COLLABORATION AGREEMENT FOR KNOWLEDGE-BUILDING PROJECTS IN THE PETROLEUM SECTOR WITH SUPPORT FROM THE RESEARCH COUNCIL OF NORWAY

between

[Name of Company]
[Address]
[Org. no.]
(**“Project Owner”** )

[Name of Company]
[Address]
[Org. no.]

 [Name of Company]
[Address]
[Org. no.]

 [Name of Company]
[Address]
[Org. no.]

Hereafter collectively referred to as the “**Participants**” or individually as the “**Participant**”.

on

[Name of Project]

**("the Project")**

**A Knowledge-building Project for Industry is intended to contribute to industry-oriented researcher training and long-term competence development in the Norwegian research community within topics that are crucial to the development of business and industry in Norway. and is designed around identified needs for new knowledge in Norwegian companies. Research activities are carried out by research institutions, one of which must serve as the formal applicant for funding from the Research Council. Companies take active part in Knowledge-building Projects by providing both knowledge and financing. Companies are required to provide cash financing to cover a minimum of 20 per cent of the knowledge-building project, and public funding may be used to cover a maximum of to 80 per cent of the project costs.**

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# 1 Definitions

**Affiliated Entities** –

1. entity that is directly or indirectly in possession of more than 50 per cent of the share capital or voting rights or in some other way exercises direct or indirect control over one of the Participants (parent company);
2. entity in which one of the Participants is directly or indirectly in possession of more than 50 per cent of the share capital or voting rights or in some other way exercises direct or indirect control (subsidiary company);
3. entity for which more than 50 per cent of the share capital or voting rights are directly or indirectly possessed or in some other way are directly or indirectly controlled by one or more companies that are directly or indirectly in possession of more than 50 per cent of the share capital or voting rights or in some other way exercise direct or indirect control over one of the Participants (associated company).

**Area of Use** – an area specified for the individual Participant as set out in Appendix 4.

**Background** – knowledge, including intellectual property rights, that a Participant brings into the Project. The Background provided by an individual Participant is set out in Appendix 3.

**Collaboration Agreement** – the general terms and conditions set out in this document together with the appurtenant appendices listed under Section 2.

**Commercial Utilisation** – direct or indirect use of Project Results in the development and/or marketing of products, services or processes, or the transfer and/or licensing of use of Project Results to third parties. Publication through publishing houses is not deemed to be commercial utilisation.

**Confidential Information** – all information, documentation or material that is associated with, or specifies, a Participant’s or an Affiliated Entity’s business affairs, plans, research-related information, methods or know-how, including Project Background and Project Results, and regardless of format and whether or not it has been labelled as “confidential”.

**Defaulting Party** – a Participant that the Steering Committee has deemed to be in breach of its obligations under the Collaboration Agreement.

**Fair and Reasonable Conditions** – appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the results or background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

**Force Majeure** – Unforeseeable and exceptional circumstances beyond the Participants’ control.

**Funding Plan** – a plan indicating how the project costs will be financed throughout the Project Period.

**General Terms and Conditions for R&D Projects** – The General Terms and Conditions for R&D Projects issued by the Research Council and included as an appendix to the R&D Contract.

**HSE –** Health, safety and environment (work environment and external environment).

**In-kind** – research activities, research infrastructure, materials or other resources that a Participant makes available to the Project as specified in the Work Plan, instead of or in addition to financial contributions.

**Intellectual Property Rights** – all rights to technical solutions, methods, processes and procedures, regardless of whether or not these are or may be patented. This also includes all copyrights and other rights to trademarks, design, plant species, databases, integrated circuit layout designs, drawings, specifications, prototypes, company confidential information and the like.

**Participant –** a participant, including the Project Owner, who has signed this Collaboration Agreement and any such parties that subsequently enter into the project at a later date pursuant to Section 3.1.

**Project** – The overall activities covered by the R&D Contract and that is indicated on the front page of this Collaboration Agreement.

**Project Description** – scientific and administrative description of and plan for the implementation of the Project, included as an attachment to the R&D Contract.

**Project Manager** – the individual who is in charge of the progress and performance of the Project on behalf of the Project Owner.

**Project Owner** – the Participant that is designated as the Project Owner on the front page of the Collaboration Agreement and in the R&D Contract.

**Project Period** – the time span during which the Project is to be performed, as specified in the R&D Contract.

**Project Results** – all results produced or achieved through the work carried out under the Project, including Intellectual Property Rights, regardless of whether or not the results are protected by law.

**R&D Contract** – a contract for the R&D project entered into between the Project Owner and the Research Council that comprises a written agreement , the General Terms and Conditions for R&D Projects, as well as the Project Description, and is included as Appendix 1.

**Research Council** – The Research Council of Norway.

**Steering Committee** – The ultimate decision-making body for the Project.

**Work Plan** – annual plan that specifies the obligations and contributions of the Participants within the framework of the Project Description and Funding Plan.

# 2 Purpose and Scope

This Collaboration Agreement regulates the relationship among the Participants in the Project, including their rights and obligations. The Project Owner has been granted, on behalf of the Participants, a pledge of funding from the Research Council to carry out the Project. The framework for the Project, including the conditions for support from the Research Council, the amount of funding granted, the objectives of the Project, the Project Description, the Funding Plan, and the reporting requirements are set out in the R&D Contract, attached as Appendix 1 to this Collaboration Agreement.

Appendix 1: R&D Contract between the Project Owner and the Research Council

In the event of a conflict between the provisions of the R&D Contract and the Collaboration Agreement, the R&D Contract shall take precedence.

The following appendices are also included as part of the Collaboration Agreement:

Appendix 2: Deviations from the standard text of the Collaboration Agreement

Appendix: Background

Appendix 4: Areas of Use

Appendix 5: Accession Document

Appendix 6: Supplementary description of the obligations of the individual Participants to perform research activity and/or provide funding in accordance with the Project Description and the Funding Plan for the Project.

# 3 Entry into Force, Duration, Withdrawal and Early Termination

## 3.1 Entry into Force

The Collaboration Agreement enters into force from the date on which it has been signed by all the Participants, with effect from the start-up of the Project Period.

The inclusion of new Participants into the Project after start-up requires the written consent of the Research Council as well as the unanimous approval of the Participants. An approved new Participant is made party to the Collaboration Agreement by signing an accession document included in Appendix 5. As from the date of the signing of the accession document, the new Participant will have the right to representation on the Steering Committee, and will from the same date be obligated to carry out research activities and/or contribute with financing as further specified in the appendices to the Collaboration Agreement.

The Steering Committee shall assess the need for and, when relevant, propose amendments to the appendices to the Collaboration Agreement resulting from the accession of new Participants to the Project. Such amendments shall enter into force when the new Participant signs the accession document.

## 3.2 Duration

The Collaboration Agreement applies during the Project Period, until the Project has been concluded and the Participants have fulfilled all of their obligations in accordance with the Collaboration Agreement. After this date, the Collaboration Agreement terminates automatically with the exception of Section 8 Ownership Rights, Section 9 Access Rights, Section 10 Publication of Project Results, Section 13 Participants’ Liability towards Each Other, Section 14 Confidentiality and Section 22 Choice of Law and Legal Venue, all of which remain in effect after the termination of the Collaboration Agreement.

## 3.3 Withdrawal

A Participant, with the exception of the Project Owner, that wishes to withdraw from its participation in the Project may submit a written request to this effect to the Steering Committee. The Steering Committee will notify the Project Owner, which will in turn request the Research Council's consent to continue the Project with a change in partnership. Notice of withdrawal must be submitted to the Project Owner by at the latest 1 July in order to apply as from 1 January of the following year.

If the withdrawal of the Participant will significantly affect the further implementation of the Project, said Participant is under obligation to ensure by negotiation and other relevant forms of agreement that conditions are in place for the other Participants to continue the Project. This includes access to and access rights for Background and information essential to the completion of the Project.

The remaining Participants shall make reasonable endeavours to redistribute the withdrawing Participant’s tasks and obligations amongst themselves, and to any third party that the Participants and the Research Council approve as a new Participant. This presupposes that the relevant third party agrees to be bound by the terms and conditions of this Collaboration Agreement.

A Participant that withdraws from the Project pursuant to Section 3.3. is required to honour such financial contributions as committed up to the date of withdrawal. The Participant shall be exonerated from all its rights and obligations under the Collaboration Agreement from the date of withdrawal, except for those obligations set out under Section 3.2, which shall remain in force after withdrawal.

## 3.4 Early Termination

The Participants may, by unanimous vote and in consultation with the Research Council, decide to terminate the project at an earlier date than scheduled. In the case of such early termination, and to the extent that the Participants have carried out work in accordance with the agreed compensation, the Participants will be reimbursed approved incurred costs up to the date of termination of the Project.

In the event that the Research Council cancels the R&D Contract, the Collaboration Agreement shall automatically terminate and the Participants shall be entitled to compensation for work and costs as set out in the preceding paragraph.

The Participants' right to compensation pursuant to the first and second paragraphs will apply to the extent that funding is available for this in the Project or if the Research Council does not require disbursed funding to be repaid.

In the case of early termination of the Project, the Participants will have access rights as set out in Section 9.2 to the Project Results generated as per the date of termination. The rights and obligations of the parties as specified in Section 3.2 shall remain in force following termination of the Project.

# 4 Responsibilities of the Participants

Each of the Participants shall carry out the research activity and/or provide all such contributions, including financial support, as committed to under the Collaboration Agreement. The contributions of the individual Participants are set out in the Project Description and the Funding Plan, as well as in any supplementary descriptions provided in Appendix 6.

The Participants are obligated to perform their tasks in an efficient and professional manner, and otherwise in compliance with the quality requirements for performance that apply among recognised R&D actors. The tasks shall be carried out in accordance with ethical requirements and shall be designed to allow verification.

Research inherently entails uncertainty regarding the results to be achieved, and no Participant is therefore liable to the others to achieve a specific result or a specific target that has been set for the research activity, provided that the conditions relating to the performance of the research activity as specified above have been met.

The Participants shall forthwith notify the Project Owner with regard to any circumstances that may affect the implementation of the Project.

The Participants shall provide all information and other material needed to enable a Participant or the Steering Committee to perform their tasks in accordance with the Collaboration Agreement, and shall at the same time ensure that this information, etc., is as accurate and updated as possible.

The Project shall be carried out in accordance with applicable laws and regulations. Unless otherwise stipulated in the Collaboration Agreement, each of the Participants is individually responsible for obtaining any authorisations required for it to perform its tasks under the Project.

# 5 Responsibilities of the Project Owner, the Role as Project Manager

In addition to its obligations as a Participant, cf. Section 4, the Project Owner has a supervisory and coordinating responsibility related to the practical implementation of the Project, as well as responsibility for follow-up vis-à-vis the Research Council.

The Project Owner shall appoint a Project Manager who is responsible for carrying out the Project Owner’s tasks on a day-to-day basis, including ensuring that the Project progresses in accordance with the provisions of the Collaboration Agreement.

The Project Owner shall:

* serve as liaison between the Participants and the Research Council and carry out the tasks assigned to the Project Owner in the R&D Contract and the Collaboration Agreement;
* manage the Research Council’s financial contribution and fulfil the financial commitments set out in Section 7;
* keep an overview of, and coordinate, the progress of and use of resources in the Project in accordance with the Project Description and the approved Work Plan;
* cooperate with the Participants and their designated contact persons, and keep an updated list of the latter;
* ensure that the Participants fulfil their obligations under the Collaboration Agreement;
* prepare and submit reports to the Research Council as set out in the R&D Contract;
* prepare and convene meetings in the Steering Committee, including preparing the agendas and recommendations for decisions to be adopted by the Steering Committee;
* keep an updated list of all decisions taken by the Steering Committee;
* chair the meetings, prepare the minutes and ensure that the Steering Committee’s decisions and instructions are followed up and implemented;
* prepare a draft Work Plan for the Project to submit to the Steering Committee for approval;
* report to the Steering Committee on progress and resource use, and propose measures to remedy any deviations;
* notify the Steering Committee immediately regarding any circumstances that may affect the implementation of the Project;
* in keeping with the provisions relating to the duty of confidentiality set out in Section 14, provide the Participants with access to documents related to the Project which are required for the Participant to safeguard its own rights under the Collaboration Agreement.

The Project Owner, represented by the Project Manager, reports to the Steering Committee.

# 6 The Steering Committee

## 6.1 Tasks and Representation

The Steering Committee is the ultimate decision-making body of the Project. The Steering Committee shall follow up that the plans and intentions underlying the Project and the Collaboration Agreement are fulfilled, and that the activity set out in the Project Description, Funding Plan and Work Plan is realised within the approved time and cost frameworks.

Each of the Participants is entitled to appoint one representative to the Steering Committee. The representative of the Project Owner chairs the Steering Committee. A Participant that has not appointed a representative to the Steering Committee is nonetheless bound by the committee’s decisions.

## 6.2 Notice and Convening of Meetings

The Steering Committee shall convene ordinary meetings at least once a year or according to the adopted meeting plan. An extraordinary meeting shall be convened upon the request of at least one of the Participants.

Notice of meetings shall be sent out at least 20 business days prior to ordinary meetings, and at least 10 business days prior to extraordinary meetings. The notice shall be accompanied by the agenda as well as any proposals for decisions and the appurtenant documentation needed. Proposals for decisions shall be clearly identified as such.

The meetings of the Steering Committee may be conducted as a video or teleconference.

A decision in the Steering Committee may be taken without a meeting by means of the chair circulating a proposal in electronic form with a subsequent vote by email. Proposals shall be sent out a minimum of three (3) business days prior to the vote, and the sender shall ensure that all members of the Steering Committee have received the email. The email shall clearly state that a decision is to be taken.

## 6.3 Voting Rules

A decision is adopted by a two-thirds (2/3) majority. The Steering Committee has a quorum when two-thirds (2/3) of the members are present at the meeting or take part in an electronic vote, either personally or represented by a proxy.

In matters which substantially alter the individual Participant’s rights and obligations under the Project, the decision must be adopted unanimously. Such decisions require all members of the Steering Committee to take part in the vote. Amendment of the Collaboration Agreement and the adoption of annual budgets require the unanimous approval of the Participants.

The members of the Steering Committee have one vote each. A Participant is not entitled to vote on a matter regarding its own breach of the Collaboration Agreement and the consequences thereof.

## 6.4 Minutes of Meeting and Formalisation of Decisions

The chair of the Steering Committee prepares the draft minutes of the meetings and sends these electronically to the other members of the Steering Committee within 10 business days of the meeting. If no objections or comments have been received within 10 business days from sending, the minutes shall be considered approved.

Any decisions adopted by the Steering Committee in meetings must be clearly stated in the minutes. A decision becomes valid and binding for the Participants only after the minutes have been approved.

# 7 Finance and Management

## 7.1 Work Plan

The Steering Committee shall adopt an annual Work Plan for the Project. The Work Plan shall form the basis for the technical and financial implementation of the Project in line with the Project Description and the Funding Plan.

## 7.2 Distribution of Funding

The Project Owner receives and manages the financial contributions to the Project from the Research Council and the Participants. The Project Owner disburses payments in accordance with the adopted Work Plan, reports approved by the Research Council and invoicing routines as set out in Section 7.4.

A Participant is only entitled to receive payment for tasks it carries out / has procured and costs it has incurred in accordance with the adopted Work Plan.

In accordance with its own accounting and management principles, each of the Participants shall be solely responsible for documenting its costs with respect to the Project, both towards the Research Council and the other Participants. The documentation shall be provided at the request of either the Project Owner or the Research Council.

A Participant using less than its allocated share of the project funding will only receive payment for its actual and eligible costs in accordance with the Work Plan. A Participant using more than its allocated share of the project funding will only receive payment for the actual and eligible costs up to the amount equalling that allocated share of project funding.

Disbursed funding that a Participant is not able to document as actual and eligible costs in accordance with the Work Plan shall be repaid. A Defaulting Party shall also cover any additional costs incurred by the other Participants as a result of the breach.

## 7.3 In-kind

Participants contributing In-kind to the Project shall, by end of December each year at the latest, or in accordance with what has been agreed in the Work Plan, Project Description or Funding Plan, report to the Project Owner their actual and eligible costs in connection with their In-kind contribution.

## 7.4 Invoicing

The Project Owner shall invoice the Participants for their financial contributions to the Project as set out in the Project Description.

The Participants shall invoice the Project Owner each month in arrears, in accordance with the documented expenditures and in line with the Work Plan, unless otherwise specifically agreed.

Unless otherwise specifically agreed, correct invoices shall be paid within 30 days of receipt.

In the event of delay in payment, penalty interest shall be calculated pursuant to the Act relating to interest on overdue payments.

## 7.5 Right of Project Owner to Withhold Payment

The Project Owner has the right to withhold payment, and to require repayment, of Project funding vis-á-vis a Defaulting Party.

# 8 Ownership Rights

## 8.1 Ownership of Background

The right of ownership to any Background brought into the Project by the individual Participant shall remain with the Participant that brought it in. Background that is part of the Project from its commencement, including conditions for access, is set out in Appendix 3.

Background that is brought into the Project during the Project Period shall be presented in writing to the Project Owner, shall be approved by the Steering Committee and shall be incorporated into Appendix 3, together with conditions for access. The Participants shall be informed of new, approved Background.

## 8.2 Ownership Rights to Project Results

The ownership rights to Project Results shall accrue to the Participant that has generated them.

If two or more Participants have generated the Project Results collaboratively, they shall have joint ownership of these. The Participants’ undivided share shall correspond to the respective Participant’s proportionate intellectual contribution to the Project Result in question.

Participants owning Project Results jointly shall, within six months of generation of the relevant Project Results, enter into a separate agreement on the utilisation of these Project Results, including any protective measures and distribution of costs associated therewith. The co-ownership agreement should as a minimum include the following points:

* a clear specification of the Project Result, including the individual Participant’s ownership share;
* provisions regarding which of the co-owners shall be responsible for protecting and maintaining the Project Result, including relevant authorisations;
* a detailed plan for how the Project Results shall be protected, defended, maintained and used, including a plan for commercial utilisation.

If, within a period of two years from the generation of the Project Results, the owner of a Project Result that is not a research institution or health trust has not taken reasonable steps for further development and/or Commercial Utilisation, the Participants that are research institutions or health trusts shall have a right of priority to take over the ownership rights to such Project Results on a royalty-free basis. If multiple Participants wish to exercise such right of priority, then these Participants shall own the Project Results in question jointly and shall enter into an agreement as set out in the paragraph above.

## 8.3 Transfer of Ownership Rights to Project Results

The Participants may transfer ownership of their own Project Results to other Participants or third parties provided that this does not prevent or limit the other Participants’ rights and access to such Project Results as set out in the Collaboration Agreement.

Any transfer of ownership of Project Results during the Project Period requires 30 business days prior written notice to other Participants, unless such notification is prohibited pursuant to the applicable rules for insider information in the Act on Securities Trading..

## 8.4 Protection of Project Results

The party holding the ownership rights to Project Results is obligated to investigate the possibilities to protect, including filing for patent registration of, such Project Results.

When assessing potential protective measures, and the scope and implementation of these, consideration shall also be given to the legitimate needs of the other Participants, including safeguarding the access rights set out in this Collaboration Agreement.

# 9 Access Rights

## 9.1 Access Right to Background

The Participants and their Affiliated Entities have a royalty-free, non-exclusive, non-sublicensable right to access Background necessary to carry out their own tasks in the Project.

The right to access the Background of others outside the Project, and that is necessary to enable the Participants and their Affiliated Entities to utilise their own Project Results and access rights in accordance with this Collaboration Agreement, shall be granted pursuant to the conditions set out in Appendix 3.

## 9.2 Access Right to Project Results

During the Project Period, the Participants and their Affiliated Entities have been granted a royalty-free, non-exclusive, non-sublicensable right to access Project Results necessary to carry out their tasks in the Project.

*Alternative 1:*

|  |
| --- |
| The Participants and their Affiliated Entities have been granted a non-exclusive, non-sublicensable, royalty-free, irrevocable, global right to access Project Results within their respective Areas of Use, as set out in Appendix 4. For the avoidance of doubt, the access right set out in this section includes a right for the Participants and their Affiliated Entities to allow any contractors and sub-contractors to utilise the licensed technology on their behalf in tasks carried out for the Participant.  |

*Alternative 2:*

|  |
| --- |
| The Participants and their Affiliated Entities have been granted a non-exclusive, non-sublicensable, irrevocable, global right to access Project Results within their respective Areas of Use, as set out in Appendix 4. Access rights have been granted on the basis of Fair and Reasonable Conditions.For the avoidance of doubt, the Access right set out in this section includes a right for the Participants and their Affiliated Entities to allow any contractors and sub-contractors to utilise the licensed technology on their behalf in tasks carried out for the Participant.   |

Any agreement granting exclusive rights to access Project Results will require written confirmation from the other Participants that they waive such access rights.

## 9.3 Educational and Research Purposes

Each Participant and its Affiliated Entities are granted a non-exclusive, non-sublicensable, royalty-free, irrevocable, global right to access the Project Results of other Participants for educational and research purposes, including commissioned research.

For use in commissioned research, the access right shall be sub-licensable to the extent required to enable the recipient of the commissioned research to utilise the results of this research, and further that such use falls within the relevant Participant’s Area of Use as set out in Appendix 4.

## 9.4 Access Rights for New Participants

Project Results developed prior to the accession of a new Participant to the Collaboration Agreement shall, for this new Participant, be considered as Background.

## 9.5 Access Rights for Participants that Withdraw from the Project

A Participant withdrawing from the Project shall grant the remaining participants access rights as set out in the Collaboration Agreement, as if said party was still a Participant.

A Participant choosing to terminate its participation in the Project shall be granted access rights to Project Results developed up to the date of withdrawal, and as otherwise set out in the Collaboration Agreement. Said Participant does not have any rights to Project Results developed in the Project after the date of withdrawal.

## 9.6 Special Regulation of the Access Rights to Software

The access rights to Background and Project Results set out in the Collaboration Agreement do not encompass access to source code and object code, or to any other documentation for software for which access rights are granted.

# 10 Publication

Projects Results shall normally be made public as quickly as possible. Communication measures and communication plans described in the R&D Contract shall be updated at the end of the Project and shall be implemented in consultation with the Participants.

If the Project has encompassed master’s, doctoral or post-doctoral work, the purpose is for this work to be published. None of the provisions of this Collaboration Agreement shall be construed or applied in a manner that prevents the achievement of a master’s and/or doctoral degree.

Within the framework described in this section, the Participants are entitled to publish Project Results to which they themselves have ownership, cf. Section 8.2, first paragraph.

Participants with joint ownership of Project Results may publish these jointly. Authorship and contributorship shall be specified in line with the principles of the Vancouver protocol (http://www.icmje.org/).

Plans for publication shall be submitted via the Project Manager to the Steering Committee. The Participants have a deadline of 45 business days, from the submission of such notification to the Project Manager, to request temporary deferral of publication. Any publication deferral shall be justified on the basis that the Participant:

1. has legitimate commercial interests that would be harmed by the potential publication; or
2. will have difficulty protecting the Project Results or Background.

In accordance with the Act relating to universities and university colleges, the board of directors of a Participant that is an educational institution must adopt a decision to impose temporary secrecy on Project Results developed by university and university college personnel. For submission of patent applications in such cases, a deadline of 90 days shall as a general rule be set after a Participant has requested a publication deferral. It is not permitted in these cases to allow more than a six-month deadline from the date a Participant has requested a deferral.

A Participant may not publish another Participant’s Project Results or Background. In those cases where such Project Results or Background are an integral part of the Participant’s Project Results, the prior written consent of the other Participant is required. Such consent shall not be unreasonably withheld, and shall be justified in writing within 30 business days after the written request has been received.

# 11 Breach

If a Participant is in breach of its obligations under the Collaboration Agreement, the Project Owner, or the Steering Committee, if the Project Owner is in breach of its obligations, will give written warning to said Participant with a reasonable deadline to remedy the breach.

If the breach has not been remedied within the deadline, the Steering Committee may decide to deem the Participant to be a Defaulting Party and, in consultation with the Research Council, determine the consequences thereof. The decision of the Steering Committee may *inter alia* imply transferring the designated tasks of the Defaulting Party to another Participant, or cancelling the Collaboration Agreement with the Defaulting Party.

Defaulting Parties which must withdraw as a result of cancellation of the Collaboration Agreement, cf. the preceding paragraph, are obligated to ensure that conditions are in place for the other Participants to continue the Project, without any right to compensation.

A Defaulting Party loses its access rights under the Collaboration Agreement immediately upon receipt of the formal cancellation decision from the Steering Committee, but will still be obligated to give the other Participants access rights to its own Background and Project Results in accordance with the Collaboration Agreement.

A Defaulting Party’s other rights and obligations under the Collaboration Agreement cease to exist from the date the Steering Committee takes the decision to cancel vis-á-vis said Defaulting Party, with the exception of provisions set out in Section 3.2 of the Collaboration Agreement, which shall continue to remain in effect also after the Collaboration Agreement is cancelled.

Any disbursed, unused funding received as part of the performance of tasks under the Project shall be repaid.

# 12 Use of Sub-contractors

A Participant using a subcontractor or otherwise involving third parties (including Affiliated Entities) in the execution of tasks in the Project will remain fully responsible for the actions and deliverables from these as though they were the Participant’s actions and deliverables, including ensuring that the conditions set out in this Collaboration Agreement are met.

# 13 Participants’ Liability towards Each Other

## 13.1 No Warranties

In respect of the information or materials (including Background and Project Results) that the Participants supply or make available to the other Participants in the Project, no warranty is made that these are free of error, complete, suitable for a specific purpose or appropriate for the recipient’s needs. Moreover, the Participants make no warranty that such information or materials does not or will not come to infringe on the intellectual property rights or other rights of third parties. The Participants agree to notify the other Participants immediately if they become aware of, or have reason to believe, that an infringement of the rights of a third party has taken or will come to take place.

A Participant receiving or making use of such information or materials as set out in the first paragraph is entirely and solely responsible for its use of this. A Participant that grants access rights shall not be liable for any infringement of the intellectual property rights or other rights of third parties resulting from another Participant exercising its access rights.

## 13.2 Limitation of Contractual Liability

No Participant shall be responsible to any other Participant for any indirect or consequential loss as a result of a breach of the Collaboration Agreement. A Participant’s aggregate liability under the Collaboration Agreement shall in all cases be limited to an amount corresponding to the value of the contribution to the Project of the Participant in question as set out in the Funding Plan and specified in Appendix 6.

The limitation of liability stated above does not apply in cases where the loss or damage was caused a Defaulting Party’s gross negligence or wilful misconduct or by a breach of confidentiality, cf. Section 14.

## 13.3 Indemnification

The Participants shall indemnify each other against any damage to its own personnel, property or equipment. This indemnification shall not apply if the loss or damage was caused by a Participant’s gross negligence or wilful misconduct. Each participant is liable for and shall indemnify the other Participants against damage it causes to third parties.

## 13.4 Force Majeure

None of the Participants shall be held liable for breach of obligations under the Collaboration Agreement due to Force Majeure. The Participants shall notify the Project Manager forthwith if a situation of Force Majeure arises. If the obstacles have lasted, or are expected to last, more than six weeks, or will have serious ramifications for the ability of the other Participants to carry out the project, the Steering Committee may decide to redistribute the Project tasks.

# 14 Confidentiality

During the Project Period and for a subsequent period of three years, the Participants shall keep confidential all Confidential Information they have acquired knowledge of in connection with the Project, and store this information in a secure manner. The confidentiality obligation does not include disclosure of Confidential Information to employees and third parties, including Affiliated Entities, contractors and sub-contractors, when access to such Confidential Information is necessary to perform tasks under the Project or to utilise Project Results.

Confidential Information shall only be used to perform Project tasks and to utilise Project Results, or as agreed with or presupposed by the disclosing Participant. The Participants shall ensure that all employees and third parties, including Affiliated Entities, contractors and sub-contractors, which are given access to Confidential Information, are apprised of and comply with the above confidentiality obligation. When needed, a separate confidentiality agreement shall be signed with contents corresponding to that set out in this Section 14.

The following information is not considered to be Confidential Information:

1. information already known to the Participant in question at the time it was received;
2. information that is or becomes generally known in a manner other than through breach of confidentiality under this Collaboration Agreement;
3. information received from a third party with no known confidentiality obligations;
4. information developed by a Participant without the use of Confidential Information.

The above confidentiality obligation shall not prevent the publication of Project Results in line with the provisions of Section 10 or the exercise of access rights as set out in Section 9 of this Collaboration Agreement. Neither does the confidentiality obligation preclude the disclosure of Confidential Information to the Research Council or the legally mandated disclosure to the courts and other public authorities, and disclosure pursuant to the Freedom of Information Act.

# 15 Health, Safety and Environment

Each of the Participants (and their sub-contractors) carrying out tasks under the Project shall plan and perform the work in a manner ensuring that no lives will be lost, and that there shall be no damage to health, facilities and equipment, nor pollution and emissions, and that no production and/or processes shall cease to function.

The Participants are expected to have implemented internal HSE guidelines and a management system based on HSE legislation, adapted to the individual Participant’s activity and size. The guidelines and management system shall have the clear support of the individual Participant’s leadership and be subject to an annual audit.

The Participants shall without undue delay report incidents, accidents and near-misses associated with the Project to the Project Owner.

The Project Owner shall without undue delay report incidents, accidents and near-misses to the Steering Committee. The Project Owner shall further present HSE statistics for the Project to the Steering Committee at each ordinary meeting.

A Participant performing work at a facility or installation belonging to another Participant is obliged to follow the existing applicable rules and guidelines of the owner of the facility.

# 16 Ethical Standards, Conflicts of Interest and Anti-corruption

## 16.1 Ethical Standards

Each Participant is committed to maintain the highest ethical standards in its work for the Project. Each of the Participants shall ensure that all of its employees, board members and sub-contractors undertake the same commitment.

## 16.2 Conflicts of Interest

Each of the Participants shall avoid conflicts of interest in its contact with organisations and/or persons performing tasks associated with the Project.

## 16.3 Anti-corruption

Each of the Participants shall carry out the Project in a manner designed to counter any corruption, misappropriation of funding and improprieties. The Participants shall, without undue delay, inform the Steering Committee if there are indications of corruption and misappropriation of funding of which the Participant becomes aware during the implementation of the Project. Furthermore, the Participants agree, in the performance of the activities under the Collaboration Agreement, not to accept or offer any form of gift, offer, payment or other type of advantage that entails unlawful or corrupt practice.

# 17 Export Control

An exporting Participant agrees to comply with applicable rules for export control. If a Participant performs work, including the export of products, technology and software requiring an export licence, said Participant shall apply well in advance for the required licences and ensure that the other Participants have access to copies with the Export Control Classification Number (ECCN) at the time of application submission. A Participant shall indemnify the other Participants for all fines, costs and any and all liabilities that may arise as a result of said Participant’s violation of this provision.

# 18 Audits

During the Project Period, and for 24 months after the end of the calendar year in which the Project is completed or terminated, each of the Participants has the right to audit the Project accounts, documents, etc., including information relating to HSE. Such audit shall be carried out within normal working hours on the premises of the Project Owner. The Project Owner agrees to give the auditors access to all the systems and data necessary to perform the audit, and shall otherwise ensure that the audit will be carried out effectively and without unnecessary delay. All costs relating to an audit shall be borne by the auditing Participant(s). Written notification of an audit shall be sent to the Project Owner, with a copy to the other Participants, at least 30 days prior to the planned commencement of the audit.

If multiple Participants wish to carry out an audit, the audit shall take place concurrently, or, as the case may be, by a joint auditing group. The audit shall be carried out in a manner that causes the least inconvenience.

Pursuant to the General Terms and Conditions for R&D Projects, the Research Council and the Office of the Auditor General have the right at any time to verify that the allocated funds are being spent in accordance with the R&D Contract. The Participants agree to produce, upon request from the Research Council and/or the Office of the Auditor General, the receipts, time sheets, calculations and other relevant underlying material that are requested in order to carry out such verification.

Any documented deviations presented during an audit and justified by reference to the Collaboration Agreement shall be corrected by the Participant within a reasonable time.

# 19 No Representation or Formal Partnership

The Participants may not commit the other Participants in the Project financially or legally or represent themselves as acting on their behalf. Neither this Collaboration Agreement nor the participation in the Project shall be deemed to constitute any form of formal partnership or joint business activity.

# 20 Communication among the Participants

All information communicated under this Collaboration Agreement shall be in writing and to the addresses and recipients listed in the updated list of contacts kept by the Project Owner, cf. Section 5.

# 21 Transfer of the Collaboration Agreement

A Participant may not, without the prior written consent of other Participants, wholly or partially transfer its own rights or obligations under this Collaboration Agreement to third parties. This also includes transfer to Affiliated Entities.

# 22 Choice of Law and Legal Venue

This Collaboration Agreement is governed by Norwegian law.

*Alternative 1:*

|  |
| --- |
| Attempts shall be made to resolve any disputes that may arise in connection with, or as a result of, this Collaboration Agreement amicably through negotiation between the Participants. If an amicable solution can not be reached, the dispute may be brought before the courts. The Participants agree on [*fill in the relevant court district*] District Court as the joint legal venue.  |

*Alternative 2:*

|  |
| --- |
| Attempts shall be made to resolve any disputes that may arise in connection with, or as a result of, this Collaboration Agreement amicably through negotiation between the Participants. If an amicable solution can not be reached, the dispute may be resolved through arbitration pursuant to Act No. 25 of 14 May 2004 on arbitration. The Participants agree that the contents and result of an arbitration case shall be kept secret. |

# 23 Signatures

This Collaboration Agreement has been signed in [x] copies, with one copy kept by each Participant.

**For [Name of Company]:**

Place/ date:

Name:

Title:

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

**Invoicing address:**

**Invoice reference:**

**For [Name of Company]:**

Place/ date:

Name:

Title:

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

**Invoicing address:**

**Invoice reference:**

# Appendix 1

**R&D Contract**

# Appendix 2

**Deviations from the Standard Text of the Collaboration Agreement**

The Participants have agreed that the provisions below shall apply instead of or in addition to the standard text in the general conditions to the Collaboration Agreement:

|  |  |
| --- | --- |
| **Section in the Collaboration Agreement**  | **New/ Supplementary agreement text**  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

# Appendix 3

**Background**

The following Background has been brought into the Project:

|  |
| --- |
| [Name of Participant] |
| [List/ specification of Background and conditions for access] |

# Appendix 4

**Areas of Use**

The Participants have agreed on the following Areas of Use to delimit the Participants’ exercise of their access rights under the Collaboration Agreement:

|  |  |
| --- | --- |
| **Name of Participant** | **Specification of Area of Use** |
|  | *[Specify an area of use that is delimited to reflect the Participant’s anticipated concrete and realistic use.]* |
|  | *[Specify an area of use that is delimited to reflect the Participant’s anticipated concrete and realistic use.]* |
|  | *[Specify an area of use that is delimited to reflect the Participant’s anticipated concrete and realistic use.]* |
|  | *[Specify an area of use that is delimited to reflect the Participant’s anticipated concrete and realistic use.]* |
|  | *[Specify an area of use that is delimited to reflect the Participant’s anticipated concrete and realistic use.]* |

# Appendix 5

**Accession Document – [Name of Project]**

**[Name of new participant company]**

Upon signing this document, [name of new participant] consents to become a new Participant in the Project [name of Project], and agrees from the same date to be bound by the provisions set out in the Collaboration Agreement dated [date].

The Project Owner confirms with its signature on this accession document that the Steering Committee at its meeting held on [date] approved [name of new participant] as a new Participant to the Project.

The Participants agree that [name of new participant] shall contribute the following to the Project:

[fill in]

This accession document has been signed in two originals.

**For [name of new participant]:**

Place/ date:

Name:

Title:

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

**For Project Owner:**

Place/ date:

Name:

Title:

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

# Appendix 6

**Supplementary description of the obligations of the individual Participants to perform research activity and/or provide funding in accordance with the Project Description and Funding Plan for the Project.**

**Financial Support**

The Participants shall contribute resources and cash financing for the implementation of the Project as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Participant** | **In-kind** | **Cash financing** | **Total** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Total** |  |  |  |

The above commitments shall be honoured in accordance with the following schedule:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Participant** | **[year]** | **[year]** | **[year]** | **Total** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| **Total** |  |  |  |  |

**Costs**

The Participants agree on the following cost plan for the Project

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Participant** | **[Cost category]** | **[Cost category]** | **[Cost category]** | **Total** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| **Total** |  |  |  |  |

**Project implementation**

The Participants shall carry out their obligations under the Project in accordance with the following plan:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Work package** | **Main activity, objective and delivery**  | **Cost (in NOK)** | **Responsible Participant**  | **Contributors** |
| 1 |  |  |  |  |
| 2 |  |  |  |  |
| 3 |  |  |  |  |
| 4 |  |  |  |  |
| 5 |  |  |  |  |

Milestones for implementation of the various work packages:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Work package** | **Milestone** | **[year]** | **[year]** | **[year]** | **[year]** |
| 1 |  |  |  |  |  |
| 2 |  |  |  |  |  |
| 3 |  |  |  |  |  |
| 4 |  |  |  |  |  |
| 5 |  |  |  |  |  |

**Description of the Participants’ contributions to the Project**

[any supplementary description of the Participants’ contributions to the Project]