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| This is an *example* of a template for an innovation contract concerning research and development cooperation between a supplier and a pilot customer, where the latter may be a private company or a public enterprise. The parties are not obligated to use the template and may thus use another framework to regulate their rights and obligations.  Irrespective of whether the template or another framework is used as the basis for the parties' innovation projects, it is important that the innovation contract fulfils the requirements set by Innovation Norway in the Offer Letter, including the standard terms and all annexes. If the innovation contract does not fulfil these requirements, it will not be approved by Innovation Norway and no grants will be paid out.  Since the innovation projects show great variation in terms of scope and complexity, it is up to the parties themselves to design the appropriate organisation of the project. It is nonetheless recommended that, as a minimum, the parties form a separate steering group comprising representatives of the pilot customer and the supplier. It has been found appropriate for the project management to be assigned to the supplier as a separate project manager, and that the pilot customer assigns the steering group manager. If the supplier's project includes several pilot customers, the supplier should in principle establish separate agreements with each pilot customer.  Innovation Norway emphasises that the template:   1. is solely intended to be a starting point and that each of the parties should obtain legal assistance to safeguard their own legal and commercial interests (especially with regard to regulation of project results and production of products which are part of the project results, cf. clauses 8 and 9); 2. is not necessarily exhaustive and there may be several alternatives to the solutions proposed in the template; and 3. is used at the company's own responsibility, and that Innovation Norway is not liable for any errors or defects in the template.   As regards innovation contracts for public-sector pilot customers subject to the procurement regulations, for the sake of good order Innovation Norway states that:   1. the template shall not be used for innovation partnerships (cf. the Procurement Regulations section 27-8); and 2. the public-sector pilot customer should obtain legal assistance in order to make the necessary changes to the template, so that it is in accordance with the Procurement Act and the Procurement Regulations (especially with regard to the regulation of project results and the production of products which are part of the project results, cf. clauses 8 and 9), cf. the Procurement Regulations section 2-5 first and second paragraphs.­ |

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|  | **INNOVATION CONTRACT** |  |

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**THE FOLLOWING HAS BEEN AGREED:**

# Definitions

## **"Agreement"** means this innovation contract concerning research and development cooperation, with all annexes.­

## **"Application"** means the Supplier's application for financing to Innovation Norway, as stated in the Specification.

## **"Intellectual Property Rights"** mean all rights to technical solutions, methods, processes and procedures, whether these have been patented, may be patented or not, and all copyrights and rights to trademarks, designs, plant varieties, databases, circuit patterns, drawings, specifications, prototypes, business secrets, know-how and similar.

## **"Offer Letter"** means Innovation Norway's offer letter (with all annexes) to the Supplier, as stated in the Specification.

## **"Pilot Customer"** means the legal entity stated to be the pilot customer in the Specification.

## **"Project"** means the research and development cooperation between the Supplier and the Pilot Customer, as specified in the Application.­

## **"Project Background"** means the material contributions and Intellectual Property Rights which the parties bring into the Project.

## **"Project Result"** means all results created or achieved in conjunction with the Project, including Intellectual Property Rights, irrespective of whether the results are protected by legislation.

## **"Specification"** means the specification included in schedule 1.

## **"Supplier"** means the legal entity stated to be the supplier in the Specification.

# Background and purpose

## Innovation Norway has granted the Application on the terms set out in the Offer Letter.

## The purpose of the Agreement is to regulate the parties' rights and obligations in conjunction with the performance of the Project in accordance with the Offer Letter.

# Steering group, steering group manager and project manager

## The parties shall each select two members of the steering group.

## One of the members from the Pilot Customer will be the steering group manager, and one of the members from the Supplier will be the project manager. The Pilot Customer and the Supplier will determine who is to be nominated for these roles.

## The parties may freely replace their members of the steering group, but shall at all times keep the steering group manager and project manager informed of who represents the party.

## The steering group shall ensure the responsible organisation and performance of the Project in accordance with the Offer Letter, and ensure that the cooperation between the parties functions well.

## The project manager will hold day-to-day responsibility for the Project and shall:

### keep the steering group informed of all significant aspects of the Project; and

### implement decisions by the steering group.

## As required, or when requested by the project manager, the steering group manager will convene meetings of the steering group, with reasonable notice. The notice convening a meeting shall include a case list and the documents necessary to consider the cases.

## The steering group will consider cases at the meeting, unless the steering group manager finds that the cases may be submitted in writing, or considered on another appropriate basis. The meetings are led by the steering group manager.

## Unless stated otherwise in this Agreement, cases will be decided by the steering group, by a simple majority of the votes cast. In the event of a tied vote, the steering group manager will hold the deciding vote.

## The steering group manager will be responsible for minutes being taken of the proceedings of the steering group. The minutes shall at least state time and place, participants, method of consideration and decisions of the steering group. If a decision by the steering group is not unanimous, it shall be stated who voted against and in favour, respectively. The protocol of the minutes shall be signed or approved by other means (such as confirmation by e-mail) by the members who took part in the consideration by the steering group.

# Work plan

## In order to specify and follow up on initiatives in the Project (as stated in the Application and Offer Letter), the project manager will prepare a work plan as the basis for the professional and financial implementation of the Project, and for the concrete description of the parties' obligations.

## The work plan shall be adopted by the steering group.

# Joint obligations of the parties

## In addition to any specific obligations set out in the Specification and other obligations according to this Agreement, the parties shall:

### respond to contact from the other party without undue delay;

### notify the other party without undue delay of any matters which the party believes or should believe may be of significance to the Agreement;

### facilitate that the other party is able to fulfil its obligations in accordance with the Agreement;

### fulfil its obligations in accordance with the Agreement professionally, effectively and to a high technical standard;

### cooperate loyally with the other party and safeguard the other party's interests; and

### cooperate loyally with third parties to the extent necessary to achieve the purpose of this Agreement.

# Financing of the Project

## The Project will be financed in accordance with the requirements set out in the Offer Letter.

## If a party shall provide financial contributions, or otherwise contribute economically in addition to what follows from clause 6.1, this shall be stated in the Specification.

# Project Background

## **Ownership**

### Rights of ownership and Intellectual Property Rights related to the Project Background will be retained by the party which brought the Project Background into the Project.

### Each of the parties' Project Backgrounds considered to be relevant on the establishment of the Agreement shall be described in the Specification.

## **Rights of use**

### The parties grant each other a remuneration-free right to use each other's Project Background to the extent that such right of use is necessary for:

#### the parties to be able to perform their own work in the Project; and

#### the Project Results to be used commercially.

# Project Results

## **Ownership**

### The rights of ownership and Intellectual Property Rights related to the Project Results shall accrue to the Supplier, irrespective of whether the Supplier, the Pilot Customer or their sub-suppliers create the Project Results. The Supplier's rights include any form of commercial and non-commercial use of the Project Results, including (but not limited to) any form of:

#### production of copies, display, dissemination and presentation;

#### change/processing/further development; and

#### full or partial further transfer and licensing.

### The Supplier itself will determine whether and the extent to which the Project Results shall be protected by industrial legal protection measures (such as patent, design and trademark registration) or by other means.

## **Rights of use**

### The Pilot Customer is granted a perpetual and remuneration-free right to use the Project Results by:

#### for use in its own activities producing (either itself or via the Supplier (cf. clause 9) or a third party) products that are part of the Project Results; and

#### using in its own activities products or procedures which are part of the Project Results.

### The rights in clause 8.2.1 are limited to use in the Pilot Customer's own activities. This entails that the Pilot Customer may not:

#### offer or sell products that are part of the Project Results (unless the products are an integrated part of the Pilot Customer's own product);

#### offer or sell procedures that are part of the Project Results; or

#### otherwise give other parties the right to make commercial or non-commercial use of the Project Results via licences, or by other means;

### unless a separate licence agreement has been entered into with the Supplier.

# Agreement regarding production of products which are part of the Project Results

## If the Supplier commences production of products which are part of the Project Results, the Supplier is obligated to:

### inform the Pilot Customer; and

### enter into an agreement with the Pilot Customer for the production and delivery of these products, if the Pilot Customer desires such an agreement.

## Unless competition legislation or other regulation prevents it, the Agreement between the Pilot Customer and the Supplier according to clause 9.1.2 shall contain a most favoured nation clause. The most favoured nation clause will ensure that the Pilot Customer is at all times offered:

### the best commercial terms (price, delivery time, etc.); and

### the best legal terms (remedies of breach, termination, etc.).

## Unless otherwise agreed between the Supplier and the Pilot Customer, the Pilot Customer's rights in accordance with this clause 9 shall not limit the Supplier's right to enter into agreements with third parties for the production and delivery of products that are part of the Project Results.

# Duty of secrecy

## Information that comes into the possession of the parties in connection with the Agreement and the implementation of the Agreement shall be kept confidential, and shall not be disclosed to any third party without the consent of the other party.

## The parties shall take all necessary precautions to prevent unauthorised persons from gaining access to, or knowledge of, confidential information.

## The confidentiality obligation shall not prevent the information from being used when there is no legitimate interest in keeping it confidential, for example when it is in the public domain or is accessible to the public elsewhere.

## The confidentiality obligation shall continue to apply after the expiry of the Agreement. Employees or others who resign from their positions with one of the parties shall be subjected to a confidentiality obligation following their resignation as well, as far as factors mentioned above are concerned.

## For a party that is a public enterprise the duty of secrecy according to this clause shall not be more extensive than laid down by the Public Administration Act or corresponding sector-specific regulations. The confidentiality obligation pursuant to this clause shall not prevent the disclosure of information if such disclosure is demanded pursuant to laws or regulations, including any disclosure or right of access pursuant to the Freedom of Information Act.

# Breach

## Breach will occur if one of the parties fails to fulfil its obligations pursuant to the Agreement, and this is not due to circumstances for which the other party is liable, or to force majeure.

## If one of the parties is unable to fulfil its obligations as agreed, as soon as possible the party shall give the other party written notice thereof. The notice shall state the reason for the problem and shall as far as possible state when the performance can take place. The same will apply if further delays shall be expected after the first notice has been given.

## In the event of material breach, after giving the party in breach written notice and a reasonable deadline to rectify the matter, a party may terminate the Agreement with immediate effect.

## A party may claim damages for any direct loss as a consequence of delay, defects or other breach, unless the party in breach proves that the breach or the reason for the breach is not due to the party in breach. No damages may be claimed for any indirect losses. Indirect losses are losses as stated in the Norwegian Sale of Goods Act section 67 second paragraph. The limitation of liability stated above in this clause will not apply to the costs of customary measures to compensate for the delayed or defective delivery from the party in breach, and the costs of measures to limit other losses than as stated above.

# Sub-suppliers, employer liability and legal subject

## A party's use and replacement of any sub-supplier in order to fulfil its obligations under the Project shall be approved by the steering group. Approval shall not be unreasonably withheld.

## Unless expressly agreed otherwise, the employer liability for and employment of a party's employees who participate in the Project may not be changed. The parties shall enter into the agreements with owners, employees, partners, sub-suppliers and other parties that are necessary to fulfil the obligations of the party concerned under this Agreement, including to ensure the necessary transfer of Intellectual Property Rights related to the Project Results (cf. clause 8).

## The project is not a separate legal entity and shall not act as such towards the surroundings.

# Duration

## The Agreement will enter into force when it is signed and will run – unless otherwise agreed by the parties – in its entirety until the Project has been completed.

# Governing law and legal venue

## The parties' rights and obligations pursuant to this Agreement are fully governed by Norwegian law.

## If a dispute is not resolved by negotiation or mediation, either party may require that the dispute be resolved with final effect before the Norwegian courts of law.

# Signing

14.1 The Agreement is signed in the Specification.

1. Specification

|  |  |  |  |
| --- | --- | --- | --- |
| 1. Supplier | | | |
| Company name: | | […] | |
| Address: | | […] | |
| Organisation number: | | […] | |
| 1. Pilot Customer | | | |
| Company name: | | […] | |
| Address: | | […] | |
| Organisation number: | | […] | |
| 1. Application | | | |
| Date: | | […] | |
| 1. Offer Letter | | | |
| Date: | | […] | |
| Innovation Norway's reference: | | […] | |
| 1. Obligations of the parties | | | |
| * 1. Shall the parties have specific obligations other than the general obligations stated in the Agreement? | | | |
| [No] [Yes, the following specific obligations: […]] | | | |
| 1. Financial matters | | | |
| * 1. Shall the parties provide financial contributions, or otherwise contribute financially in addition to what follows from the Agreement clause 6.1? | | | |
| [No] [Yes, the following contribution shall be made: […]] | | | |
| 1. Project Background | | | |
| * 1. The Supplier's Project Background | | | |
| […] | | | |
| * 1. The Pilot Customer's Project Background | | | |
| […] | | | |
| 1. Signatures | | | |
|  | | | |
| **SUPPLIER** |  | | **PILOT CUSTOMER** |
| Place and date |  | | Place and date |
| Signature |  | | Signature |
| Name in BLOCK CAPITALS |  | | Name in BLOCK CAPITALS |
| Title |  | | Title |