

# **Consortium Agreement (Cooperation Agreement) for participants in R&D projects funded through the Research Council of Norway**

## **1 Definitions**

Key terms are defined in the General Terms of Contract document that is part of the contract between the Research Council of Norway and the Project Owner.

In addition, the following definitions shall apply:

Working Plan	An annual plan for the research-related and financial implementation of the project that also specifies the obligations of the Consortium Participants.
Sub-project	An activity comprising part of the overall project activities in accordance with the project description and the funding plan, ref. “Main activities and milestones” in the project application.
The Research Council	The Research Council of Norway
Project Owner	UMB, represented by Department of Animal and Aquacultural Sciences
Consortium Participant	Project Owner and active partner(s) who, under the provisions of the Consortium Agreement, provide resources for and participates in the project.
Background	Material contributions or intellectual property rights or know-how that a Consortium Participant brings to the project or decided to be Background according to Section 9.1 in the Consortium Agreement. The Background provided by the individual Consortium Participant is as described in the project description or further specified in Appendix 2.

## **2 The Consortium Agreement – scope, purpose and relationship to the contract**

- 2.1 This Consortium Agreement governs the relationship between the Consortium Participants in the project for which the Project Owner, on behalf of the consortium, has been awarded financial support from the Research Council. The Consortium Agreement governs the organisation and implementation of the project, as well as the rights and obligations of Consortium Participants. This project is entitled ( INSERT NAME AND NO. here XXXXX).
- 2.2 The parameters of the project, including the terms and conditions for support from the Research Council, the scope of the support, the project's objective, the project

*Please enter name of project – please add project No.*

description, funding plan and reporting requirements are stated in the contract between the Research Council and the Project Owner.

Appendix 1a: The contract between the Research Council and the Project Owner

In the event of any contradiction between the contract and this Consortium Agreement, the contract shall have priority. The following attached documents shall also be part of the Consortium Agreement between the Consortium Participants:

Appendix 2: The Background brought to the project by the individual Consortium Participant.

Appendix 3: The individual Consortium Participant's obligations to the consortium to perform research activity and/or provide financial resources in accordance with the project description, the annual Working Plan approved by the steering committee and the funding plan for the project.

2.3 Each Consortium Participant is required to contribute resources to the implementation of the project and the fulfilment of the contract pursuant to the duties and obligations specified in this Consortium Agreement, the annual Working Plan, the project description and the funding plan. With regard to one another, the Consortium Participants shall use reasonable endeavours to implement the project and achieve the results outlined in the project description, but each Consortium Participant shall remain responsible for its own actions and omissions during the project.

2.4 The Consortium Agreement includes this signed agreement document with 3 appendices, cf. Section 2.2.

### **3 The Consortium Participants, the steering committee and the administration**

#### ***3.1 Original Consortium Participants***

##### **Project Owner**

Norwegian University of Life Sciences (UMB)  
Dept. for (XXXXX)

Org. No.  
969 159 570

##### **Other Consortium Participants**

INSERT

#### ***3.2 New Consortium Participants***

The steering committee, cf. Section 3.4 below, takes decisions on the inclusion of new Consortium Participants, which, subsequent to acceptance, will have the right to be represented in the steering committee. Such decisions call for the unanimous approval of all Consortium Participants and require that the new Consortium Participant becomes party to the Consortium Agreement and signs a separate agreement under which the new Consortium Participant undertakes a commitment to:

*Please enter name of project – please add project No.*

- perform its own R&D activity related to and relevant for the project, as defined in more detail in Appendix 3 to the Consortium Agreement, and/or,
- contribute financial resources and/or its own R&D efforts, free of charge, to activities under the project, as defined in more detail in Appendix 3 to the Consortium Agreement.

New Consortium Participants shall be approved by the Research Council pursuant Section 2.2 of the General Terms of Contract.

### **3.3 *The withdrawal of a Consortium Participant***

3.3.1 A Consortium Participant may request to withdraw from the consortium, and thus to abdicate its rights and be exempted from its obligations pursuant to the Consortium Agreement. The request must be submitted with a minimum of six months' notification to the steering committee and must be approved by the steering committee and by the Research Council.

### **3.4 *The steering committee and the administration***

3.4.1 The consortium is to have a steering committee and a project manager.

3.4.2 The steering committee shall ensure that the intentions and plans underlying the contract for the project are fulfilled, and that the activities discussed in the project description and the funding plan are completed within the approved time frame. The steering committee will further ensure that the interaction between the Project Owner and the other Consortium Participants functions smoothly. The Project Manager heads the steering committee.

3.4.3 Consortium Participants are free to replace steering committee members, but are required to keep the project manager and the other Consortium Participants apprised of who is representing the Consortium Participant.

3.4.4 The project manager is responsible for the day-to-day activities of the project and reports to the steering committee.

3.4.5 The project manager will summon the steering committee to meetings with reasonable notice, usually no less than two weeks prior to the meeting date. The convening letter shall be accompanied by an agenda and the documentation needed to deal with the items on the agenda.

3.4.6 The steering committee has a quorum when more than half the members are present or participate in the steering committee's deliberations. The steering committee's decisions will normally be agreed on unanimously among the members that are present or participate in the steering committee's deliberations. In ongoing matters that do not affect the individual Consortium Participant's rights under the Consortium Agreement or the contract, the steering committee may take decisions by a 2/3 majority.

## **4 Consortium Participants' R&D activity and/or financial support**

4.1 The interests and competencies of the Consortium Participants constitute the basis for their participation in the project and the contract with the Research Council. These interests and competencies are as described in the project description.

*Please enter name of project – please add project No.*

- 4.2 Each Consortium Participant shall perform the R&D activity, if any, that the party in question has undertaken pursuant to the project description and the annual Working Plan, and/or provide the financial support specified in Appendix 3.
- 4.3 With the approval of the steering committee, a Consortium Participant may assign parts of the R&D activity for which it is responsible to an appropriate subcontractor. This does not release a Consortium Participant from its obligations to the other Consortium Participants.
- 4.4 In the event a Consortium Participant does not perform the agreed R&D activity in a satisfactory manner, the steering committee may decide to transfer responsibility for the work in whole or in part to another Consortium Participant, based on specified terms and conditions. Such a transfer does not release the Consortium Participant in question from its other obligations pursuant to the Consortium Agreement, the project description, the annual Working Plan or as enlarged on in Appendix 3.

## **5 Location, responsibility for human resources and agreements with employees and subcontractors**

The Consortium Participants agree to establish by contract the location of the research activities and the manner in which the employer's responsibility will be handled for staff affiliated with the project. Under normal circumstances, employer responsibility and employment shall not be changed for employees who participate in the project.

The Consortium Participants undertake a commitment to sign any agreements with owners, employees (including individuals with dual employment), partners, subcontractors, and others that are required to fulfil the relevant participant's obligations under this agreement, including measures to ensure the necessary transfer of intellectual property rights.

## **6 Working Plan, reporting and payment**

- 6.1 In order to render more concrete and follow up the measures in the project description, an annual *Working Plan* shall be drawn up as a point of departure for the technical and financial implementation of the project and to stipulate the obligations of the various Consortium Participants, cf. Section 4.2 and Appendix 3. Working Plans are adopted by the consortium steering committee. The annual Working Plan also forms the basis for reports to be submitted to the Research Council.
- 6.2 The Project Owner is responsible for coordinating scientific and financial reporting to the Research Council. Consortium Participants shall without undue delay submit all project results, reports, accounting documentation and other documents that the Project Owner requires to fulfil its obligations to the Research Council.
- 6.3 The Project Owner is responsible for ensuring that funds disbursed by the Research Council are managed in compliance with the contract, pursuant to the guidelines laid down by the consortium steering committee. The same applies to the disbursement of funds to be paid to the Consortium Participants. These disbursements are as laid out in Appendix 3.

## **7 Background**

*Please enter name of project – please add project No.*

- 7.1 The Background that is considered relevant upon entry into the Consortium Agreement is as described in the project description or as further specified in Appendix 2 or as regulated in Section 9.1 below.
- 7.2 Any Consortium Participant wishing to make Background available to the project over and above that described in Section 7.1 shall notify the steering committee of this. The steering committee will decide whether this will be a relevant contribution to the project and whether it will be used in the project. Appendix 2 is amended whenever new Background is approved by the steering committee.
- 7.3 Any results from the project that do not comprise Background pursuant to as described in the project description or as further specified in Appendix 2 and are not approved by the steering committee as Background pursuant to Section 7.2, will automatically be assigned the status of project results.
- 7.4 For the duration of the project period, the Consortium Participants shall have access at no charge to the Background that is necessary for the implementation of their own work in the project.
- 7.5 The ownership of Background will be maintained in full by the Consortium Participant that brought it into the project. No other rights than what is provided for under Section 7.4 above is granted.

## **8. Project results**

### **8.1 *Ownership rights to project results***

- 8.1.1 Each Consortium Participant will have ownership rights to the project results produced by that participant, its employees or suppliers, unless otherwise stated in separate agreement or provided for in this Consortium Agreement.
- 8.1.2 When a project result has been produced by several parties in a collaborative effort, the ownership of that project result shall be attributed in accordance with the relative contributions made by the partners. Contribution is to mean background knowledge that the result depends on, intellectual work and financial contribution that has led to the result.

If requested by one of the parties, the parties involved shall establish an agreement regarding the allocation and terms of exercising that joint ownership within 6 months from the project result coming into existence. The agreement must define the results that have joint ownership. It must also describe the responsibility and procedures for protection of the jointly owned results.

Where no such joint ownership agreement has yet been concluded within 6 months each of the joint owners shall be entitled to use their jointly owned Project Results 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 grant non-exclusive licenses to third parties, without any right to sub-license, subject to the following conditions: at least 45

days prior notice must be given to the other joint owner(s); and Fair and Reasonable compensation must be provided to the other joint owner(s).

- 8.1.3 Subject to Section 11, Consortium Participants shall notify the steering committee of all project results. Project results shall be treated confidentially for a minimum of 90 days from the time such notification was provided unless otherwise decided by the steering committee.

The Consortium Participant that owns a project result that may be of commercial value is under obligation to protect the result in the manner and to the degree that is deemed appropriate, or to allow another Consortium Participant or group of Consortium Participants to do so.

Should one of the Consortium Participants not wish to protect a project result, then that participant must allow the other Consortium Participants to establish protection at their own expense, according to agreed terms.

If ownership rights are shared between two or more Consortium Participants, the Steering Committee shall make all reasonable efforts to ensure that the appropriate protection measures are put in place, with all expenses to be covered by the relevant owners.

## **8.2 *User rights to project results***

- 8.2.1 For the duration of the project period, the Consortium Participants shall have access at no charge to project results that are necessary for implementing their own work in the project.
- 8.2.2 With regard to commercial utilisation, the Consortium Participants must have access to the project results according to terms agreed upon among the parties when this is necessary in order to utilise the project results to which they themselves have rights under the project. This obligation to give access to project results for commercial utilisation terminates 6 months after the project has been completed.
- 8.2.3 The Consortium Participants shall have access at no charge to project results that are to be used for their own educational or research purposes, provided that regulations regarding confidentiality and ownership rights are upheld.

## **8.3 *Requirements relating to utilisation of project results***

- 8.3.1 Project results that can be applied commercially must be utilised within a reasonable period of time. If the rightsholder(s) of the project results do not wish to utilise the results commercially, then that participant shall give the other Consortium Participants the right to negotiate on commercial utilisation at the latest within 150 days after the project has been completed.

## **8.4 *Affiliated Participants***

Rights that accrue to a Consortium Participant pursuant to Section 8 may be transferable to companies belonging to the same concern or other existing or future affiliated companies, upon prior notice to, and the approval of, the steering committee.

## **9 *Rights for participants that join or withdraw from the consortium***

### **9.1 *New parties to the Consortium Agreement***

All project results produced prior to the time at which a new participant has become party to the Consortium Agreement will be considered Background in relation to the new Consortium Participant.

### **9.2 *Parties that withdraw from the Consortium Agreement:***

#### **9.2.1 *Rights of parties following breach of contract:***

The user rights of a party in breach of contract, as well as that party's entitlement to submit a request for such user rights, shall cease immediately from the time that party receives the formal notification from the steering committee that its participation in the consortium has been terminated.

#### **9.2.2 *Rights for parties withdrawing freely from the Consortium Agreement:***

A party that freely withdraws from the consortium and has the consent of the steering committee and the Research Council to do so may keep the ownership rights to project results according to Section 8.1 and the user rights according to Section 8.2 produced up to the date of termination of the party's commitment to the contract. Such project results must be specified and agreed upon by the steering committee at the time of termination of the party's commitment.

#### **9.2.3 *Rights of remaining Consortium Participants:***

All parties that withdraw from the Consortium Agreement shall continue to surrender user rights in accordance with the contract and the Consortium Agreement as if that participant had remained a party to the Consortium Agreement for the duration of the project.

## **10 *Publication of project results***

10.1 The project is expected to result in about (PLEASE ENTER XXX peer reviewed scientific publications. The XXX PhD studies alone are expected to result in X-XX scientific peer reviewed publications, and two PhD theses publications. In addition, the results will be published in popular magazines. The project will present results at workshops, seminars, at international conferences, and at established national conferences, e.g. NAME OF A CONFERENCE, MEETING/SEMINARS etc.).

10.2 Given that the conditions stipulated in Section 10.4 have been met, Consortium Participants are entitled to publish their own results from Sub-projects when such

*Please enter name of project – please add project No.*

publication does not in any way impair the ability of the other Consortium Participants to utilise their own results.

- 10.3 Necessary protection measures to safeguard the capacity for commercial utilisation prior to publication must be put into place if at least one Consortium Participant so requests.
- 10.4 Plans for publication shall be submitted via the project manager to the consortium steering committee by the party that has produced the result. Consortium Participants have a deadline of 30 days from the date on which the publication notification was issued to request postponement of publication in order to implement the necessary protection measures. The deadline for registering patents will normally be another 90 days after a Consortium Participant has submitted a request for postponement.<sup>1</sup>

## 11 Confidentiality

All information in whatever form or mode of transmission, 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”, or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 days at the latest as confidential information by the Disclosing Party, shall be treated as “Confidential Information”. The confidentiality obligation is effective for a period of 3 years after the end of the project.

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

- (a) the confidential information becomes publicly available by means other than a breach of the recipient’s confidentiality obligations;
- (b) the disclosing Party subsequently informs the recipient that the confidential information is no longer confidential;
- (c) the confidential information is communicated to the recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the disclosing Party;
- (d) the disclosure or communication of the confidential Information is foreseen by provisions of the Contract;
- (e) the confidential information, at any time, was developed by the recipient completely independently of any such disclosure by the disclosing Party; or
- (f) the confidential information was already known to the recipient prior to disclosure.
- (g) 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

## 12 Liability of the party for losses and damages

---

<sup>1</sup> According to the Act relating to universities and university colleges, a formal decision from the board of the learning institution is required to impose temporary secrecy on results produced by employees at universities and university colleges. This clause is rarely used and will normally only be invoked in cases of severe disagreement among the partners.



- 12.1 Each Consortium Participant is itself liable for losses or damages ensuing from its own actions.
- 12.2 Each Consortium Participant shall report to the steering committee and the Project Owner any claim for indemnification or the like related to the project or Sub-projects that has been filed against the Consortium Participant.
- 12.3 A Consortium Participant's aggregate liability towards the other Parties collectively shall be limited to the said Consortium Participant's share of the total costs (received or contributed) of the Project.
- 12.4. In no event shall any Consortium Participant be liable for any indirect or consequential losses.

### **13 The agreement's validity, dissolution of a consortium, interpretation, etc.**

- 13.1 The agreement will enter into force upon being signed and will continue to apply in its entirety until the consortium is dissolved. Subsequent to the dissolution of the consortium, the provisions in Sections 6 - 12 will continue to apply between the parties.
- 13.2 The consortium will be dissolved at the conclusion of the project period pursuant to the contract between the Research Council and the Project Owner, unless the consortium steering committee decides otherwise.
- 13.3 Subject to Section 13.4, this agreement is subject to Norwegian law. Attempts shall be made to resolve any disputes by negotiation or voluntary mediation. In the event such attempts do not succeed within one month after negotiations have been requested, the dispute may be brought before Oslo District Court.

## 14 Signature

The agreement shall be signed in counterpart, each of which shall be deemed an original but all of which together shall constitute one and the same Consortium Agreement.

<p>Ås, ..... 2013</p> <p><i>Sign</i> .....</p> <p>NAME: XXX Head of Department Department of XXX UMB</p>	<p>xxx, ..... 2013</p> <p><i>Sign</i> .....</p>
<p>XXX, ..... 2013</p> <p><i>Sign</i> .....</p>	<p>XXX, ..... 2013</p> <p><i>Sign</i> .....</p>
<p>Bergen, ..... 2013</p> <p><i>Sign</i> .....</p>	<p>Bergen, ..... 2013</p> <p><i>Sign</i> .....</p>