

# Consortium Agreement

Between

**Chemnitz University of Technology** for the **Central Institution Cluster of Excellence MERGE**, a public university having its head office at Straße der Nationen 62, 09111 Chemnitz, Germany, with VAT number: DE 140857609, hereinafter referred to as **"TUC"** or **"Coordinator"**

and

**Białystok University of Technology** a public university having its head office at ul. Wiejska 45A 15-351 Białystok, Poland, with VAT number: PL 5420208721, hereinafter referred to as **"BUT"**

and

**Adam Mickiewicz University** a public university having its head office at ul. Wieniawskiego 1, 61-712 Poznań, Poland, with VAT number: PL 7770006350, hereinafter referred to as **"AUM"**

and

**Pimar-Plastics Siebiesiewicz Spółka Komandytowa (Pimar-Plastic Siebiesiewicz Limited Partnership)** a company having its head office at ul. Fabryczna 7L 16-020 Czarna Białostocka, Poland, with VAT number: PL 9661978084, registered in District Court in Białystok, XII Commercial Division of the National Court Register with KRS number: 0000971561 represented by general partner Kamil Siebiesiewicz hereinafter referred to as **"P-P"**

and

**Ústav polymérov SAV, v. v. i. (Polymer Institute SAS)** a public research institution having its head office Dúbravská cesta 9, 845 41 Bratislava 45, Slovakia, with VAT number: SK 2020830702, hereinafter referred to as **"PISAS"**

hereinafter each individually called "Party" and collectively "Parties".

## PREAMBLE

**WHEREAS** the Parties wish to collaborate in the research project entitled "Polylactide-based multifunctional materials – PolyBioMat" hereinafter referred to as the "Project") and described in Appendix 1.

**WHEREAS** the Parties have submitted the Project to their national funding agencies (hereinafter referred to as "NFAs") – EU Förderprogramme für Forschung und Innovation (RL EuProNet) for TUC and, NCBR M-ERA.NET Call 2022 for BUT, AMU, P-P and Slovak Academy of Sciences, Promoting knowledge-based research in selected areas M-ERA.NET Call 2022 for PISAS.

**WHEREAS** the Parties have decided to enter into the present consortium agreement (hereinafter referred to as the "Agreement"), which regulates the relationship between the Parties in the framework of the Project.

## THE PARTIES HAVE AGREED AS FOLLOWS:

## **Article 1 – Purpose of the Agreement**

The purpose of this Agreement is to establish the terms for collaboration between the Parties and to define the rights and obligations of the Parties during their collaboration, as well as the ownership of and access rights granted on the results obtained in the course of the performance of this Agreement.

## **Article 2 – Obligations of the Parties**

### **2.1 General obligations**

Each Party undertakes to:

- (i) Carry out its tasks as described in Appendix 1 of this Agreement with reasonable skill, care and diligence and provide the resources that are indicated as its responsibility in Appendix 1 of this Agreement;
- (ii) Notify the Coordinator of any significant problem or fact likely to delay or affect the proper implementation of the Project;
- (iii) Promptly provide all information reasonably required by the Coordinator and to cooperate in good faith in the preparation and submission of reports required by the NFAs;
- (iv) Inform the other parties if the party has knowledge that information or materials provided to the other parties are incorrect;
- (v) Ensure that the involvement of third parties, including subcontractors, does not affect the rights and obligations of any other Party under this Agreement;
- (vi) Carry out the Project in compliance with the standards of research and scientific ethics, including the highest standards of research integrity as set out, for instance, in the *Singapore Statement on Research Integrity* adopted in 2010 and the *European Code of Conduct for Research Integrity* ;

Use reasonable endeavours to obtain all regulatory and ethical licences, consents and approvals necessary to allow it to carry out its own tasks as described in Appendix 1 of this Agreement.

### **2.2 Subcontracting**

The Parties agree on the involvement of the subcontractors listed in Appendix 2 of this Agreement in the Project, in accordance with the terms of Appendix 1 of this Agreement. Further subcontracting in the Project requires the prior agreement of the Parties.

A Party that enters into a subcontract in the Project remains responsible for carrying out its relevant part of the Project and for imposing to the subcontractor confidentiality obligations similar to the ones imposed in this Agreement.

## **Article 3 - Terms of collaboration**

The Parties hereby acknowledge that TUC shall be the Project Coordinator and nominate the following researchers as their scientific managers for the Project:

For TUC:

Name: **Prof. Lothar Kroll**

Tel.: +49 371/531-23120

E-mail: [merge@tu-chemnitz.de](mailto:merge@tu-chemnitz.de)

For BUT:

Name: **PhD Marek Jałbrzykowski**

Tel.: +48 571 443 081

E-mail: m.jalbrzykowski@pb.edu.pl

For AMU:

Name: **PhD Bogna Sztorch**

Tel.: +48 667 274 791

E-mail: bogna.sztorch@amu.edu.pl

For P-P:

Name: **Kamil Siebiesiewicz**

Tel.: +48 502 50 40 80

E-mail: ks@pimar-plastics.pl

For PISAS:

Name: **PhD Zdenko Spitalsky**

Tel.: +421-2-3229 4325

E-mail: zdeno.spitalsky@savba.sk

In accordance with the needs of the Project, the Parties shall organise project meetings with an agenda set jointly by the scientific managers of the Project. Minutes of meetings shall be written by TUC following every Project meeting and approved by the other Parties.

#### **Article 4 – Costs**

Each Party shall bear its own costs and expenses incurred for the performance of their own tasks under this Agreement in accordance with the budget detailed in Appendix 1 (using their own NFA grant).

#### **Article 5 - Intellectual Property**

“Intellectual Property Rights” means authors rights, trade marks, rights in designs and models, patents, rights in confidential information (including know-how and trade secrets), inventions, databases, and any other intellectual property rights in any form whatsoever which are capable of protection, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

##### **5.1 Background**

The Parties shall remain the exclusive owners of their respective information, techniques, know-how, software, materials, Intellectual Property Rights held by them prior to the beginning of the Project and/or that they may develop on their own in parallel to the Project (hereinafter referred to as “Background”). Nothing in this Agreement shall be deemed to grant any licence to use the Background of any Party, except the rights explicitly granted in this Agreement.

Each Party grants to the other Parties a royalty-free, non-exclusive, non-sublicensable and non-transferable licence to use its Background listed in Appendix 3 of this Agreement, needed for the performance of the own tasks of a Party as described in Appendix 1, limited to the duration of the Project and for the purpose of carrying out the Project, excluding any other purpose.

## 5.2 Results

The ownership of the results generated or developed in the Project, including information, techniques, know-how, software, materials, whether or not they can be protected, as well as Intellectual Property Rights (hereinafter referred to as "Results") shall be defined as follows:

- To the extent the Results are generated or developed by a Party alone (hereinafter referred to as the "Own Results"), then these Own Results shall be the exclusive property of that Party, which may take such steps as it may decide at its sole discretion and expense to apply for and maintain protection of any Intellectual Property Rights on these Own Results.
- To the extent the Results are generated or developed jointly by the staff of two or more Parties in an indivisible way, these Results (hereinafter referred to as the "Joint Results") shall be jointly owned by these Parties (hereinafter referred to as the "Co-owner Parties") in proportion to their intellectual or other relevant contributions to the Joint Results.

The Co-owner Parties shall negotiate a co-ownership agreement in order to define their respective shares in such Joint Results as well as the conditions of their use, their protection and the share of the related costs. In this context, the regulations of the EU Framework for State Aid for Research, Development and Innovation (2014/C 198/01) or its revisions shall be in mind. The Co-owner Parties already undertake:

- To mention the names of the inventors (except if they expressly object to it), in accordance with the legal provisions applicable thereto, in the patent applications on the Joint Results that they may file;
- To take jointly all decisions concerning the filing and the application of patent applications on the Joint Results;
- To hereby grant to each other a free-of-charge and non-exclusive right to use the Joint Results for internal research and academic activities, at the exclusion of any industrial or commercial activities.

Each Party grants to the other Parties a royalty-free, non-exclusive, non-sublicensable and non-transferable licence to use its Results, needed for the performance of the own tasks of a Party as described in Appendix 1, limited to the duration of the Project and for the purpose of carrying out the Project, excluding any other purpose.

## Article 6 – Publication and dissemination

Each Party undertakes not to publish, in any manner whatsoever, the Background nor the Own Results of the other Party, without its consent, provided such information is not in the public domain.

Authorship for publication should be based on having made a substantial, direct, intellectual contribution to the Results, including conception, design, data collection, analysis and/or interpretation of data.

A Party may publish about its Own Results after having merely transmitted the draft of the publication to the other Parties.

Any publication, communication or presentation of information on the Joint Results by a Co-owner Party shall be subject, during the term of this Agreement and for twenty four (24) months following its expiration or termination, to prior written approval of the other Co-owner Party, who may provide notice within a maximum one (1) month as from the date of the receipt of the draft of the publication. In the absence of a reply within this deadline, authorization is considered to be given. Within the above deadline, the other Co-owner Party may postpone the publication, communication or presentation for a maximum period of six (6) months as from

the date of the receipt of the draft of the publication, if the information set forth in the publication, communication or presentation is required to be protected by the intellectual property law.

The Parties will strive to obtain as many joint papers as possible.

For each presentation, film, poster, flyer, article, book, website and all other form of written or oral publication, the Parties shall comply with the obligations mentioned in the grant agreements signed with their own NFAs.

## **Article 7 – Confidentiality**

The Parties recognize that, as part of and in the execution of this Agreement, information and material of any kind, including but not limited to ideas, methods, procedures, processes, scientific and/or technical knowledge, tests, functional and technical specifications, computer programs, strategies, financial information, information related to accounting, business or personnel, partners or customers, that are designated or named as confidential, (hereinafter referred to as "Confidential Information") may be disclosed by one Party (hereinafter referred to as "Disclosing Party") to another Party (hereinafter referred to as "Receiving Party").

The Receiving Party shall:

- keep the Confidential Information secret and confidential;
- ensure the Confidential Information remains confidential and is treated with the same degree of care with which the Receiving Party treats its own confidential information, but in no case less than reasonable care;
- not directly or indirectly disclose, in any form whatsoever, without the express written consent of the Disclosing Party, any Confidential Information received from the latter, to any third party or person, except its own employees and subcontractors identified in Appendix 2 of this Agreement whose knowledge of the Confidential Information is required as part of this Agreement and who are themselves bound by a similar confidentiality commitment;
- not use any Confidential Information received from the Disclosing Party, without the prior written consent of the latter, beyond what is strictly necessary to carry out the this Agreement;
- return to the Disclosing Party, upon request, all Confidential Information, with the exception of one copy of the Confidential Information for the purpose of ensuring compliance with the Receiving Party's obligations under this Agreement and the law (this does not apply to information routinely made as electronic backups or required to be retained by law).

The confidentiality commitment, as defined in this article "Confidentiality" is valid for the duration of this Agreement and shall continue in force for a period of five (5) years after this Agreement expiration or termination.

## **Exclusions**

The following information shall not be considered confidential and therefore the Receiving Party's commitments shall not apply to information that:

- is publicly known on the date of disclosure by the Disclosing Party;
- becomes publicly known following the date of disclosure by the Disclosing Party, other than as a result of a breach of this Agreement;
- was already in the possession of the Receiving Party prior to this Agreement;

- was subsequently obtained by the Receiving Party from a third party which, to the knowledge of the Receiving Party, is not unjustified to disclose and use the information;
- is independently and in good faith developed by the Receiving Party;
- the Disclosing Party has previously authorised in writing to be disclosed;
- must be disclosed by the Receiving Party pursuant to the law or regulations or to a statement of the court or other authorized body.

The burden of proof shall fall to the Receiving Party.

### **Special provisions**

The provisions of this article shall not prevent:

- the Parties from producing, if applicable, an activity report to the NFAs for the Project;
- where applicable, the defence of a thesis by one or more researchers employed or received by the Parties, whose research activity is related to the subject of the Project;
- either Party from mentioning, for the purposes of internal or external disclosure, the existence of this Agreement unless otherwise agreed by the Parties. In this context and unless otherwise agreed by the Parties, a brief description of the Project may be distributed. Any communications proposed by a Party beyond this brief description must be subject to prior agreement from the other Party before being implemented.

## **Article 8 – Data Protection**

### **8.1 Definitions**

“Applicable Legislation” means the (i) the General Data Protection Regulation ((EU) 2016/679, “GDPR”) and (ii) any applicable national implementing laws, regulations and secondary legislation, as amended or updated from time to time.

In the framework of this Agreement, the terms “personal data”, “processing”, “data subjects”, “controller”, “processor”, “data protection impact assessment (DPIA)”, “supervisory authority”, “recipient”, “data protection officer (DPO)” or “personal data breach” shall have the meaning ascribed to them in the Applicable Legislation.

### **8.2 Processing of personal data**

Each Party undertakes to comply with the Applicable Legislation.

The Parties acknowledge conducting processing activities in their capacity as controllers for the performance of the Agreement. In case of further collection or processing of personal data in the framework of the Agreement, the Parties undertake to rule it by a separate contract.

Each Party is responsible for informing the data subjects about the processing of their personal data, in accordance with the Applicable legislation.

More information about TUC privacy notice can be found at: [www.tu-chemnitz.de](http://www.tu-chemnitz.de)

More information about BUT privacy notice can be found at: [www.pb.edu.pl](http://www.pb.edu.pl)

More information about AMU privacy notice can be found at: [www.amu.edu.pl](http://www.amu.edu.pl)

More information about P-P privacy notice can be found at: [www.pimar-plastics.pl](http://www.pimar-plastics.pl)

More information about PISAS) privacy notice can be found at: [www.polymer.sav.sk](http://www.polymer.sav.sk)

## **Article 9 – Warranties and liability**

### **9.1 No warranties**

No Party warrants the accuracy, completeness, usability or freedom from third party rights of the information, materials, Results or Background. The recipient Party shall be entirely liable for the use of such information and materials.

Although each Party shall use reasonable endeavours to carry out the Project, each Party does not undertake that any research will lead to any particular result, nor guarantee a successful outcome to the Project.

### **9.2 Limitations of liability**

No Party shall be liable to the other Party for direct damages, except if such damages are caused by intentional breach of this Agreement, wilful misconduct or gross negligence.

No Party shall be liable, with the exception of intent, for indirect or consequential loss or damages or loss such as but not limited to loss of profit, revenue or contracts or the like.

In case a Party causes damages to a third party, such Party shall remain solely liable towards said third party.

When the activities of a Party under this Agreement are carried out in the premises of the other Party, the first is obliged to comply with such other Party's applicable regulations on access, health and safety at work and any other applicable relevant rules on site.

Neither Party shall be liable to the other for any failure to perform or delay in performance of its tasks hereunder caused by any circumstances beyond its reasonable control (force majeure), including but not limited to strikes, war, insurrection, pandemics, natural disaster, fire, interruption in general power production, limits imposed by state budgets or governments to the activities of a Party, embargo or other significant and unusual cause independent of the Parties will.

Nothing in this Agreement shall be understood as limiting or excluding liability for (i) death or personal injury or (ii) any liability that, by law, cannot be limited or excluded.

## **Article 10 - Duration of the Agreement**

### **10.1 Duration of the Project**

The Project shall begin on 1<sup>st</sup> June 2023 and continue until 30th June 2026 or until any later date agreed in writing between the Parties and approved by the NFAs.

### **10.2 Duration of the Agreement and surviving obligations**

The present Agreement shall enter into force as of the date of its signature by all Parties. The Parties take note that pursuant to relevant provisions of Section 5a of Act No. 211/2000 Coll. on Free Access to Information and Amendments of Some Acts (The Freedom of Information Act) as amended, this Agreement is a mandatorily published contract, which is published in the Central Register of Contracts of the Government Office of the Slovak Republic. This Agreement shall take effect on the day following the day of its publication in the Central Register of Contracts of the Government Office of the Slovak Republic. PISAS undertakes to ensure the publication of this Agreement without undue delay after its signing by all Parties. If this Agreement takes effect after the starting date of the Project, it shall have binding effect to the starting date of the Project. The Agreement shall remain in force for the duration of the Project.

The clauses "Intellectual Property", "Confidentiality", "Warranties and Liability", "Duration of the Agreement" and "Applicable Law - Jurisdiction" of this Agreement shall survive the

termination or expiration of this Agreement indefinitely or for the period of time expressly defined in the clause in question.

#### **Article 11 – Termination**

If the Parties unanimously agree to do so, the other Parties may treat any Party as having withdrawn from the Project with immediate effect if:

- that Party is in breach of any provision of this Agreement and the breach has not been remedied within sixty (60) days after receipt of written notice specifying the breach and requiring its remedy (hereinafter referred to as “Defaulting Party”); or
- that Party becomes insolvent.

This Agreement may only be terminated by any Party for good cause. Good cause exists in particular if the funding is not granted or not granted as requested or if the Results show that the Project cannot be realized.

If a Party withdraws or is treated as having withdrawn from the Project, the other Parties will use reasonable endeavours to reallocate the obligations of that Party under this Agreement amongst themselves or to a third party acceptable to the remaining Parties, provided any required prior approval by the NFAs is granted.

Rights granted under this Agreement to Background and/or Results by a Party that is treated as having withdrawn from the Project to any of the other Parties in respect of the withdrawing Party's Background and Own Results shall continue for the duration of the Project.

The rights and obligations of any Co-owner Parties under this Agreement shall continue, despite the fact that one or more Co-owner Parties have withdrawn or are treated as having withdrawn from the Project. All other rights to use any other Party's Background and/or Results granted under this Agreement to a Party that withdraws or that is treated as having withdrawn from the Project shall cease immediately.

#### **Article 12 - Modifications**

Any modifications to the present Agreement must be made through an amendment signed by the Parties.

#### **Article 13 - Assignment**

This Agreement may not be assigned or transferred for any reason and for any purpose whatsoever without the express written consent of the Parties.

#### **Article 14 - Applicable Law - Jurisdiction**

The present Agreement is subject to the laws of Germany.

In case of disputes, the Parties shall do their utmost to come to an amicable agreement.

In the absence of an amicable agreement between the Parties, any disputes concerning the validity, interpretation, execution, and/or expiration of the present Agreement shall be decided by the sole jurisdiction of the Courts of Germany.

#### **Article 15 – No representation or partnership**



No Party shall be entitled to act or make legally binding declarations on behalf of the other Parties or of the consortium. Nothing in this Agreement shall be deemed to constitute a joint venture, agency, partnership or any other kind of entity between the Parties.

#### **Article 16 - Appendices**

Attached to this Agreement:

- Appendix 1: Project's description
- Appendix 2: List of agreed Subcontractors
- Appendix 3: List of Background

In the event of a contradiction or difference of interpretation between this Agreement and the Appendices, the provisions in this Agreement shall prevail.

The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in separate signature pages.

## **Appendix 1: Project's description**

Full proposal submitted to the M-ERA.NET Call 2022 and known to the Parties.

## **Appendix 2: List of Sub-contractors**

### **For BUT:**

Production of an injection mold and microbiological testing of polymer compositions in the environment of several bacteria and fungi

### **For TUC:**

Subcontracting for biocompatibility test (according to standards) including biodegradability in aqueous media, desintegration under controlled composting conditions, ecotoxicological parameters.

## **Appendix 3: List of Background**

### **TUC**

No Background of TUC is needed by another Party for the purpose of carrying out the Project.

### **BUT**

No Background of BUT is needed by another Party for the purpose of carrying out the Project.

### **AMU**

No Background of AMU is needed by another Party for the purpose of carrying out the Project.

### **P-P**

No Background of P-P is needed by another Party for the purpose of carrying out the Project.

### **PISAS**

No Background of PISAS is needed by another Party for the purpose of carrying out the Project.