech Republic, Na Šabatce 17, Praha 4, 143 06, represented by \_\_\_\_\_, Director, or his authorized representative ("*Partner*").
- **Société Anonyme of Environmental and Energy Studies and Software Development (EMISIA)**, established in Greece, Antoni Tritsi 21, PO Box 8138, 57001 Thessaloniki, represented by \_\_\_\_\_ Mellios, Managing Director, or his authorized representative ("*Partner*").
- **Institut National de 'Environnement Industriel et des Risques (INERIS)**, established in France, Parc Technologique Alata – BP2, F-60550 Verneuil-en-Halatte, represented by \_\_\_\_\_, Chief Executive Officer, or his authorized representative ("*Partner*").
- **Universitat Autònoma de Barcelona (UAB)**, established in Spain, Campus Universitari s/n, 08193 Bellaterra, Cerdanyola del Vallès, Barcelona, represented by \_\_\_\_\_, Vice-Rector for Research and Transference, or his authorized representative ("*Partner*").
- **Umweltbundesamt GmbH (UBA-V)**, established in Austria, Spittelauer Lände 5, 1090 Vienna, represented by \_\_\_\_\_, Managing Director and Mag. Georg Rebernig, Managing Director, or their authorised representative ("*Partner*").
- **4Sfera Innova SLU**, established in Spain, C/ Maluquer Salvador 2 – 6- 1, 17002 Girona, represented by \_\_\_\_\_, administrator, or his authorized representative ("*Partner*").

Hereinafter, the above entities are collectively referred to as the "*Partners*". Unless otherwise specified, references to "*Partner*" or "*Partners*" include the co-ordinator. Partners jointly constitute the Consortium, as specified in Article 1.2. of this Consortium Agreement.

**1.2** The constitution of the Consortium is ruled by Article 1.2 of the Framework Partnership Agreement. The terms defined in the Framework Partnership Agreement and any Specific Agreement shall have the same meaning in this Consortium Agreement unless the context otherwise requires.

“Access rights” means:

Rights to use results or background under the terms and conditions laid down in this Consortium Agreement, Framework Agreement and any Specific Agreement. Waivers of access rights are not valid unless in writing. Unless agreed otherwise, access rights do not include the right to sub-license.

“Project” means:

Activities undertaken under the Framework Partnership Agreement regarding the operation, cooperation and management of the European Environment Agency's European Topic Centre on Air pollution, Transport, Noise and Industrial pollution (ETC/ATNI) 2019 – 2021 and/or any Specific Agreement following from that.

“Defaulting Partner” means:

A Partner which the Management Committee has identified to be in breach of this Consortium Agreement and/or the Framework Partnership Agreement as specified in Article 5.2 of this Consortium Agreement.

“Foreground” means:

The – tangible and intangible – results, including for example information and knowledge, whether or not it can be protected, which is generated under the Project. Such results include rights related to copyright, design rights, patent rights, and similar forms of protection.

“Background” means:

The information and knowledge which is held by the Partners prior to their accession to the Consortium Agreement, as well as copyrights or other IPRs pertaining to such information, including any applications which have been filed before their accession to the aforementioned agreement, and which is needed for carrying out the Project or for using Foreground

“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.

“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 Partner would be impossible, significantly delayed, or require significant additional financial or human resources.
- For use of own Foreground: Access Rights are Needed if, without the grant of such Access Rights, the use of own Foreground would be technically or legally impossible.

“Affiliated Entities” are listed in Annex E

“Financial Officer” are listed in Annex A.

“Action Plan” is defined in the Framework Partnership Agreement article 1.1.3. and in the Proposal article 3, completed by the tables 1.1 and 1.2 in Article 1 (Annex II to the Framework Partnership Agreement).

“Annual Work Plan” is a specific form of Action Plan, defined in Section 3.3.4.7 of Annex II to the Framework Partnership Agreement (The consortium's proposal submitted 27.4.2018).

1.3 The objectives of this Consortium Agreement are to establish the internal operation and management of the Consortium forming the European Topic Centre on Air pollution, Transport, Noise and Industrial Pollution (ETC/ATNI) established by the European Environment Agency (hereinafter referred to as "*the Agency*" or "*EEA*"), and to facilitate the implementation of the work set out in Annex I to the Framework Partnership Agreement in accordance with the conditions in the Framework Partnership Agreement and in any Specific Agreements that may be signed under the Framework Partnership Agreement.

1.4 Changes of the Consortium shall be subject to Article 1.2 of the Framework Partnership Agreement. The accession to the Consortium of any new Partner shall be approved by the ETC Management Committee. Any new Partner acceding to the Framework Partnership Agreement is automatically bound to the provisions of this Consortium Agreement.

1.5 The persons designated to manage the work of each Partner are mentioned in Annex A. In case of replacement, the Partner shall inform the Coordinator in writing of the name and contact details of the new person designated to manage the work of the Partner.

1.6 The names of the duly authorized responsible financial officers are mentioned in Annex A. In the case of replacement, the Partner shall inform the Coordinator in writing the name and contact details of the new officer responsible for the financial information of the Partner.

1.7 The persons likely to work in the framework of the ETC/ATNI are those identified in the offer made to the European Environment Agency (Annex I to the Framework Partnership Agreement). Each Partner shall endeavour to appoint the most qualified staff to perform the tasks and activities under each Specific Agreement. Each Partner may appoint other staff to perform the work; but the Coordinator shall be informed of the staff involved in each activity. The Partner shall inform the Coordinator in writing of any replacement of task leaders, Key Experts or other key staff so that the Coordinator can inform the EEA.

1.8 The Partners may subcontract part of their work according to the provisions of the Framework Partnership Agreement. The Coordinator shall be informed of the subcontractors involved in each activity and details shall be reported in the periodic progress report and final annual reports. If a Partner engages subcontractors, such Partner is fully responsible for the work of the subcontractor and undertakes to ensure that the conditions in Article 11.10 of the Framework Partnership Agreement are fulfilled and are applicable to the subcontractor. The Partner shall retain full responsibility for carrying out its tasks under the work programme under each specific agreement.

1.9 Nothing contained in this Consortium Agreement shall constitute either a partnership, agency or any other formal business organization or legal entity between the Partners. Nothing in this Agreement shall prevent or fetter the proper exercise of obligations that any Partner may have in accordance with legal duties or responsibilities.

#### 1.10 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 January 1<sup>st</sup> 2019.

A new Party enters the Consortium upon signature of the Accession Form (form A of Annex IV to the Framework Partnership Agreement) by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.

##### 1.10.1 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 Framework Partnership 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 and clause 11.12 termination of the Framework Partnership Agreement.

### 1.10.2 Survival of rights and obligations

The provisions relating to Access Rights and Confidentiality, for the time period mentioned therein, as well as for Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Consortium Agreement.

Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the management Committee and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its partnership to this Consortium.

## 2. Organization and management structure

2.1 The general organization and operation of the Consortium is described in the proposal for the ETC/ATNI submitted by this Consortium on 27.4.2018 (Annex II to the Framework Partnership Agreement).

2.2 The following roles and structures are set by the Consortium to develop, implement and monitor the Action Plans of the ETC/ATNI:

- Manager and Deputy Manager
- Administrator
- Partners
- Management Committee
- Key Experts
- Task Leaders

2.3 The ETC/ATNI Manager will have the responsibility for day-to-day coordination of the ETC/ATNI activities and for communication with the EEA regarding the Framework Partnership Agreement, and will oversee administrative and financial reporting and quality assurance and quality control procedures. The Manager will have also responsibility for overseeing risk management and for solving any deviations from the work plan, in collaboration with the Task Leaders and EEA project managers, and the Management Committee, as appropriate. The Manager will participate in appropriate coordination mechanisms with other ETCs, especially overseeing management of resources for cross-ETC tasks. The Manager will keep close contact with the Deputy Manager, who will be fully informed on the activities of the Manager.

The Manager will also have a responsibility to oversee that the Consortium maintains appropriate links, covering especially the following elements:

- Well-functioning links to the EEA regarding networking with countries;
- Maintain well-functioning links to the EEA regarding coordinating with the European Commission and other relevant organisations;
- Maintain close links to other Eionet members to support Eionet goals and effective operation.

The Deputy Manager will provide back-up for the Manager, taking over the responsibilities of the Manager if needed.

2.4 Each Partner undertakes to perform and fulfil all its obligations under the Framework Partnership Agreement, including its obligations under any Specific Agreement, Action Plan and this Consortium Agreement. Each partner of the consortium ensures timely monthly reporting of time registration, quarterly progress reports and financial forecasts, in order to ensure that all information is available on time to follow-up on the implementation of the action plan. Each partner prepares the financial prognosis and the financial reports.

Each partner will appoint a member of the Management Committee and a Financial Officer.

Each partner will implement quality assurance and quality control procedures, following their own institutional practice and the agreed upon procedures as laid down in the Framework Partnership Agreement and its Annexes, and this Consortium agreement.

**2.5** The Administrator will ensure that legal and administrative provisions, as well as financial management provisions, are respected by the Consortium and subcontractors, as specified in the Framework Partnership Agreement. She is responsible for compiling and managing all financial and resource use (including time use) information from the Partners, suppliers and sub-contractors, as well as compiling the financial information required for final reports. The Administrator and her administrative staff also keep the ETC/ATNI web information updated.

**2.6** The Management Committee (hereinafter referred to as "*the MC*") is the body responsible for the organization and operation of the Consortium under the Framework Partnership Agreement. The MC is composed by the ETC manager, the ETC deputy manager, and one representative of each consortium partner.

Each Partner shall appoint one representative as a member of the MC and may appoint an alternate member. The Manager may appoint the Deputy Manager as his/her representative in the MC. The chairperson of the MC shall be the representative of one of the Partner organizations other than that of the Manager or Deputy Manager and will be elected by the MC for the term of one year.

The MC will have the following specific duties:

- Discuss any coordination issues with the ETC/ATNI management;
- Decide on issues related to the whole consortium, including amendments of the Consortium Agreements;
- Support the EEA in strategic issues;
- Follow-up the progress and prognosis of the action plan;
- Assist in setting-up any Action Plan, and the Annual Work Plan specifically, together with the Manager and the EEA;
- Resolve capacity issues and changes of task leadership and participation.

**2.7** The Key Experts, in coordination with the Manager and MC, shall be responsible for strategic scientific and technical advice to the ETC/ATNI MC and EEA. In particular, they will advise on content developments that are of relevance for the future work of the consortium, as well as on cross cutting issues and cooperation across ETCs.

Depending on the topic, the Manager in consultation with MC may nominate Key Experts to form thematic groups to address specific needs. As much as possible, this may also translate into tasks in Action Plan / Annual Work Plan.

**2.8** The Task Leaders are appointed by the ETC Manager in consultation with the MC to implement the specific tasks and activities provided by the Consortium and after approval of the concerned Partner. Task Leaders shall be members of the staff of the Coordinator or of the Partners. The role and responsibilities of Task Leaders are the following:

- Planning of the work to be done.
- Assisting the ETC Manager in the preparation and technical development of the task plan in line with the Specific Agreement specifications.
- Day-to-day coordination of the staff members of the involved ETC Partners within the task plan.
- Progress reporting to the ETC Manager on technical and scientific issues, possible delays, and ways to solve them.
- Ensuring the quality of draft deliverables provided to the ETC Manager, documented in accordance with their usual institutional procedures the quality assurance formats developed and provided by the ETC Manager, after approval of these formats in the MC.
- Ensuring that the content of the reports and other deliverables is in line with the task plan.

**2.9** Quality assurance and quality control (QA/QC) is a key part of ETC/ATNI strategy to deliver high quality products to the EEA. Under the direction of the ETC/ATNI manager and Administrator, all partners will play a role in ensuring the performance of the assigned tasks according to the highest professional standards. All partners will apply their own procedures and agreed upon ETC/ATNI procedures when developing and implementing the Project.

The main principles of ETC/ATNI QA/QC are based on an interplay of (1) ETC task leader and EEA manager and (2) ETC/ATNI management support.

- 1) The scientific quality of deliverables is to be guaranteed by the ETC/ATNI manager who will oversee that QA/QC procedures defined as part of Action Plans are followed, in particular, that QA/QC procedures are taken into account in task resources estimates and that the agreed upon review procedures for each deliverable are followed.
- 2) The relevance of the product and its quality to respond to EEAs expectations is to be guaranteed by the EEA Task Manager.
- 3) To ensure overall quality of certain types of deliverables, such as databases, data flow implementation or emission inventories, specific tasks (including external reviews or cross-ETC collaborations) may be identified in the Action Plans to provide quality checks of such products.
- 4) The timeliness of the deliveries and the evidence that the quality of the report has been evaluated is to be guaranteed by the management team at ETC/ATNI through active follow-up and review of the quarterly progress reports and financial follow-up routines.
- 5) Language quality of reports is the responsibility of the Task leader who may involve professional native speaking editors. Such costs will be borne by the Task Leader organization.

### 3. Financial provisions

**3.1** The financial management of the Consortium is fully subject to the provisions set in the Specific Conditions and General Conditions of the Framework Partnership Agreement.

**3.2** The yearly budget of the ETC/ACM is specified in the Specific Agreements. The budget allocation by Partner shall be identified in the Specific Agreements. Any modification of the initial budget allocation shall be made in writing and using the form in Annex B. Each Partner shall bear its own costs incurred in connection with the performance under the Framework Partnership Agreement, any Specific Agreement and the Consortium Agreement.

**3.3** The Coordinator and the other Partners undertake to provide co-financing of the Project required by Article 1.5 – Financing the actions – of the Framework Partnership Agreement. Each Partner shall endeavour to contribute at least 10 % of its share in the total eligible costs of any Specific Agreement to the co-financing. An estimate of the minimum national contributions will be included in the Specific Agreements. In principle, the annual budget will be allocated according to the task requirements in the annual Action Plan.

**3.4** The Coordinator shall receive all payments made by the Agency and distribute the relevant amount to the other Partners according to their proportion pursuant to the relevant Specific Agreement. Except for the part of the payment due to the Coordinator, the Coordinator will transfer the appropriate sums to the respective Partner without unjustified delay and no later than 30 calendar days from the receipt thereof from the Agency.

**3.5** In the case a Partner has not provided its deliverables or has provided them late or provided non-compliant deliverables, such Partner shall not receive its budget allocation until it remedies such non-delivery, late delivery or non-compliant delivery. The extra costs or fines are on the account of the late or non-performing Partner and will be compensated with the sum of payment to that Partner. If in certain cases it is explicitly agreed with the Agency that deliverables can be delayed, changed or dropped, this will be recorded using the form in Annex B.

**3.6** Partners established outside the Eurozone shall submit cost statements in Euro and national currency. In accordance with article H.10 – Cost statements – of the Framework Partnership Agreement, a conversion of actual costs into euro shall be based on monthly exchange rates, as published by the Commission on its website.

#### 4. Reporting and quality checks

4.1 Each Partner shall supply the Coordinator with the required information to allow the delivery completion and delivery of progress reports and financial reports to the EEA. The information to be provided shall include:

- A) A short technical implementation report 4 times each year or otherwise as specified by the provisions of the Framework Partnership Agreement and Specific Agreements, using the model provided by the EEA (available at the Eionet forum)
- B) Financial statements using a model provided by the Coordinator (2 times each year, or otherwise as specified by the provisions of the Framework Partnership Agreement and Specific Agreements). The financial statement for Q2 and Q4 are used for calculating the annual midterm and final payment respectively and shall include a full cost overview. The coordinator will prepare and provide a model for these financial statements;
- C) Updates of financial statements, to be provided in advance of regular EEA Resource Hearings (including a prognosis for the year to be provided in September each year, using the models provided by the Coordinator);
- D) Monthly time sheets using a model provided by the Coordinator (to be delivered ultimately on the 10th day of the following month, or otherwise as specified by the provisions of the Framework Partnership Agreement and Specific Agreements), preferably also providing information on other costs, such as travel and subsistence and payments on subcontracts, if applicable.

4.2 Technical progress reports, final reports and draft financial progress reports shall be sent by e-mail to the Coordinator (ETC Administrator with a copy to the ETC Manager). After approval by the Coordinator, the final financial reports shall be sent by email to the Administrator, and a paper version, signed by the legal representative of the Partner, shall be sent by courier to the Coordinator.

4.3 All deliverables shall be written in English. Partners will endeavour to ensure proper use of the English language and use a clear writing style. Deliverables will be drafted in accordance with the format and writing style compliant with the EEA writing style and templates available for the purpose at the Eionet Forum web site. Contributions to EEA (Technical) Reports will follow the style prescribed by EEA.

4.4 Before submitting final draft deliverables to the EEA, to enhance quality, the task leaders shall ensure that these are subject to an internal ETC review. Review will be an integrated part of the work. Where appropriate, an ETC expert will be appointed for the internal ETC review during the process of drafting task descriptions and appointing of task teams for the annual Action Plan (Annex I to Specific Agreement).

Depending on the type of deliverable, different review and quality measures may be integrated in the work process, according to specifications in the Action Plans (Annex I to Specific Agreement).

Task leaders shall ensure that the review form, integrated in the formats for deliverables as available at the Eionet Forum, are filled in, as to document review activities undertaken to guarantee the quality of the deliverable.

Where relevant, the internal ETC reviewing expert will be involved in an early stage of the work, in formulating the Table of Content of the deliverable. The expert reviews the (first) draft of the deliverable in conjunction with EEA review. The review expert will provide his/her comments within ultimately 3 (three) weeks time, allowing the task team to incorporate the results of the review in the final draft deliverable. Subsequently, final drafts will be prepared that comprehensively address comments received from both the reviewing expert and the EEA project manager responsible for the task according to Annex I to the Specific Agreement.

4.5 The ETC/ATNI Task leaders are responsible for uploading to FORUM the draft- and the final deliverables, as well as the final approval of the deliverables received from the EEA project manager. Also

other relevant documentation (including comments received from reviewers and the way these comments are dealt with in the (final) draft report) shall be uploaded in the respective folder.

4.6 Any communication or publication by the Consortium, including those at conferences or seminars, shall indicate that the work was carried out in the framework of the ETC/ATNI EEA project managers and the ETC/ATNI Manager will be informed about such communications or publications by the partners involved. If appropriate, they will be invited to contribute as co-authors in journal articles that are based on work performed in the context of the ETC/ATNI.

## 5. Responsibilities of Parties

### 5.1 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 Framework Partnership Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by the applicable Union law, complemented when necessary, by the substantive laws of Denmark;
- 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;
- Shall promptly provide all information reasonably required by the Management Committee or by the Coordinator to carry out its tasks;
- Shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

### 5.2 Breach

In the event the Management Committee or the Coordinator identifies a breach by a Party of its obligations under this Consortium Agreement or the Framework Partnership Agreement (e.g. a partner producing poor quality work), the Coordinator or the Party appointed by the Management Committee (if the Coordinator is in breach of its obligations under this Consortium Agreement or the Framework Partnership Agreement) will give written notice to such Party requiring that such breach be remedied within 30 calendar days.

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

### 5.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Project remains solely 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 Framework Partnership 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 Framework Partnership Agreement.

### 5.4 Processing of personal data

Where the Framework Agreement or Specific Agreements require the processing of personal data by the Partners, they may act only under the written instructions of the data controller (in agreement with the EU General Data Protection Regulation).

The Partners shall ensure that people processing the data are subject to a duty of confidence and that access to the data is limited to the staff strictly necessary for the implementation, management and monitoring of the framework agreement and any specific agreements implementing it. The partners shall assist the Agency to respond to requests for exercising rights of people whose personal data is processed, to meet its obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments and to demonstrate compliance with the data protection rules in force.



The partners undertake to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned including inter alia as appropriate:

- a. the pseudonymisation and encryption of personal data;
- b. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- c. the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;
- d. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing. The partners undertake to delete or return all personal data to the Agency as requested at the end of the framework agreement and any specific agreement implementing it, ensure data portability, submit to audits and inspections related to data protection as well as inform the Agency immediately if the instruction provided infringes the rules in force or other data protection law of the EU or a Member State.

## **6. Liability towards each other**

### **6.1 Insurance coverage**

The Partners must have sufficient insurance coverage.

### **6.2 No warranties**

In respect of any information or materials (incl. Foreground and Background) supplied by one Partner 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 Partner shall in all cases be entirely and solely liable for the use to which it puts such information and materials, and
- no Partner granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Partner (or its Affiliated Entities) exercising its Access Rights.

### **6.3 Legal obligations**

Each partner shall have sole responsibility for complying with any legal obligations incumbent on them.

### **6.4 Limitations of contractual liability**

No Partner shall be responsible to any other Partner 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 gross negligence.

A Partner's aggregate liability towards the other Partners collectively shall be limited to once the Partner's share of the total costs of the Project as identified in Annex I to the prevailing Specific Agreement under the Framework Partnership 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.

### **6.5 Damage sustained by EEA**

In any case where the EEA claims reimbursement in accordance with the Framework Partnership Agreement, Article II.2.3, from Partners other than the Partner in breach, the other Partners shall be entitled to seek full indemnification from the Partner in breach.

### **6.6 Damage caused to third parties**

Each Partner 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 Foreground or Background.

## 6.7 Force Majeure

No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify the consortium/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 Management Committee.

## 7. Foreground

Regarding Foreground, the provisions of the previous Article 11.4 shall apply with the following additions.

### 7.1 Joint ownership

Where no joint ownership agreement has been concluded:

- each of the joint owner(s) shall have the right to use their jointly owned Foreground for internal research purposes or to apply for a patent and a patent requiring the prior consent of the other joint owner(s), and
- each of the joint owner(s) shall be entitled to grant non-exclusive licenses to third parties, without any right to sublicense, subject to the following conditions:
  - \* at least one of the other joint owner(s); and
  - \* financial approval by a patent attorney as provided to the other joint owner(s).

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

### 7.2 Transfer of Foreground

7.2.1 Each Partner may transfer ownership of its own Foreground.

7.2.2 It may stand in support of the other Partners to transfer the ownership of its Foreground to in Annex D to this Consortium Agreement. The other Partners hereby waive their right to object to a transfer to listed third parties.

7.2.3 The transferring Partner shall, however, notify the other Partners of such transfer and shall ensure that the rights of the other Partners will not be affected by such transfer. Any addition to Annex D after signature of this Consortium Agreement requires a resolution of the Management Committee.

### 7.3 Dissemination

#### 7.3.1 Publication

7.3.1.1 Dissemination activities, including those related to publications and presentations shall be subject to the following provisions. Each member of the Consortium shall be given to the other Partners concerned at least 30 days before the publication. An objection to the planned publication shall be made in accordance with the Framework Partnership Agreement and this Consortium Agreement in writing to the Coordinator and to any other concerned Partner 15 days after receipt of the notice. If no objection is made within the time limit, the planned publication shall be considered as approved.

7.3.1.2 An objection requires that:

- The objective of the Consortium or the commercial interests are compromised by the publication, or
- The protection of the Awarding Partner's Foreground or Background is adversely affected.

If Needed for the pursuit of the legal tasks of IEC for compliance with its statutory remit, each Partner may disclose and submit evidence to the IEC for the legal tasks and to comply with its statutory remit, only, including but not limited to the disclosure and communication of risks to the public, provided however that such public reports shall be approved in writing.

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

7.3.1.3 If an objection has been raised the involved Partners 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 Partner shall not unreasonably continue the opposition if appropriate actions are performed following the discussion.

7.3.2 For the avoidance of doubt, a Partner shall not publish Foreground or Background of another Partner, even if such Foreground or Background is amalgamated with the Partner's Foreground, without the other Partner's prior written approval. For the avoidance of doubt, the mere absence of an objection according to 7.3.1 is not considered as an approval.

7.3.3 The Partners undertake to cooperate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree which includes their Foreground or Background subject to the confidentiality and publication provisions agreed in this Consortium Agreement.

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

## 8. Access Rights

### 8.1 Background covered

8.1.1 The Partners shall identify in Annex C the Background to which they are ready to grant Access Rights, subject to the provisions of this Consortium Agreement and the Framework Partnership Agreement article II.4. Such identification may be done by e.g.:

- subject matter and possibly in addition by
- naming a specific department of a Partner.

8.1.2 The Partners have also, where relevant, informed each other that Access Rights to specific Background is subject to legal restrictions or limits.

8.1.3 Anything not identified in Annex C shall not be the object of Access Right obligations regarding Background.

8.1.4 Any Partner can propose to the Management Committee to modify its Background in Annex C. To add further Background to Annex C during the Project, the Partner must inform by written notice the Management Committee. However, only the Management Committee can permit a Partner to withdraw any of its Background from Annex C.

### 8.2 General Principles

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

8.2.2 Partners shall inform the Consortium as soon as possible of any limitation to the granting of Access Rights to Background or of any other restriction, which might substantially affect the granting of Access Rights (e.g. the use of open source code software in the Project).

8.2.3 If the Management Committee considers that the restrictions have such impact, which is not foreseen in the Consortium Action Plans, it may decide to update the Consortium Action Plans accordingly.

8.2.4 Any Access Rights granted expressly exclude any rights to sublicense unless explicitly stated otherwise. Access Rights shall be free of any administrative transfer costs. Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties.

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

8.2.6 All requests for Access Rights shall be made in writing. The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

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

### 8.3 Access Rights for implementation

8.3.1 Access Rights to Foreground and Background Needed for the performance of the own work of a Partner under the Project shall be granted on a royalty-free basis, unless otherwise agreed for Background in Annex C.

8.3.2 Access Rights to Foreground if Needed for use of a Partner's own Foreground including for third-party research shall be granted on Fair and Reasonable conditions, and upon written bilateral agreement. Access Rights to Foreground for internal non-profit research activities shall be granted on a royalty-free basis.

8.3.3 Access Rights to Background if Needed for use of a Partner's own Foreground shall be granted on Fair and Reasonable conditions, and upon written bilateral agreement.

8.3.4 A request for Access Rights may be made up to twelve months after the end of the Project or, in the case of Art. 8.6.2.1.2, after the termination of the requesting Partner's participation in the Project.

### 8.4 Access Rights for Affiliated Entities

Affiliated Entities shall enjoy Access Rights if they can show that:

- they hold a licence on Foreground developed by a Partner they are affiliated to; and
- they Need Access Rights in order to use such Foreground; and
- they are established in a Member State or an Associated Country; and
- they are listed in Annex E (Entities affiliated to Consortium Partners) to this Consortium Agreement.

Such Access Rights to Affiliated Entities shall be granted on Fair and Reasonable conditions and upon written bilateral agreement.

Affiliated Entities which obtain Access Rights, in return grant Access Rights to all Partners and fulfil all confidentiality and other obligations accepted by the Partners under the Framework Partnership Agreement or this Consortium Agreement as if such Affiliated Entities were Partners.

Access Rights may be refused to Affiliated Entities if such granting is contrary to the legitimate interests of the Partner which owns the Background or the Foreground.

Access Rights granted to any Affiliated Entity are subject to the continuation of the Access Rights of the Partner to which it is affiliated, and shall automatically terminate upon termination of the Access Rights granted to such Partner. Upon cessation of the status as an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse.

### 8.5 Additional Access Rights

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

### 8.6 Access Rights for Parties entering or leaving the Consortium

#### 8.6.1 New Parties entering the Consortium

All Foreground developed before the accession of the new Party shall be considered to be Background with regard to said new Party.

## 8.6.2 Partners' Access Rights to Foreign Data

### 8.6.2.1 Access Rights to Foreign Data of a Partner

#### 8.6.2.1.1 Access Rights

Access Rights granted to a Partner pursuant to the Framework Partnership Agreement with Partner's right to request Access Rights shall cease immediately upon receipt of the formal notice of the decision of the Management Committee's majority of two-thirds of the Consortium.

#### 8.6.2.1.2 Non-Resident Partners

A non-resident Partner, with the consent of the other Partner's consent shall have Access Rights to the Foreign Data of the other Partner for the duration of its participation. It may request Access Rights to the Foreign Data as specified in Art. 8.3.4.

### 8.6.2.2 Access Rights to Foreign Data of a Former Partner

Any Partner shall have Access Rights to the Foreign Data of a Partner who has remained a Partner for the whole duration of the Framework Agreement.

## 8.7 Specific Obligations of Partners Regarding Software

For the avoidance of doubt, the Access Rights provided for in this Section 8 are applicable to the Foreign Data of the Partners. Access Rights to Software do not include any right to receive source code or other confidential information or any right to receive respective Software documentation in the form of an internal only as available from the Partner granting the Access Rights.

## 9. Confidentiality and Data Protection

9.1 All information, data, documents or other information, which is disclosed by a Partner (the "Disclosing Party") to another Partner ("Recipient") in connection with the Project during its implementation and which the Disclosing Party marked as "confidential" at the time of disclosure, or when disclosed orally, which is marked as confidential at the time of disclosure and has been confirmed and designated as confidential in writing by the Disclosing Party, shall be treated as confidential information by the Disclosing Party.

9.2. The Disclosing Party shall be bound, without prejudice to any commitment of non-disclosure in the Framework Partnership Agreement, for a period of 5 years after the end of the Project:

- not to re-disclose confidential information other 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 the use of confidential information by a Recipient shall take place on a strict need-to-know basis;
- to require the Recipient to ensure that Confidential Information which has been supplied to or acquired by the Recipient shall be kept confidential and to delete all information stored in a machine readable form, if such deletion is required to the extent it is required to keep, archive or store such Confidential Information in accordance with applicable laws and regulations or for the proof of compliance with the law.

9.3 The Recipient shall be bound by the fulfilment of the above obligations on the part of their employees. If staff of the Recipient's contractors remain so obliged, as far as legally possible, during and after the end of the Project and after termination of employment.

9.4 The Recipient shall be bound by the above obligations of Confidential Information, if and in so far as the Recipient is legally bound by national or international provisions under article 11.5.3 of the Framework Partnership Agreement.

- 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 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 Framework Partnership 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 Art. 9.7. hereunder.

**9.5** The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care.

**9.6** Each Partner shall promptly advise the other Partner in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

**9.7** If any Partner 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.

**9.8** The confidentiality obligations under this Consortium Agreement and the Framework Partnership Agreement shall not prevent the communication of Confidential Information to the EEA or the European Commission.

## **10. Misc. Various**

### **10.1 Attachments, inconsistencies and severability**

This Consortium Agreement consists of this core text and:  
Annex A: List of contact persons and financial officers of ETC/ATNI partners  
Annex B: Change Request Form  
Annex C: Background included  
Annex D: List of Third Parties for simplified transfer according to article 7.2.2.  
Annex E: Entities affiliated to Consortium Partners

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

Should any provision of this Consortium Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Consortium Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

### **10.2 No representation, partnership or agency**

The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Partner. 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.

### **10.3 Notices and other communication**

Any notice or 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.

#### **10.3.1 Formal notices**

If it is required in this Consortium Agreement (Article 3.6.2.1.1 and 10.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Partner and shall either be served personally or sent by mail with recorded delivery or telefax with receipt acknowledgement.

#### **10.3.2 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 Partner to the Coordinator. The address list shall be accessible to all concerned.

### **10.4 Assignment and amendments**

No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval.

### **10.5 Mandatory national law**

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

### **10.6 Language**

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

### **10.7 Applicable law**

This Consortium Agreement shall be construed in accordance with and governed by the applicable Union law, complemented when necessary, by the substantive laws of Denmark excluding its conflict of law provisions.

**10.8 Settlement of disputes**

Any dispute, controversy or claim arising under, out of or relating to this Consortium Agreement and any subsequent amendments of this Consortium Agreement, 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 Copenhagen, unless otherwise agreed upon. The language to be used in the mediation shall be English unless otherwise agreed upon.

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 days of the commencement of the mediation or should any Partner (e.g. a Public Body) show that certain provisions of its national law prevent it from submitting the relevant dispute to mediation, then the courts of Copenhagen shall have exclusive jurisdiction.

**10.9** When a Partner withdraws from the Consortium and it ceases its obligations under the Framework Partnership Agreement (see Article 11.12 of the Framework Partnership Agreement), it also ceases its obligations and rights under this Consortium Agreement, except for those provisions that survive the withdrawal of a Partner.

**10.10** Each Partner takes note of the performance obligations (including Quality Assurance and Quality Control provisions) under article 11.1 of the General Conditions of the Framework Partnership Agreement and commits itself to inform accordingly all members of its staff, and possible subcontractors, participating in the ETC/ATNI operation.

**10.11** This Consortium Agreement may be terminated by registered mail at any time by a Partner giving 60 calendar days' written notice to the Coordinator. However, each Partner must undertake the complete implementation of any Specific Agreement, when has been agreed prior to the date of the termination notice. In case this isn't possible, remaining partners commit themselves (to the extent possible) to finalize the tasks that were assigned to the partner terminating its participation in the consortium.

If the Agency terminates the Framework Partnership Agreement, a Specific Agreement or the participation of a Partner, this Consortium Agreement shall be considered terminated partly or wholly in accordance with the termination made by the Agency.

**11. Counterparts**

This Consortium Agreement is executed in 8 counterparts, each of which shall be deemed to be an original.

For NILU: Siri Eilken Nørsk, signed for and reading  
Eva Beate Aalvengen, Chief Financial Officer

Place and date: 28/9-18  
Kjeller, Norway

Sign \_\_\_\_\_











For Universitat Autònoma de Barcelona (UAB)  
Mr Armando Sánchez Rosales  
Vice-Rector for Research and Transfers

Place and date: Bellaterra, September 25th, 2014

Signature: \_\_\_\_\_

ETC AT 11:00 AM

For Unavailable

Ms. Moulton

Place just at the

Signature

Mag. Case

Place and

Signature

STAL  
STAL  
STAL

REPORT

101 080 619 001  
 101 080 619 001  
**WISPERO**  
 101 080 619 001

Signature



Place name, date and time

Mr. ...

For ...

EUC-1100

Annex A: List of contact persons and financial officers of ETC/ATNI partners

Partner	Contact person	Financial officer
NILU		Eva Døvre
Actier		
CHMI		
EMNIA		
INEFS		
UA 3		
UBA V		
ENFERA		



Annex B: Change Requests Form

ETC/ATNI CHANGE REQUEST NR.

ETC Air pollution, Transport, Noise and Industrial Pollution, Subvention 20xx

Nature of change requested (mark relevant check box):

Adjustment to breakdown of costs

Adjustment of task/product/service

Adjustment of time schedule

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Detail of change request:

Date of signature:

Date of signature:

For the Beneficiary:  
Name:  
ETC/ATNI manager

For EEA:

**Annex C: Background included**

Background to which Parties are ready to grant Access Rights to

INERIS: Use of the CHIMERE Chemistry Transport Model and Alpha-Risk-Poll France air pollution impact economic valuation tool

EMEA: Use of the COPERT model for calculating emissions from road transport.

Annex D: List of Third parties for simplified transfer according to article 7.2.2.

**Annex E: Entities affiliated to Consortium Partners**

**INERIS has two subsidiaries : Ineris-formation, Ineris-Développement**