

Development of radical innovations to recover minerals and metals from seawater desalination brines [SEA4VALUE]

- CONSORTIUM AGREEMENT –

Version 1 January 2020

Grant Agreement number: 869703

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CONSORTIUM AGREEMENT

THIS CONSORTIUM AGREEMENT is based upon

REGULATION (EU) No 1290/2013 OF THE EUROPEAN PARLIAMENT AND OF THE

COUNCIL of 11 December 2013 laying down the rules for the participation and dissemination in “Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)” (hereinafter referred to as “Rules for Participation”), and the European Commission Multi-beneficiary General Model Grant Agreement and its Annexes, and is made on **1st of June 2020**, hereinafter referred to as the Effective Date

BETWEEN:

PARTY 1. FUNDACIÓ EURECAT (EUT) the Coordinator, established in AVENIDA UNIVERSITAT AUTONOMA 23, CERDANYOLA DEL VALLES (BARCELONA) 08290, Spain, VAT number: ESG66210345,

PARTY 2. FCC AQUALIA SA (AQU), established in CALLE FEDERICO SALMON 13, MADRID 28016, Spain, VAT number: ESA26019992,

PARTY 3. BASF SE (BASF), established in CARL-BOSCH-STRASSE 38, 67056 LUDWIGSHAFEN AM RHEIN, Germany, VAT number: DE149145247,

PARTY 4. Universitat Politècnica de Catalunya (UPC), established in Carrer Jordi Girona 31, 08034 Barcelona, Spain, VAT number: DE149145247, and represented by the Rector Prof. Francesc Torres Torres.

PARTY 5. Università della Calabria (UNICAL), established in VIA PIETRO BUCCI 7/11/B, ARCAVACATA DI RENDE 87036, Italy, VAT number: IT00419160783,

PARTY 6. Katholieke Universiteit Leuven (KUL), for the purposes of this Agreement represented by KU Leuven Research & Development, Waaistraat 6 box 5105, 3000 Leuven, Belgium.

PARTY 7. DNIPROVSKIJ DERGAVNIJ TECHNICHNIJ UNIVERSITET (DSTU), established in DNIPROBUDIVSKA STREET 2A, KAMIANSKE 51918, Ukraine, VAT number: UA020707304735,

PARTY 8. SEALEAU BV (SEA), established in ROTTERDAMSEWEG 183 C, DELFT 2629 HD, Netherlands, VAT number: NL855724985B01,

PARTY 9. Universitaet Bremen (UBREMEN), established in Bibliothekstrasse 1, BREMEN 28359, Germany, VAT number: DE811245070,

PARTY 10. Tecnicas Reunidas SA (TR), established in CALLE ARAPILES 14, MADRID 28015, Spain, VAT number: ESA28092583,

PARTY 11. Lappeenranta-Lahden Teknillinen Yliopisto (LUT), established in YLIOPISTONKATU 34, LAPPEENRANTA 53850, Finland, VAT number: FI02459042,

PARTY 12. Gesellschaft für Chemische Technik und Biotechnologie e.V (DECHMA), established in THEODOR HEUSS ALLEE 25, FRANKFURT 60486, Germany, VAT number: DE114234833,

PARTY 13. European Desalination Society (EDS), established in VIA ALVARO DEL PORTILLO 21, ROMA 00128, Italy,

PARTY 14. Catalan Water Partnership (CWP), established in CARRER PIC DE PEGUERA, 15, GIRONA 17003, Spain, VAT number: ESG64862717,

PARTY 15. European Science and Communication Insitute (ESCI), established in LINDENSTRASSE 87, OLDENBURG 26123, Germany, VAT number: DE308708228

hereinafter, jointly or individually, referred to as "Parties" or "Party" relating to the Action entitled

Development of radical innovations to recover minerals and metals from seawater desalination brines

in short

SEA4VALUE

hereinafter referred to as "Project"

WHEREAS:

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the Funding Authority as part of the Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the specific Grant Agreement to be signed by the Parties and the Funding Authority (hereinafter "Grant Agreement").

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1 Section: Definitions

1.1 Definitions

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

1.2 Additional Definitions

"Affiliated Entities"

Affiliated Entity means any legal entity that is:

- under the direct or indirect control of a participant, or
- under the same direct or indirect control as the participant, or
- directly or indirectly controlling a participant.

'Control' may take any of the following forms:

(a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;

(b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

However, the following relationships between legal entities shall not in themselves constitute controlling relationships:

- (a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights
- (b) The legal entities concerned are owned or supervised by the same public body.

“Background”

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

- (a) is held by one of the beneficiaries before he acceded to the Agreement, and
- (b) is needed to implement the action or exploit the results.

“Consortium Body”:

Consortium Body means any management body described in the Governance Structure section of this Consortium Agreement.

“Consortium Plan”

Consortium Plan means the description of the action and the related agreed budget as first defined in the Grant Agreement and which may be updated by Parties via a decision of the Project Steering Board.

“Defaulting Party”

Defaulting Party means a Party which the Parties via decision of the Project Steering Board has identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Section 4.2 of this Consortium Agreement.

"Funding Authority"

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

“Needed”

means:

For the implementation of the Project:

Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient Party would be technically or legally impossible, significantly delayed such that completion of associated tasks under the Consortium Plan would not be reasonably possible within the anticipated duration of the Project, or require significant additional financial or human resources.

For Exploitation of own Results:

Access Rights are Needed if, without the grant of such Access Rights, the Exploitation of own Results would be technically or legally impossible.

“Periodic Reporting”

Periodic Reporting means the submission of the technical report, the individual financial statements and the explanation of the use of resources, to the European Commission.

“Project Steering Board”

Project Steering Board means the representative body consisting of all representatives of the Parties, whereas each Party may send one representative.

“Software”

Software means sequences of instructions to carry out a process in, or convertible into, a form executable by a computer and fixed in any tangible medium of expression.

“Total Fund Authority Contribution”

Total Fund Authority Contribution means the total amount that will be paid by European Commission for the execution of the project.

2 Section: Purpose

The purpose of this Consortium Agreement is to specify with respect to the Project the relationship among the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution and set out other rights and obligations of the Parties supplementing but not conflicting with those of the Grant Agreement (considering for the avoidance of doubt that the latter prevails).

3 Section: Entry into force, duration and termination

3.1 Entry into force

A legal entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by duly authorised representatives.

This Consortium Agreement shall have effect from the Effective Date identified at the beginning of this Consortium Agreement.

A new entity becomes a Party to the Consortium Agreement upon signature of the accession document (Attachment 2) by the new Party and the Coordinator provided the Parties via decision of the Project Steering Board have entitled Coordinator to sign such accession document on behalf of the Parties. Such accession shall have effect from the date identified in the accession document.

3.2 Duration and termination

This Consortium Agreement come into force on the Effective Date and thereafter shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement, however, in any event not later than the submission of the 31st of May of 2024.

However, this Consortium Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of this Consortium Agreement.

If

- the Grant Agreement is not signed by the Funding Authority or a Party, or
- the Grant Agreement is terminated, or
- a Party's participation in the Grant Agreement is terminated,

this Consortium Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Section 3.3 of this Consortium Agreement.

3.3 Survival of rights and obligations

The provisions relating to Access Rights, Dissemination and confidentiality, for the time period mentioned therein, as well as for liability, applicable law and settlement of disputes shall survive the expiration or termination of this Consortium Agreement.

Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the remaining Parties via decision of the Project Steering Board and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

4 Section: Responsibilities of Parties

4.1 General principles

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly, all of its obligations under the Grant Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.

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

Each Party shall promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

4.2 Breach

In the event that a responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement (e.g. improper implementation of the project), the Coordinator or, if the Coordinator is in breach of its obligations, the Party appointed by the Parties via decision of the Project Steering Board, will give formal notice to such Party requiring that such breach will be remedied within 30 (thirty) calendar days from the date of receipt of the written notice by the Party.

If such breach is substantial and is not remedied within that period or is not capable of remedy, the Parties via decision of the Project Steering Board may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of its participation.

4.3 Involvement of third parties

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A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Project remains responsible for carrying out its relevant part of the Project and for such third party's compliance with the provisions of this Consortium Agreement and of the Grant Agreement and for the consequences arising from such third party's non-compliance.

The Part involving the third party has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties under this Consortium Agreement and the Grant Agreement.

5 Section: Liability towards each other

5.1 No warranties

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

Therefore,

- the recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials (including Results and Background), and
- no Party granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Party (or its Affiliated Entities) exercising its Access Rights except in the case that such Party has knowingly granted Access Rights to proprietary rights of a third party without having acquired the corresponding applicable right of use from said third party.

5.2 Limitations of contractual liability

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

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

The terms of this Consortium Agreement shall not be construed to amend or limit any Party's statutory liability.

5.3 Damage caused to third parties

Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party's obligations by it or on its behalf under this Consortium Agreement or from its use of Results or Background.

5.4 Force Majeure

No Party shall be considered to be in breach of this Consortium Agreement if it is prevented from fulfilling its obligations under the Consortium Agreement by Force Majeure (Article 51 Grant Agreement).

Each Party will notify the competent Consortium Bodies of any Force Majeure without undue delay. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

6 Section: Governance structure

6.1 General structure

The organisational structure of the Consortium shall comprise the following Consortium Bodies:

- Project Management Team
- Project Steering Board
- Coordinator
- External Expert Advisory Board

The Project Steering Board is the ultimate decision-making body of the consortium; the Project Management Team (PMT) as the supervisory body for the execution of the Project which shall report to and be accountable to the Project Steering Board.

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

6.2 General operational procedures for all Consortium Bodies

6.2.1 Representation in meetings

Any Party which is a member of a Consortium Body (hereinafter referred to as "Member"):

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

6.2.2 Preparation and organisation of meetings

6.2.2.1 Convening meetings

The chairperson of a Consortium Body shall convene meetings of that Consortium Body.

	Ordinary meeting	Extraordinary meeting
Project Steering Board	At least once a year	At any time upon written request of the Project Management Team or 1/3 of the Members of the Project Steering Board
Project Management Team	At least quarterly	At any time upon written request of any Member of the Project Management Team

6.2.2.2 Notice of a meeting

The chairperson of a Consortium Body shall give notice in writing of a meeting to each Member of that Consortium Body as soon as possible and no later than the minimum number of days preceding the meeting as indicated below.

	Ordinary meeting	Extraordinary meeting
Project Steering Board	45 (forty-five) calendar days	15 (fifteen) calendar days
Project Management Team	14 (fourteen) calendar days	7 (seven) calendar days

6.2.2.3 Sending the agenda

The chairperson of a Consortium Body shall prepare and send each Member of that Consortium Body a written (original) agenda no later than the minimum number of days preceding the meeting as indicated below.

Project Steering Board	21 (twenty one) calendar days for ordinary meetings, 10 (ten) calendar days for an extraordinary meeting
Project Management Team	7 (seven) calendar days for ordinary and extraordinary meetings

6.2.2.4 Adding agenda items:

Any agenda item requiring a decision by the Members of a Consortium Body must be identified as such on the agenda.

Any Member of a Consortium Body may add an item to the original agenda by written notification (e-mail will be sufficient) to all of the other Members of that Consortium Body up to the minimum number of days preceding the meeting as indicated below.

Project Steering Board	14 (fourteen) calendar days for ordinary meetings, 7 (seven) calendar days for an extraordinary meeting
Project Management Team	2 (two) calendar days for ordinary and extraordinary meetings.

6.2.2.5

During a meeting the Members of a Consortium Body present or represented can unanimously agree to add a new item to the original agenda. However, no decision may be taken on this new item if not all Members are present or represented at the meeting.

6.2.2.6

Meetings of each Consortium Body may also be held by teleconference or other telecommunication
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means.

6.2.2.7

Decisions will only be binding once the relevant part of the Minutes has been accepted according to Section 6.2.5.

6.2.2.8

Any decision may also be taken without a meeting if the Coordinator circulates to all Members of the Consortium Body a written document, which is then agreed by the defined majority (see Section 6.2.3) of all Members of the Consortium Body. Such document shall include the deadline for responses.

Decisions taken without a meeting shall be considered as accepted if, within the period set out in article 6.2.4.4, no Member has sent an objection in writing to the chairperson. The decisions will be binding after the chairperson sends to all Members of the Consortium Body and to the Coordinator a written notification of this acceptance.

6.2.3 Voting rules and quorum

6.2.3.1

Each Consortium Body shall not deliberate and decide validly unless two-thirds (2/3) of its Members are present or represented (quorum). If the quorum is not reached, the chairperson of the Consortium Body shall convene another ordinary meeting within 15 calendar days. If in this meeting the quorum is not reached once more, the chairperson shall convene an extraordinary meeting which shall be entitled to decide even if less than the quorum of Members is present or represented.

6.2.3.2

Each Member of a Consortium Body present or represented in the meeting shall have one vote.

6.2.3.3

A Party which the Parties via decision of the Project Steering Board have declared according to Section 4.2 to be a Defaulting Party may not exercise any vote or participate in any further Consortium Body decision-making following the declaration of a default.

6.2.3.4

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

6.2.4 Veto rights

6.2.4.1

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

6.2.4.2

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

6.2.4.3

When a decision has been taken on a new item added to the agenda before or during the meeting, a Member may veto such decision during the meeting and within 15 calendar days after the draft minutes of the meeting are sent. A Party that is not a Member of a particular Consortium Body may veto a decision within the same number of calendar days after the draft minutes of the meeting are sent.

6.2.4.4

When a decision has been taken without a meeting a Member may veto such decision within 15 calendar days after written notification (e-mail will be sufficient) by the chairperson of the outcome of the vote.

6.2.4.5

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

6.2.4.6

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

6.2.4.7

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

6.2.5 Minutes of meetings

6.2.5.1

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

6.2.5.2

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

6.2.5.3

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

6.3 Specific operational procedures for the Consortium Bodies

6.3.1 Project Steering Board

In addition to the rules described in Section 6.2, the following rules apply:

6.3.1.1 Members

6.3.1.1.1

The Project Steering Board shall consist of one representative of each Party (hereinafter Project Steering Board Member).

6.3.1.1.2

Each Project Steering Board Member, or its proxy or substitute, shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Section 6.3.1.2. of this Consortium Agreement.

For the avoidance of doubt and without prejudice to the provisions of article 11.4, any change to the Consortium Agreement shall only be legally binding between the Parties if agreed in writing and executed by the duly authorised signatories of each Party.

6.3.1.1.3

The Coordinator shall chair all meetings of the Project Steering Board, unless decided otherwise in a meeting of the Project Steering Board.

6.3.1.1.1

The Parties agree to abide by all decisions of the Parties via decision of Project Steering Board taken in accordance with its competences and this Consortium Agreement and the Grant Agreement. This does not prevent the Parties to submit a dispute to resolution in accordance with the provisions of Settlement of disputes in Section 11.8.

6.3.1.2 Decisions

The Parties via decision of Project Steering Board shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein. In addition, all proposals made by the Project Management Team shall also be considered and decided upon by the Parties via decision of the Project Steering Board.

The following decisions shall be taken by the Project Steering Board:

Content, finances and intellectual property rights

- Proposals for changes to Annexes 1 and 2 of the Grant Agreement to be agreed by the Funding Authority
- Changes to the Consortium Plan
- Modifications to Attachment 1 (Background Included)
- Additions to Attachment 3 (List of Third Parties for simplified transfer according to Section 8.3.2)
- Entry of a new Party to the consortium and approval of the settlement on the conditions of the accession of such a new Party and, if apply, its Background according to the section 9.7.1
- Withdrawal of a Party from the consortium and the approval of the settlement on the conditions of the withdrawal

- Identification of a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement
- Declaration of a Party to be a Defaulting Party
- Remedies to be performed by a Defaulting Party
- Termination of a Defaulting Party's participation in the consortium and measures relating thereto
- Proposal to the Funding Authority for a change of the Coordinator
- Proposal to the Funding Authority for suspension of all or part of the Project
- Proposal to the Funding Authority for termination of the Project and the Consortium Agreement

Appointments

On the basis of the Grant Agreement, the appointment if necessary of:

- Project Management Team Members

For the avoidance of doubt, any proposal for a budget-related amendment to Annex 1 or 2 to the Grant Agreement that affects more than one partner shall only be legally binding between the Parties if agreed in writing and executed by the duly authorized signatories of each Party.

6.3.2 Project Management Team

In addition to the rules in Section 6.2, the following rules shall apply:

6.3.2.1 Members

The Project Management Team shall consist of the Coordinator and the Parties appointed by the Parties via decision of the Project Steering Board. The Project Management Team unites all WP Leaders, the ELSA Manager (ethical, legal and social aspects), and the Data, Communication and Exploitation Managers and reports to the Project Steering Board.

The Project Manager and the Technical Manager (defined in Annex I) shall chair all meetings of the Project Management Team, unless decided otherwise by a majority of two-thirds.

6.3.2.2 Minutes of meetings

Minutes of Project Management Team meetings, once accepted, shall be sent by the Coordinator to the Project Steering Board Members for information.

6.3.2.3 Tasks

6.3.2.3.1

The Project Management Team shall prepare the meetings, propose decisions and prepare the agenda of the Project Steering Board according to Section 6.3.1.2.

6.3.2.3.2

The Project Management Team shall seek a consensus among the Parties.

6.3.2.3.3

The Project Management Team shall be responsible for the proper execution and implementation of the decisions of the Parties made via decision of the Project Steering Board.

6.3.2.3.4

The Project Management Team shall monitor the effective and efficient implementation of the Project.

6.3.2.3.5

In addition, the Project Management Team shall collect information at least every 6 months on the progress of the Project, examine that information to assess the compliance of the Project with the Consortium Plan and, if necessary, propose modifications of the Consortium Plan to the Project Steering Board.

6.3.2.3.6

The Project Management Team shall:

- support the Coordinator in preparing meetings with the Funding Authority and in preparing related data and deliverables

prepare the content and timing of press releases and joint publications by the consortium or proposed by the Funding Authority in respect of the procedures of the Grant Agreement Article 29.

6.3.2.3.7

In the case of abolished tasks as a result of a decision of the Parties via decision of the Project Steering Board, the Project Management Team shall advise the Project Steering Board on ways to rearrange tasks and budgets of the Parties concerned. Such rearrangement shall take into consideration the legitimate commitments taken prior to the decisions, which cannot be cancelled.

6.4 Coordinator

6.4.1

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

6.4.2

In particular, the Coordinator shall be responsible for:

- monitoring compliance by the Parties with their obligations and that the Project is implemented properly in the sense established in the Article 7 of the Grant Agreement.
- keeping the address list of Members and other contact persons updated and available
- collecting, reviewing to verify consistency and submitting reports, other deliverables (including financial statements and related certifications) and specific requested documents to the Funding Authority
- transmitting documents and information connected with the Project to any other Parties

concerned

- administering the financial contribution of the Funding Authority and fulfilling the financial tasks described in Section 7.3
- providing, upon request, the Parties with official copies or originals of documents that are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims or for other justified reasons (e.g. audits).
- Arranging any necessary amendments, decided upon by the Parties via decision of the Project Steering Board, to the Grant Agreement with the Funding Authority

Before sending any proposal for amendment to Grant Agreement as decided by the Parties via decision of the Project Steering Board to the EC on behalf of the Parties, the Coordinator will present the documents in question to the Parties. The Parties will have 7 (seven) days to give their feedback, if any. After that, the Coordinator will send the amendment to the EC.

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

6.4.3

If the Coordinator fails in its coordination tasks, the Parties via decision of the Project Steering Board may decide to propose to the Funding Authority to change the Coordinator.

6.4.4

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

6.4.5

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

6.5 Expert Advisory Board (EEAB)

An External Expert Advisory Board (EEAB) will be appointed and steered by the Project Management Team. The EEAB shall assist and facilitate the decisions made by the Parties via decision of the Project Steering Board. The Coordinator will ensure that a non-disclosure agreement is executed between all Parties and each EEAB member. Its terms shall be not less stringent than those stipulated in this Consortium Agreement, and it shall be concluded no later than 30 calendar days after their nomination or before any confidential information will be exchanged, whichever date is earlier. The Coordinator shall write the minutes of the EEAB meetings and prepare the implementation of the EEAB's suggestions. The EEAB members shall be allowed to participate in Project Steering Board meetings upon invitation but have not any voting rights.

7 Section: Financial provisions

7.1 General Principles

7.1.1 Distribution of Financial Contribution

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

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

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

7.1.2 Justifying Costs

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Project towards the Funding Authority. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the Funding Authority.

7.1.3 Funding Principles

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

A Party that spends more than its allocated share of the budget as set out in the Consortium Plan will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share. For clarification, adjustments in accordance with Art. 4.2 Grant Agreement shall be possible. Such adjustments constitute a change in the Consortium Plan. Therefore, they are subject to the decision of the Parties via decision of the Project Steering Board.

7.1.4 Return of excess payments; receipts

7.1.4.1

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

7.1.4.2

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

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

A Party leaving the consortium shall refund all payments it has received except the amount of contribution accepted by the Funding Authority or another contributor. Furthermore, a Defaulting Party shall, within the limits specified in Section 5.2 of this Consortium Agreement, bear any reasonable and justifiable additional costs occurring to the other Parties in order to perform its and their tasks.

7.2 Budgeting

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

7.3 Payments

7.3.1 Payments to Parties are the exclusive tasks of the Coordinator.

In particular, the Coordinator shall:

- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references
- perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts
- undertake to keep the Funding Authority's financial contribution to the Project separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.
- With reference to Articles 21.2 and 21.3.2 of the Grant Agreement, no Party shall before the end of the Project receive more than its allocated share of the maximum grant amount from which the amounts retained by the Funding Authority for the Guarantee Fund and for the final payment have been deducted.

7.3.2

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

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

1. Pre-financing payment

Each party will receive a pre-financing payment at the beginning of the Project, once the Coordinator receives the payment from Funding Authority. The amount of pre-financing will be 48,33% of the respective Total Fund Authority Contribution of each Party.

2. Interim payments

Interim payment amounts will be distributed according to the costs reported and accepted by the Funding Authority and according to the total interim payment received by the Coordinator. Interim payment received from Funding Authority will be paid in full to Parties according to the costs accepted by Funding Authority for the relevant period.

The interim payments correspond to the Periodic Reporting identified in the Grant Agreement except the final one (covered under the following section).

3. Final payment

A final payment will be issued to all Parties after the successful conclusion of the Project, calculated as the difference between the amount already paid to the Party as pre-financing and interim payments and the total eligible costs of the Party as defined in the Consortium Budget. Only those eligible costs approved by the Commission, and paid to the Project Coordinator, will be reimbursed. The final

payment will also include the payment of the 5% retention and the Guarantee Fund.

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

The Coordinator is entitled to recover any payments already paid to a Defaulting Party strictly in accordance with section 7.1.5 only. The Coordinator is equally entitled to withhold payments to a Party when this is suggested by or agreed with the Funding Authority.

8 Section: Results

8.1 Ownership of Results

Results (including definition of methodologies) are owned by the Party that generates them.

8.2 Joint ownership

Joint ownership is governed by Grant Agreement Article 26.2 with the following additions:

As set forth under Article 26.2 of the Grant Agreement, the joint owners must agree in writing on the allocation and terms of exercise of their joint ownership in a separate written agreement ("Joint Ownership Agreement") to ensure compliance with their obligations under this Consortium Agreement, which agreement shall be drawn up as soon as necessary and in any event before any industrial and/or commercial exploitation of the jointly owned Results.

Joint Ownership Agreement shall cover in particular:

- how the ownership is divided between the joint owners,
- how the jointly owned Results will be protected, including issues concerning the division of the related cost of protection (e.g. patent filing and examination fees, renewal fees, prior state- of-the-art searches, infringement actions, etc.),
- how the jointly owned Results will be exploited and disseminated and how the revenues or profits are shared between the joint owners,
- how the possible transfer of the part of the Results owned by one of joint owners to a third party should be managed, and under which conditions this transfer should take place,
- the criteria for 'fair and reasonable compensation' to be provided to the non-exploiting joint owners,
- how disputes will be settled (e.g. via a mediator, applicable law, etc.). Unless otherwise agreed in the Joint Ownership Agreement:
 - each of the joint owners shall be entitled to use their jointly owned Results for non- commercial research activities and educational purposes on a royalty-free basis, and without requiring the prior consent of the other joint owner(s), and
 - each of the joint owners shall be entitled to otherwise Exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given:

- (a) at least 45 (forty-five) calendar days advance notice; and

(b) Fair and Reasonable compensation.

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

8.3 Transfer of Results

8.3.1

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

8.3.2

It may identify specific third parties it intends to transfer the ownership of its Results to in Attachment (3) to this Consortium Agreement. The other Parties hereby waive their right to prior notice and their right to object to a transfer to listed third parties according to the Grant Agreement Article 30.1.

8.3.3

The transferring Party shall, however, as soon as legally or contractually authorised and at the latest, at the time of the transfer, inform the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer. Any addition to Attachment (3) after signature of this Agreement requires a decision of the Parties via decision of the Project Steering Board.

8.3.4

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

8.3.5

The obligations above apply only for as long as other Parties still have - or still may request - Access Rights to the Results.

8.4 Dissemination

8.4.1

For the avoidance of doubt, nothing in this Section 8.4 has impact on the confidentiality obligations set out in Section 10.

8.4.2 Dissemination of own Results

8.4.2.1

During the Project and for a period of 1 year after the end of the Project, the dissemination of own Results by one or several Parties including but not restricted to publications and presentations, shall be governed by the procedure of Article 29.1 of the Grant Agreement subject to the following provisions.

Prior notice of any planned publication shall be given to the other Parties at least 60 (sixty) calendar days before the publication. Any objection to the planned publication shall be made in accordance

with the Grant Agreement in writing to the Coordinator and to the Party or Parties proposing the dissemination within 45 (forty-five) calendar days after receipt of the notice. All Parties shall reply to the notice of the planned publication within the first deadline mentioned above.

8.4.2.2

An objection is justified if

- (a) the protection of the objecting Party's Results or Background would be adversely affected
- (b) the objecting Party's legitimate interests in relation to its Results or Background would be significantly harmed.

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

8.4.2.3

If an objection has been raised the involved Parties shall discuss how to overcome the justified grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting information before publication) and the objecting Party shall not unreasonably continue the opposition if appropriate measures are taken following the discussion.

8.5

The objecting Party can request a publication delay of not more than 90 (ninety) calendar days from the time it raises such an objection, being this the limit time to overcome the objections by the involved parties.

This does not prevent the Parties from submitting a dispute to resolution in accordance with the provisions of Settlement of disputes in section 11.8. If a publishing party does not agree with the determination of the Project Management Team then they should have the option to follow the dispute resolution mechanism.

8.5.1 Dissemination of another Party's unpublished Results or Background

A Party shall not include in any dissemination activity another Party's Results or Background without obtaining the owning Party's prior written approval, unless such Results or Background are already published.

The mere absence of an objection according to the previous Section 8.4 of this Consortium Agreement is not considered as an approval.

8.5.2 Cooperation obligations

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

8.5.3 Use of names, logos or trademarks

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

9 Section: Access Rights

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9.1 Background included

9.1.1

In Attachment 1, the Parties have identified and agreed on the Background (including the background owned by its Affiliated Entities) for the Project and have also, where relevant, informed each other that Access to specific Background is subject to legal restrictions or limits.

Anything not identified in Attachment 1 shall not be the object of Access Right obligations regarding Background.

9.1.2

Any Party may add further own Background to Attachment 1 during the Project by written notice to the other Parties. However, approval of the Parties via decision of the Project Steering Board is needed should a Party wish to modify or withdraw its Background in Attachment 1.

9.2 General Principles

9.2.1

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

9.2.2

Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise. The Parties may grant sublicenses to Affiliated Entities unless such entities already have Access Rights according to Section 9.5.

9.2.3

Access Rights shall be free of any administrative transfer costs.

9.2.4

Access Rights are granted on a non-exclusive basis.

9.2.5

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

9.2.6

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

9.2.7

The requesting Party must show that the Access Rights are Needed.

9.3 Access Rights for implementation

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Access Rights to Results and Background Needed for the performance of the own work of a Party under the Project are hereby requested and shall be deemed granted as of the date of this Consortium Agreement entering into force to and by all Parties on a royalty-free basis, unless otherwise agreed for Background in Attachment 1.

9.4 Access Rights for Exploitation

9.4.1 Access Rights to Results

Access Rights to Results if Needed for Exploitation of a Party's own Results (i.e. for developing, creating or marketing a product or process, creating and providing a service, or using them in standardisation activities), including for research on behalf of a third party, shall be granted on Fair and Reasonable conditions, which shall include appropriate financial terms to be agreed by the concerned Parties upon written separate bilateral agreement prior to any use of the Results by the requesting Party.

Access Rights to Results for further internal research and academic and educational activities outside the project excluding clinical trials shall be granted on a royalty-free basis, provided that dissemination conditions specified in Article 8.3 and obligations relating to Confidential Information are respected.

9.4.2

A request for Access Rights may be made up to twelve months after the end of the Project or, in the case of Section 9.7.2.1.2, after the termination of the requesting Party's participation in the Project.

9.5 Access Rights for Affiliated Entities

Affiliated Entities have Access Rights under the conditions of the Grant Agreement Articles 25.4 and 31.4.

Such Access Rights must be requested by the Affiliated Entity from the Party that holds the Background or Results. Alternatively, the Party granting the Access Rights may individually agree with the Party requesting the Access Rights to have the Access Rights include the right to sublicense to the latter's Affiliated Entities. 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 fulfil all confidentiality and other obligations accepted by the Parties under the Grant Agreement or this Consortium Agreement as if such Affiliated Entities were Parties.

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

Access Rights granted to any Affiliated Entity are subject to the continuation of the Access Rights of the Party to which it is affiliated, and shall automatically terminate upon termination of the Access Rights granted to such Party.

Upon cessation of the status as an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse.

Further arrangements with Affiliated Entities may be negotiated in separate agreements.

9.6 Additional Access Rights

For the avoidance of doubt any grant of Access Rights not covered by the Grant Agreement or this © DESCA - Horizon 2020 Model Consortium Agreement (www.DESCA-2020.eu),

Consortium Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

9.7 Access Rights for Parties entering or leaving the consortium

9.7.1 New Parties entering the consortium

As regards Results developed before the accession of the new Party, the new Party will be granted Access Rights on the conditions applying for Access Rights to Background.

Together with the accession any new Party must fill its Background in Attachment 1 to be decided by the Parties via decision of the Project Steering Board.

9.7.2 Parties leaving the consortium

9.7.2.1 Access Rights granted to a leaving Party

9.7.2.1.1 Defaulting Party

Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the Parties via decision of the Project Steering Board to terminate its participation in the consortium.

9.7.2.1.2 Non-defaulting Party

A non-defaulting Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the Results developed until the date of the termination of its participation.

It may request Access Rights within the period of time specified in Section 9.4.3.

9.7.2.2 Access Rights to be granted by any leaving Party

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

9.8 Specific Provisions for Access Rights to Software

9.8.1 Definitions relating to Software

“Application Programming Interface”

means the application programming interface materials and related documentation containing all data and information to allow skilled Software developers to create Software interfaces that interface or interact with other specified Software.

"Controlled License" means in any license that require that the use, copying, modification and/or distribution of Software or another work ("Work") and/or of any work that is a modified version of or is a derivative work of such Work (in each case, "Derivative Work") be subject, in whole or in part, to one or more of the following:

- a) (where the Work or Derivative Work is Software) that the Source Code or
- b) other formats preferred for modification be made available as of right to any third party on request, whether royalty-free or not;

- c) that permission to create modified versions or derivative works of the Work or Derivative Work be granted to any third party;
- d) that a royalty-free license relating to the Work or Derivative Work be granted to any third party.

For the avoidance of doubt, any Software license that merely permits (–but does not require any of) the things mentioned in (a) to (c) is not a Controlled License in the terms mentioned above (and so is an Uncontrolled License).

“Object Code” means software in machine-readable, compiled and/or executable form including, but not limited to, byte code form and in form of machine-readable libraries used for linking procedures and functions to other software.

“Software Documentation” means software information, being technical information used, or useful in, or relating to the design, development, use or maintenance of any version of a software program.

“Source Code” means software in human readable form normally used to make modifications to it including, but not limited to, comments and procedural code such as job control language and scripts to control compilation and installation.

9.8.2 General principles

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software as far as not modified by this Section 9.8.

Parties' Access Rights to Software do not include any right to receive Source Code or Object Code ported to a certain hardware platform or any right to receive Source Code, Object Code or respective Software Documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

The intended introduction of Intellectual Property (including, but not limited to Software) under Controlled License Terms in the Project requires the approval of the Project Steering Board to implement such introduction into the Consortium Plan.

9.8.3 Access to Software

Access Rights to Software that is Results shall comprise:

Access to the Object Code; and,

where normal use of such an Object Code requires an Application Programming Interface (hereafter API), Access to the Object Code and such an API; and,

if a Party can show that the execution of its tasks under the Project or the Exploitation of its own Results is technically or legally impossible without Access to the Source Code, Access to the Source Code to the extent necessary.

Background shall only be provided in Object Code unless otherwise agreed between the Parties concerned.

9.8.4 Software license and sublicensing rights

9.8.4.1 Object Code

9.8.4.1.1 Results - Rights of a Party

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Where a Party has Access Rights to Object Code and/or API that is Results for Exploitation, such Access shall, in addition to the Access for Exploitation foreseen in Section 9.4, as far as Needed for the Exploitation of the Party's own Results, comprise the right:

to make an unlimited number of copies of Object Code and API; and

to distribute, make available, market, sell and offer for sale such Object Code and API alone or as part of or in connection with products or services of the Party having the Access Rights;

provided however that any product, process or service has been developed by the Party having the Access Rights in accordance with its rights to exploit Object Code and API for its own Results.

If it is intended to use the services of a third party for the purposes of this Section 9.8.4.1.1, the Parties concerned shall agree on the terms thereof with due observance of the interests of the Party granting the Access Rights as set out in Section 9.2 of this Consortium Agreement.

9.8.4.1.2 Results - Rights to grant sublicenses to end-users

In addition, Access Rights to Object Code shall, as far as Needed for the Exploitation of the Party's own Results, comprise the right to grant in the normal course of the relevant trade to end-user customers buying/using the product/services, a sublicense to the extent as necessary for the normal use of the relevant product or service to use the Object Code alone or as part of or in connection with or integrated into products and services of the Party having the Access Rights and, as far as technically essential:

- to maintain such product/service;
- to create for its own end-use interacting interoperable software in accordance with the Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs

9.8.4.1.3 Background

For the avoidance of doubt, where a Party has Access Rights to Object Code and/or API that is Background for Exploitation, Access Rights exclude the right to sublicense. Such sublicensing rights may, however, be negotiated between the Parties.

9.8.4.2 Source Code

9.8.4.2.1 Results - Rights of a Party

Where, in accordance with Section 9.8.3, a Party has Access Rights to Source Code that is Results for Exploitation, Access Rights to such Source Code, as far as Needed for the Exploitation of the Party's own Results, shall comprise a worldwide right to use, to make copies, to modify, to develop, to adapt Source Code for research, to create/market a product/process and to create/provide a service.

If it is intended to use the services of a third party for the purposes of this Section 9.8.4.2.1, the Parties shall agree on the terms thereof, with due observance of the interests of the Party granting the Access Rights as set out in Section 9.2 of this Consortium Agreement.

9.8.4.2.2 Results – Rights to grant sublicenses to end-users

In addition, Access Rights, as far as Needed for the Exploitation of the Party's own Results, shall comprise the right to sublicense such Source Code, but solely for purpose of adaptation, error

correction, maintenance and/or support of the Software.

Further sublicensing of Source Code is explicitly excluded.

9.8.4.2.3 Background

For the avoidance of doubt, where a Party has Access Rights to Source Code that is Background for Exploitation, Access Rights exclude the right to sublicense. Such sublicensing rights may, however, be negotiated between the Parties.

9.8.5 Specific formalities

Each sublicense granted according to the provisions of Section 9.8.4 shall be made by a traceable agreement specifying and protecting the proprietary rights of the Party or Parties concerned.

10 Section: Non-disclosure of information

10.1

All information in whatever form or mode of communication, which is disclosed by a Party (the “Disclosing Party”) to any other Party (the “Recipient”) in connection with the Project during its implementation and which has been explicitly marked as “confidential” at the time of disclosure, or when disclosed orally has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 (fifteen) calendar days from oral disclosure at the latest as confidential information by the Disclosing Party, is “Confidential Information”.

10.2

The Recipients hereby undertake in addition and without prejudice to any commitment on non-disclosure under the Grant Agreement, for a period of 4 (four) years after the 31st of May of 2024:

- Not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to third parties (except Affiliated Entities, only if they have a need to know and are bound by an obligation of confidentiality) without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
- to return to the Disclosing Party, or destroy, on request all Confidential Information that has been disclosed to the Recipients including all copies thereof and to delete all information stored in a machine-readable form to the extent practically possible. The Recipients may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations provided that the Recipient comply with the confidentiality obligations herein contained with respect to such copy for as long as the copy is retained.

10.3

The recipients shall be responsible for the fulfilment of the above obligations on the part of their employees or third parties involved in the Project and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of the contractual relationship with the employee or third party.

10.4

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

- the Confidential Information has become or becomes publicly available by means other than a breach of the Recipient's confidentiality obligations;
- the Disclosing Party subsequently informs the Recipient in writing (e-mail will be sufficient) that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality to the Disclosing Party;
- the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party;

the Confidential Information was already known to the Recipient prior to disclosure, or

- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 10.7 hereunder.

10.5

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

10.6

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

10.7

If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure

- notify the Disclosing Party, and
- comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information.

11 Section: Miscellaneous

11.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and

Attachment 1 (Background included)

Attachment 2 (Accession document)

Attachment 3 (List of Third Parties for simplified transfer according to Section 8.3.2)

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

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

11.2 No representation, partnership or agency

Except as otherwise provided in Section 6.4.4, no Party shall be entitled to act or to make legally binding declarations on behalf of any other Party or of the consortium. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

11.3 Notices and other communication

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

Formal notices:

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

Other communication:

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

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

11.4 Assignment and amendments

Except as set out in Section 8.3, no rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval. Amendments and modifications to the text of this Consortium Agreement not explicitly listed in Section 6.3.1.2 require a separate written agreement be signed by the duly authorised signatories of all Parties.

11.5 Mandatory national law

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

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11.6 Language

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

11.7 Applicable law

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

11.8 Settlement of disputes

The parties shall endeavor to settle their disputes amicably.

Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Brussels unless otherwise agreed upon. The language to be used in the mediation shall be English unless otherwise agreed upon.

WIPO Mediation Followed, in the Absence of a Settlement, by Court Litigation.

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 calendar days of the commencement of the mediation, the courts of Brussels shall have exclusive jurisdiction.

12 Section: Signatures

AS WITNESS:

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

FUNDACIO EURECAT (EUT)

Signature(s)


eurecat
Centre Tecnològic de Catalunya

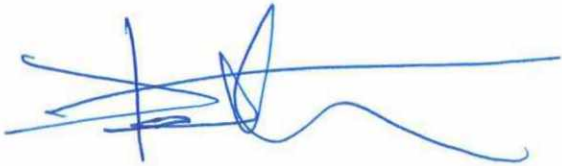
Name(s) Xavier López Luján

Title(s) Corporate & Operations Managing Director

Date 10th June, 2020

FCC AQUALIA SA (AQU)

Signature(s)

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Name: Pedro Rodriguez Medina
Title: Director of Tenders and Operations
Date

BASF SE (BASF)

ppa

i.V.



Kratz



Schäfer

Signature(s)

8 June 2020

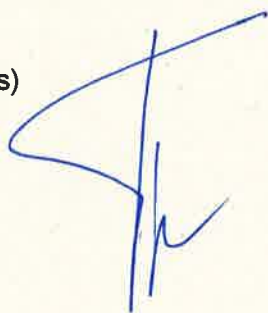
Name(s)

Title(s)

Date

Universitat Politècnica de Catalunya (UPC)

Signature(s)

A handwritten signature in blue ink, consisting of a large, stylized 'F' followed by a vertical line and a small flourish at the bottom.

Name(s) Prof. Francesc Torres Torres

Title(s) Rector

Date

Università della Calabria (UNICAL)

Signature(s)



Name : Nicola LEONE

Title: Rector

Date: 10 June 2020

Katholieke Universiteit Leuven (KUL)

Signature(s)




Paul Van Dun
General manager, KU Leuven Research and Development

Date **22 JUNI 2020**


Elke Lammertyn
Head of EU and international projects, KU Leuven Research and Development

Date **22 JUNI 2020**

For internal approval
Prof. Koen Binnemans


KBinnemans

DNIPROVSKIJ DERGAVNIJ TECHNICHNIJ UNIVERSITET (DSTU)

Signature(s)



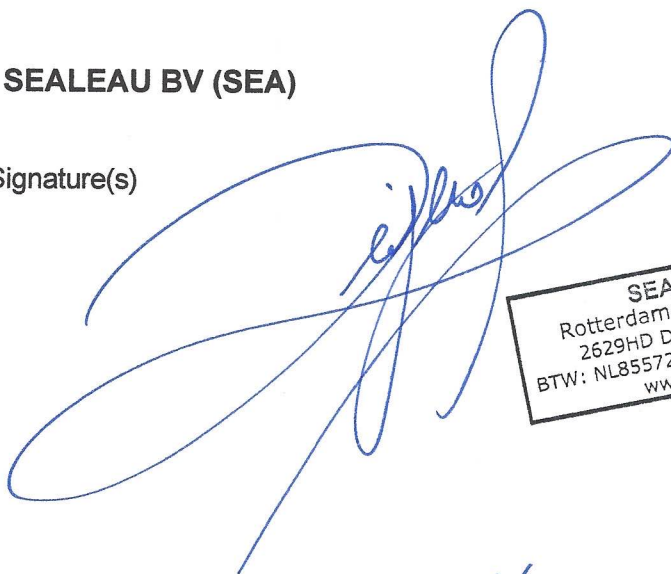
Name(s): Prof. Olexander Korobochka

Title(s): Rector

Date: May 29, 2020

SEALEAU BV (SEA)

Signature(s)



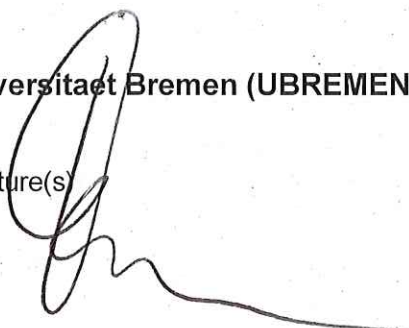
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Name(s)
Title(s)
Date

DIMITRIOS XEUGENOS
MANAGING DIRECTOR
17/06/2020

Universitaet Bremen (UBREMEN)

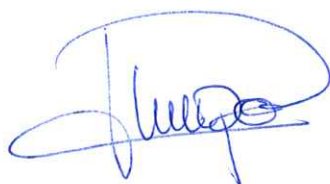
Signature(s)



Name(s) Dr. Martin Mehrtens
Title(s) Head of Finance and
Administration Date 05/06/2020

Tecnicas Reunidas SA (TR)

Signature(s)



Name(s) JAVIER LIMPO
Title(s) DIVISION DIRECTOR
Date 09/06/2020

Lappeenrantaan-Lahden Teknillinen Yliopisto (LUT)

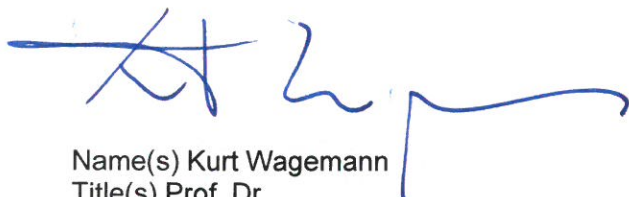
Signature(s)



Name(s) *Laisa-Maija Savio*
Title(s) *provest*
Date *17.6.2020*

Gesellschaft für Chemische Technik und Biotechnologie e.V (DECHEMA)

Signature(s)

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a wavy line and a horizontal stroke.

Name(s) Kurt Wagemann
Title(s) Prof. Dr.
Date **09.06.2020**

Catalan Water Partnership (CWP)

Signature(s)



Name(s) **XAVIER AMORES BRAVO**
Title(s) **CLUSTER MANAGER**
Date **8/6/2020**

European Science and Communication Institute (ESCI)

Signature(s)



Name(s) *ELMAR BARTLMAE*

Title(s) *DR.*

Date *19th June 2020*

Attachment 1: Background included

According to the Grant Agreement (Article 24) Background is defined as “data, know-how or information (...) that is needed to implement the action or exploit the results”. Because of this need, Access Rights have to be granted in principle, but Parties must identify and agree amongst them on the Background for the project. This is the purpose of this attachment.

PARTY 1

As to FUNDACIÓ EURECAT (EUT), it is agreed between the Parties that, to the best of their knowledge,

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

Describe Background	Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement)	Specific limitations and/or conditions for Exploitation (Article 25.3 Grant Agreement)

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Version 1.2.4, October 2017 BASF-RecordID 87628122

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PARTY 2

As to FCC AQUALIA SA (AQU), it is agreed between the Parties that, to the best of their knowledge,

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

Describe Background	Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement)	Specific limitations and/or conditions for Exploitation (Article 25.3 Grant Agreement)
<p>Design, construction, operation and optimization on electroassisted systems for water and wastewater treatment, and high salinity streams desalination.</p> <p>Patent request (PCT N° PCT/EP2017/083359).</p> <p>Patent (WO2017167869A1-EP3225596A1)</p>	Not available for use without specific authorization by Aqualia	Not possible without specific authorization by Aqualia.
<p>Desalination know-how for brackish and sea water treatment for human activities (drinking water, irrigation, industrial uses). Design, construction, operation and optimization of the desalination process.</p> <p>Know-how for brine management and safe disposal. Design, construction, operation and optimization of the brine management process.</p>		
<p>Know-how on biological and membrane-based wastewater treatment. Design, construction, operation and optimization of the wastewater treatment process.</p>		

Protocol for reusing Nanofiltration and Reverse Osmosis membranes. Know-how on membrane treatment and recovery for aged NF/RO membranes.		
Know-how on micro/ultrafiltration membranes and media filtration systems for water and wastewater treatment, and desalination. Design, construction, operation and optimization of the water conditioning treatment process.		
Know-how on desalinated water post-treatment to increase water characteristics. Design, construction, operation and optimization of the desalinated water conditioning process.		

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PARTY 3

As to BASF SE (BASF), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of BASF SE (BASF) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 4

As to Universitat Politècnica de Catalunya (UPC), it is agreed between the Parties that, to the best of their knowledge, the following background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

Describe Background	Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement)	Specific limitations and/or conditions for Exploitation (Article 25.3 Grant Agreement)

<p>Nanofiltration for metal recovery from seawater reverse osmosis desalination brines at TRL 3-4.</p> <p>Electrodialysis with bipolar membranes (EDBM) to produce acid/base products from seawater reverse osmosis desalination brines at TRL 3-4.</p> <p>Evaluation of sorbents and ion exchange resins for metal recovery from seawater reverse osmosis desalination brines at TRL 3-4.</p> <p>Chemical speciation and thermodynamic modelling/simulation using software: PHREEQC with high-ionic strength databases</p> <p>Modelling of sorption/ion exchange process for complex systems.</p> <p>Numerical modelling of reactive transport in membrane technology.</p> <p>Anticipatory lifecycle assessment (a-LCA) framework to extrapolate lab-scale data or pilot scale to a commercial scale, life cycle costing.</p>	<p>Access rights to Background is granted by the UPC extent only that is needed for implementation of the Action (according to the Grant Agreement and Consortium Agreement).</p>	<p>No right for exploitation without prior written agreement subject a Fair and Reasonable Conditions</p>
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PARTY 5

As to Università della Calabria (UNICAL), it is agreed between the Parties that, to the best of their knowledge, the following background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

Describe Background	Specific limitations and/or conditions for implementation (Article 25.2 Grant)	Specific limitations and/or conditions for Exploitation (Article 25.3 Grant)

	Agreement)	Agreement)
Methods for heterogeneous stereoselective nucleation on a membrane as described in IT patent n. 0001411921 and related know-how	If required, know-how will be provided to Parties solely to enable them to perform their tasks under the Project.	
General process know-how and expertise in membrane-based crystallization	If required, know-how will be provided to Parties solely to enable them to perform their tasks under the Project.	

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

PARTY 6

As to Katholieke Universiteit Leuven (KUL), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of Katholieke Universiteit Leuven (KUL) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 7

As to DNIPROVSKIJ DERGAVNIJ TECHNICHNIJ UNIVERSITET (DSTU), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of DNIPROVSKIJ DERGAVNIJ TECHNICHNIJ UNIVERSITET (DSTU) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 8

As to SEALEAU BV (SEA), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of SEALEAU BV (SEA) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 9

As to Universitaet Bremen (UBREMEN), it is agreed between the Parties that, to the best of
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their knowledge, no data, know-how or information of Universitaet Bremen (UBREMEN) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 10

As to Tecnicas Reunidas SA (TR), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of Tecnicas Reunidas SA (TR) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 11

As to Lappeenranta-Lahden Teknillinen Yliopisto (LUT), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of Lappeenranta-Lahden Teknillinen Yliopisto (LUT) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 12

As to Gesellschaft für Chemische Technik und Biotechnologie e.V (DECHMA), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of Gesellschaft für Chemische Technik und Biotechnologie e.V (DECHMA) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 13

As to European Desalination Society (EDS), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of European Desalination Society (EDS) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 14

As to Catalan Water Partnership (CWP), it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of Catalan Water Partnership (CWP) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

PARTY 15

As to European Science and Communication Institute (ESCI), it is agreed between the Parties that, to

the best of their knowledge, no data, know-how or information of European Science and Communication Institute (ESCI) shall be Needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or Exploitation of that other Party's Results (Article 25.3 Grant Agreement).

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

Attachment 2: Accession document

ACCESSION

of a new Party to

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

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

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

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

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

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

[Date and Place]

[INSERT NAME OF THE NEW PARTY]

Signature(s)

Name(s)

Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]

Signature(s)

Name(s)

Title(s)

[Attachment 3: List of Third Parties for simplified transfer according to Section 8.3.2.]

