

# BRIDGE4WATER

## PROJECT AGREEMENT TEMPLATE



## Project Agreement

Between

**Institution XX**

[Department]

[Address]

[Postal code and city]

[Country]

Company reg. no.

("Institution 1")

and

**Institution XX**

[Department]

[Address]

[Postal code and city]

[Country]

Company reg. no.

("Institution 2")

and

**[Company Name]**

[Address]

[Postal code and city]

[Country]

Company reg. no. [Insert number]

("Company 1")

and

**[Company Name]**

[Address]

[Postal code and city]

[Country]

Company reg. no. [Insert number]

("Company 2")

and

**[Company Name]**

[Address]

[Postal code and city]

[Country]

Company reg. no. [Insert number]

("Company 3")

Institution 1-X are jointly referred to as "Institutions". The main applicant must be permanently employed by one of the following institutions: Aarhus University, VIA University College or Aalborg University.

Company 1-X are jointly referred to as "Companies".

Separately, the Institutions and the Companies are also referred to as a 'Party' and jointly the 'Parties'.

## 1. DEFINITIONS

**Background Knowledge:** Technology, know-how, Materials (both technical and non-technical) and information, including inventions, improvements, discoveries, software, etc., whether patentable, registerable or protected by copyright or not, that are (i) generated or controlled by a Party before the effective date of this Project Agreement, or (ii) developed or acquired by a Party independently from performance of the Project Agreement after the effective date of the Project Agreement and which is made available for the ideation process or discussions between the Parties.

**Confidential Information:** Background Knowledge clearly marked confidential or undoubtedly of confidential nature and not comprised by clause 7.5

**Conflict of Interest(s):** As defined in clause 4.6.

**Foreground Knowledge:** All information, including any data and/or result, regardless of form and regardless of whether it is or can be protected and intellectual property rights derived thereof, which is generated under the Project by a person employed with or allocated by a Party to the Project.

**International Evaluation and Decision Panel:** A group consisting of international experts within the scientific scope of Water appointed by the AU OIS Center established with the purpose as described in section 2.

**Materials:** All materials, both technical and non-technical, including appliances, equipment, machinery, material samples, test animals, reagents, etc. which are provided by a Party as supporting materials in connection with the Project.

**Party/Parties:** The parties to this Project Agreement as set out on the front page hereof.

**Project:** The Project defined in clause 2.1 and further described in the Project Description.

**Project Agreement:** This Project Agreement on the Project.

**Project Budget:** The budget for this Project as included in Exhibit 2 to this Project Agreement.

**Project Description:** As defined in clause 2.2.

**Project Management:** The individuals appointed by each Party cf. clause 4.1 in this Project Agreement.

**Review Period:** As defined in clause 8.3.

**Software:** Foreground Knowledge which qualifies for protection as software under the Danish Copyright Act.

## **2. PURPOSE**

2.1. The research collaboration Bridge4Water is an Open Innovation in Science Platform (hereinafter "Bridge4Water") project administered by Aarhus University Center for Open Innovation in Science ("AU OIS Center") and funded by Poul Due Jensen Foundation. The Parties have been awarded the grant on the basis of the evaluation and decision of the International Evaluation and Decision Panel. The Parties have therefore agreed to jointly perform the following research project under the open innovation in science framework of Bridge4Water :

'PROJECT NAME' (hereinafter the "Project")

2.2. The Project and the responsibilities of each Party is described in further detail in the project description set out in Exhibit 1 ("Project Description"). Each Party shall perform the tasks and responsibilities assigned to them in the Project Description.

2.3. All research activities conducted in the framework of this project agreement (the "Project Agreement") shall be done in compliance with all applicable laws, regulations, and guidelines of the countries and institutions in which the research is conducted, including the Danish Code of Conduct of Research Integrity. The Parties agree and understand that each Party is subject to internal policies, including for the Institutions policies on research integrity and responsible conduct of research which they must abide by. For the avoidance of doubt, each Party is solely responsible for the planning and conduction of the research work allocated to said Party in the Project in accordance with its internal rules.

2.4. The Parties agree to comply with the terms and conditions of the grant from the Poul Due Jensen Foundation, cf. Exhibit 3, which shall take precedence over this Project Agreement.

2.5. The Parties are obligated to assist the evaluation of Bridge4Waterby participating in interviews and surveys to a reasonable extent. Furthermore, the Parties agree to provide any documents, including any reports (financial, scientific, etc.) requested by AU OIS Center.

2.6. Any substantial changes to the Project Description shall be reported to the AU OIS Center that will ensure that the suggested changes and potential implications are evaluated by scientific experts before potential implementation.

## **3. FINANCIALS**

3.1. The Parties have jointly prepared the Project Budget. Due to the terms of the grant from the Poul Due Jensen Foundation, the Company/ies will not be able to receive any of this funding but will bear their own costs associated with participating in the Project.

3.2. The main applicant shall receive the Project funds from AU and shall transfer the portion due to each Institution as set out in the Budget and following receipt of a valid invoice and payment details from the receiving Institution(s). All such payments shall only be made so

long as the main applicant has received the funds from AU. The main applicant shall be responsible for submitting the financial report(s) for the Project annually to AU OIS Center.

- 3.3. Unless otherwise agreed in the Budget, any payments shall be made within thirty (30) calendar days from the date of the receiving Party's invoice.
- 3.4. VAT shall be added to any payments under the Project Agreement in accordance with applicable law.

#### **4. PROJECT MANAGEMENT**

- 4.1. The Parties each appoints an employee in the Application to manage the Project. They shall collectively be referred to as the "Project Management".
- 4.2. The Project Management shall have the overall responsibility for the management and progress of the Project. Each Party shall be entitled to replace its Project Management member, provided that the new member is also an employee of such Party, and further provided that such replacement does not negatively impact the Project.
- 4.3. Each Party shall be entitled to appoint other employees to perform the Project under the guidance of its Project Management member and each Party shall plan and carry out the work assigned to it on day-to-day basis under the guidance of its Project Management member. Each Party shall inform the other as soon as possible about planned replacements of its Project Management member.
- 4.4. The Project Management shall form a quorum when all members are present or represented by another member by a power of attorney. Each member of the Project Management shall have one vote. Decisions made by the Project Management shall be unanimous.
- 4.5. The Parties shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Project is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest or research misconduct ("Conflict of Interests"). In case a Party becomes or is made aware of any circumstances constituting or likely to lead to a Conflict of Interest in the Project, the Project Management and the Parties shall be notified without delay. The Parties shall then immediately take all the necessary steps to rectify this situation.

#### **5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1. Background Knowledge is and shall remain the sole and exclusive property of the Party controlling or owning such Background Knowledge. Background Knowledge is considered confidential in accordance with the definition of Confidential Information. The Parties shall give to each other a free of charge, non-exclusive, world-wide right to use Background Knowledge to perform the Project under this Project Agreement.
- 5.2. For the avoidance of doubt, none of the Parties shall receive any right, license or interest in any existing or future Background Knowledge held by another Party except to the extent expressly set out herein.
- 5.3. Each Party shall own the Foreground Knowledge created by the Party in question in connection with the Project. Foreground Knowledge created jointly by the Parties shall be jointly owned by the Parties pro rata to their intellectual contribution to the developed Foreground Knowledge. If the respective contributions of the Parties cannot be documented

or determined, the Foreground Knowledge shall be owned jointly by the contributing Parties in equal shares.

- 5.4. The Parties shall have a non-exclusive and irrevocable right to use all Foreground Knowledge generated under the Project free of charge for any and all purposes. Any use and/or dissemination of software is subject to clause 8.4.
- 5.5. The Parties agree that any Foreground Knowledge generated under the Project shall be made publicly available as soon as reasonably practicable, and that no-one shall claim exclusive rights thereto. Anyone outside the Project shall have the same irrevocable right to use the Foreground Knowledge in the same way as the Parties hereto. For the avoidance of doubt, the Parties agree that any Foreground Knowledge generated under the Project may not be protected by a patent or the like or kept as a trade secret or under any (other) confidentiality obligation. Foreground Knowledge generated shall be published in accordance with the publication procedure cf. clause 8.
- 5.6. The Parties agree that anyone is entitled to conduct applied research on the basis of the Foreground Knowledge conducted under the Project. Any results and data generated outside the Project but on the basis of such applied research that can be protected by intellectual property law, including by patent if applicable, and the owner shall be free to apply for protection in accordance with applicable law.

## **6. MATERIALS**

- 6.1. Materials made available by one Party to another Party for use under the Project shall remain the property of the Party, who made the Materials available, and shall only be used by the other Party in connection with the Project. The right of use shall lapse after expiry of this Project Agreement, and the Materials shall be returned to the Party who made the Materials available unless otherwise agreed to in writing. When a Party transfers Material to another Party, the Party transferring the Material shall inform the Party receiving the Material about any restrictions or limitations of use for the Material transferred.
- 6.2. Any results generated on the basis of such Material shall be considered Foreground Knowledge.
- 6.3. The Party receiving the Material represents and warrants that the Materials will be collected, used, handled, stored and disposed of under suitable containment conditions and in compliance with all applicable laws, regulations and orders.

## **7. CONFIDENTIALITY**

- 7.1. Confidential Information received by a Party in connection with this Project Agreement shall only be used for the purpose of performing the Project and shall not without the written consent of the disclosing Party be published or otherwise disclosed to any third party. The Parties shall not introduce Confidential Information including software, which effectively could hinder the free publication of Foreground Knowledge.
- 7.2. A Party's obligation to treat Confidential Information as confidential, cf. clause 7.1, shall apply to all individuals, including but not limited to employees, students, permitted sub-contractors or agents (collectively "Individuals"), who through employment or other association with the Party gain access to the other Party's Confidential Information. Each Party shall ensure that any such Individuals are subject to an obligation of confidentiality to the same extent as the receiving Party hereunder.

- 7.3. Before a Party discloses any Confidential Information that constitutes a trade secret under applicable law to the other Party, the disclosing Party will inform the receiving Party that the Confidential Information constitutes a trade secret, allowing the receiving Party to decide not to receive said Information.
- 7.4. Any Confidential Information disclosed by or on behalf of a Party in connection with this Project Agreement shall remain the property of the disclosing Party.
- 7.5. A Party's duty of confidentiality and non-use as set out in clauses 7.1 and 7.2 shall not apply to Confidential Information that:
- at the time of disclosure was or later becomes publicly available and not as a result of a breach of the duty of confidentiality;
  - is received without any restrictions regarding confidentiality from a third party who is entitled to pass on the knowledge in question;
  - must be passed on to a third party in accordance with an obligation stipulated by law, a legal decision or other binding public act; or
  - a Party has developed independently of its participation in the Project as documented by written record of that Party.
- 7.6. In the event of a dispute about the duty of confidentiality, the Party who wishes to invoke one of the provisions in clause 7.5 shall have the burden of proof.
- 7.7. The duty of confidentiality shall terminate three (3) years after completion of the Project, provided, however, that for Confidential Information constituting a trade secret under applicable law and which is clearly marked as such to the receiving Party(ies), such duty shall survive until such Confidential Information is no longer a trade secret.
- 7.8. For the avoidance of doubt, the existence of this Project Agreement shall never be deemed Confidential Information.
- 7.9. Upon written request of the disclosing Party, a receiving Party shall return or, at the option of the disclosing Party, destroy (and confirm in writing to the disclosing Party that it has destroyed) all written, tangible and electronic forms of the information it has received from the disclosing Party (except for any computer records or files that have been created pursuant to the receiving Party's automatic archiving and back-up procedures and the removal of which is not technically reasonable). However, the receiving Party may retain one copy of such Confidential Information for the purpose of monitoring its obligations under this Project Agreement and regulatory and archiving compliance.

## **8. PUBLICATION**

- 8.1. As this Project is part of Bridge4Water, the Foreground Knowledge generated under the Project is to benefit the public. All Foreground Knowledge generated under the Project is therefore to be published. Publication and authorship shall follow the rules laid down in the Danish Code of Conduct for Research Integrity. Substantial contributions to the work shall always be disclosed accordingly.
- 8.2. Each Party shall be entitled to publish its own Foreground Knowledge. It is the intention of the Parties to publish jointly generated Foreground Knowledge together. However, in the case that one Party does not wish to participate in the publication, the other Party/ies shall be entitled to publish jointly owned Foreground Knowledge on its own.

- 8.3. A Party who wishes to publish Foreground Knowledge generated under this Project Agreement shall therefore notify the other Party/ies at least forty-five (45) calendar days (the "Review Period") prior to the intended time of submission and forward the text or manuscript and any additional material the Party wishes to publish to the other Party/ies. Confidential Information belonging solely to the other Party/ies may not be published without the written consent of the other Party/ies, and the other Party/ies may at its/their sole discretion request deletion or removal of its/their Confidential Information. After expiry of the Review Period the publication is permitted if no objections are received. If a valid objection regarding Confidential Information is received, the Party who wishes to publish Foreground Knowledge shall remove the Confidential Information prior to publication.
- 8.4. Software developed during a Project shall be published as openly as possible in accordance with clause 8.1 to 8.3. The Parties are, when embedding open software in developed Software, obligated to use permissive free software licenses, that will allow for the Software to be made available to public, to the widest extent possible. The Parties will in addition hereto follow the processes for Software stipulated by the Secretariat.

## **9. ASSIGNMENT**

- 9.1. The rights and obligations under this Project Agreement cannot be assigned to a third party unless agreed otherwise by the Parties, except in the event of changes to the structure, authorities, etc. in the public research sector, provided always that it does not affect the fulfilment of obligations by the Parties under this Agreement.

## **10. BREACH**

- 10.1. If a Party commits a material breach of or repeatedly breaches its obligations under this Project Agreement and the breach has not been remedied within thirty (30) calendar days from a written request by the Project Management, the Project Management may terminate the Project Agreement vis-à-vis the Party in breach with immediate effect.
- 10.2. If a Party is prevented from fulfilling its obligations other than the payment obligations under this Project Agreement as a result of extraordinary events beyond the Party's control and which the Party could not have foreseen when the Project Agreement was entered into (force majeure), this shall not be regarded as a breach. In such cases the other Party/ies shall, however, be entitled to terminate the Project Agreement if the result would otherwise be a material delay in the completion of the Project.
- 10.3. If the Project Agreement is terminated vis-à-vis a Party in breach, the other Party/ies can claim compensation for the loss caused by the breach in accordance with the provisions set out in clause 11.

## **11. LIABILITY**

- 11.1. The Parties shall be liable in accordance with the ordinary rules of liability in Danish law.
- 11.2. The Parties do not provide any guarantee and cannot be held liable if their performance in connection with the completion of the Project does not lead to a specific result.
- 11.3. The Parties shall perform their tasks towards the completion of the Project to the best of their ability and in accordance with best practices for scientific work. A Party shall be liable for gross negligence or intentional neglect of its obligations under the Project Agreement.

- 11.4. If a Party uses Foreground Knowledge, another Party's Background Knowledge or Material under the terms of this Project Agreement, then such use is at such Party's own risk. The receiving Party shall not in any way or in respect of any situation bring a claim against the providing Party based on such use, except to the extent the claim was caused or exacerbated by the wilful misconduct of the disclosing Party. The Parties acknowledge that Foreground Knowledge, Background Knowledge and/or Material is provided 'as is' and without any representation or warranty, express or implied, as to its accuracy or completeness, including, without limitation, any implied warranty of merchantability or fitness for a particular purpose or any warranty that the use of Foreground Knowledge, Background Knowledge or Material will not infringe or violate any patent or other proprietary rights of any third party.
- 11.5. No Party shall be liable for a failure to fulfil its obligations under the Project Agreement if the failure to perform is due to force majeure as set out in clause 10.2.
- 11.6. Apart from a breach of confidentiality and non-use, cf. clause 7, no Party is liable to the other for consequential losses such as production interruptions, loss of turnover/profit, and other indirect losses.
- 11.7. A Party's aggregate liability for simple negligence or omissions towards the other Party/ies shall be limited to DKK 500,000 (five-hundred thousand).

## **12. INFORMATION TO THE PUBLIC**

- 12.1. To the extent the Institutions are legally obligated to publish information on private co-financing of the Institution's research, the Company/ies accept that the requested information is published in accordance with relevant legal provisions.
- 12.2. No party shall without the written permission of another Party directly or indirectly refer to another Party or the staff of another Party in connection with marketing of it or its products or otherwise use the name of another Party for commercial purposes.

## **13. PERSONAL DATA**

- 13.1. The Parties agree that in case any personal data will be processed including transferred as part of the performance of the Project, the relevant Parties will enter into the necessary agreement(s) separately.

## **14. NON-EMPLOYED PERSONNEL AND INVOLVEMENT OF SUBCONTRACTORS**

- 14.1. The Parties shall be free to include non-employed personnel, including but not limited to students, non-employed PhD students and visiting scientists, in the work performed under the Project subject to prior signed confidentiality and assignment of rights agreement between the relevant Parties. In such case a non-negotiable template agreement must be required from the AU OIS Center and signed by the relevant individuals.
- 14.2. If a Party includes subcontractors into its work under the Project, such Party shall be liable for said subcontractors and shall enter into a subcontractor agreement reflecting the relevant terms of this Project Agreement. A Party may not delegate or subcontract work to be performed under the Project to any other Bridge4Water Party. A Party cannot be both a Party and perform work under a subcontract in the Project.

## **14. NATURE OF AGREEMENT**

- 14.1. This Project Agreement does not create a legal entity with the Parties as participants, and the Parties therefore cannot bind each other vis-à-vis a third party.
- 14.2. The Parties do not accept other restrictions between themselves than those expressly mentioned in the Project Agreement, including restrictions of competition.
- 14.3. Each Party represents that it has the authority to enter into this Project Agreement and provide the rights as described in this Project Agreement.

## **15. DURATION**

- 15.1. This Project Agreement shall have effect from the Project start date as detailed in the Project Description until the completion of the Project in accordance with the Project Description.
- 15.2. Except for the provisions of the Project Agreement that according to their content are intended to remain in effect for longer, the Project Agreement shall expire when the Project has been completed cf. the Project Description.

## **16. DISPUTES**

- 16.1. All disputes between the Parties about the interpretation and implementation of this Project Agreement shall be settled in accordance with Danish law by the Maritime and Commercial High Court in Denmark. If the dispute in question is not suitable for the Maritime and Commercial High Court, the dispute shall instead be settled by the District Court of Aarhus, Denmark. Before taking any legal action, the Parties to the dispute shall endeavour to settle the dispute amicably.

## **17. Exhibits**

- Exhibit 1: Project Description
- Exhibit 2: Project Budget
- Exhibit 3: Terms and conditions of the grant

## **18. SIGNATURES**

### **For Institution 1**

Date:

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

Name:

Title:

**For Institution 2**

Date:

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

Name:

Title:

**For Company 1**

Date:

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

Name:

Title:

**For Company 2**

Date:

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

Name:

Title:

**For Company 3**

Date:

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

Name:

Title:

## Confidentiality and assignment of Intellectual Property Rights Agreement

THIS AGREEMENT is entered into on [INSERT DATE] and made by and between:

[Name of the non-employed person], whose permanent home address is [INSERT ADDRESS], Student ID no. [XXXX] (the "Non-Employed Person")

and

[INSERT UNIVERSITY NAME], Department of [XXXX], whose registered address is [INSERT ADDRESS], Denmark, registration number [INSERT NUMBER] (the "University" or "XX")

### BACKGROUND:

The University is part of an open innovation in science platform in the research collaboration "Bridge4Water" which has been funded by a grant to Aarhus University Center for Open Innovation in Science by the Poul Due Jensen Foundation.

The overall purpose of Bridge4Water is to create an open innovation science platform where a community of academic and industrial parties (hereafter referred to as "Bridge4Water Parties") can join forces to build a strong and precompetitive foundation of basic science knowledge and research and where all results generated are made available to the public with universal use rights free of charge as soon as reasonably possible

The fundamental idea behind Bridge4Water is that any and all results generated under the individual projects are made available free of charge to the public as soon as reasonably possible. Thus, the University must ensure that any result is made publicly available in accordance with the terms of the grant.

THIS AGREEMENT WITNESSES as follows:

1. In consideration of the University permitting the Non-Employed Person to work on the Project and providing access to the University's equipment and confidential information of the Bridge4Water Parties, the Non-Employed Person agrees that all Project IP shall vest automatically in the University. The Non-Employed Person's contribution to the Project IP shall be acknowledged according to usual scientific standards in any publications of the project.

Therefore, the Non-Employed Person hereby agrees to assign and hereby assigns all Project IP to the University. The Non-Employed Person agrees to execute such documents and do such acts to give effect to such assignment as the University may require from time to time. The Non-Employed Person shall regularly inform the Supervisor about Project IP generated by the Non-Employed Person.

For the purposes of this Agreement, "Project IP" means any and all inventions, results, data, technology, biological or other materials, know-how, designs, copyright works, including software, and other technical information and developments, and all patents, design rights, copyright, trademarks and other intellectual property, which in each case are developed wholly or partly by the Non-Employed Person whilst working on the Project.

2. The Non-Employed Person acknowledges that background information belonging to one or more of the Bridge4Water Parties shall be considered confidential ("Confidential Information"). Confidential Information shall not directly or indirectly be disclosed to any third party or in a report. The Non-Employed Person furthermore agrees to keep confidential any other information of an obvious confidential nature received or learned by the Non-Employed Person when working at the premise of the University. The duty of confidentiality as set out above shall not apply to Confidential Information that:
  - at the time of disclosure was or later becomes publicly available and not as a result of a breach of the duty of confidentiality;
  - is received without any restrictions regarding confidentiality from a third party who is entitled to pass on the knowledge in question;
  - must be passed on to a third party in accordance with an obligation stipulated by law, a legal decision or other binding public act; or
  - the Non-Employed Person has developed independently of its participation in the Project as documented by written records of that Non-Employed Person.
  
3. The Non-Employed Person shall provide to the Bridge4Water Parties involved in the Project a copy of the data and figures which the Non-Employed Person intends to include in the report no later than twenty-one (21) days prior to the submission of the report to University ("Review Period"). After expiry of the Review Period the Non-Employed Person is permitted to submit the report if no objections are received. If an objection is received, the Non-Employed Person shall remove from the report any data or figures identified in the objection as being Confidential Information belonging to an objecting party Bridge4Water Party.
  
4. The validity, construction and performance of this Agreement shall be governed by Danish law, and the Non-Employed Person and the University submit to the exclusive jurisdiction of the Danish courts in respect of any dispute arising in connection therewith.

## SIGNATURES

The Non-Employed Person  
Date:

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Name:  
Title:

On behalf of University

Date:

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Name:  
Title: