

DRAFT AGREEMENT

Financing and Collaboration Agreement (hereinafter "Agreement")

1 Parties

Sitra, the Finnish Innovation Fund (hereinafter referred to as "Sitra")
Itämerenkatu 11–13 (PL 160), 00181 Helsinki, Finland
Business ID: 0202132-3

[name] (hereinafter referred to as "the Partner")
[address]
Business ID: xxxxx

Sitra and the Partner shall hereinafter also be referred to as a "Party" and together as "Parties".

2 Background and Purpose of the Project

Project's working title is "XXX" and the project aims to [description] (hereinafter referred to as "the Project").

The funding granted under this Agreement relates to financing decision number [XXXX] and may be used solely to the costs mentioned in the project plan and incurred during the implementation of the Project, and which are defined in Sitra's Funding Project's Monitoring and Cost Annex, attached as appendix 1A. The eligible Project costs shall be specified in the project Cost Statement Report attached as appendix 1B.

The aims, objectives and the manner of execution of the Project are specified in the project plan (hereinafter referred to as "the Project Plan"), attached as appendix 2. Project's budget estimation is included in the Project Plan.

As described in the Project Plan, the Partner is a member of the applicant consortium, whose common Project Sitra shall finance.

For the avoidance of doubt, Sitra acts as the financier of the Project and does not purchase any services from Partner under this Agreement.

The Partner represents and warrants that the information given in the Project Plan and the budget estimation is accurate and gives a true and fair view of the Project and its implementation.

The Partner shall be responsible for implementing the Project in accordance with this Agreement.

3 Period of the Project

The Period of the Project is X.X.202X – X.X.202X.

4 Project Responsible

The Person responsible for the implementation of the Project shall be N.N. employed by the Partner ("Project Responsible").

5 Management and Supervision of the Project

The Project shall be managed and supervised by leading specialist N.N. from Sitra.

The Parties shall nominate a steering group (hereinafter "Steering Group") which shall oversee and supervise planning and implementation of the Project.

The Steering Group shall consist of representatives from Sitra and from members of the applicant consortium xxxxx

The Steering Group shall meet when necessary. The Steering Group shall also decide on all such aspects of the Project and minor changes to the Project Plan, which are mentioned in the Project Plan for the Steering Group to decide. All such decisions of the Steering Group shall always be approved by the representative nominated by Sitra.

6 Financing and Payments

Sitra shall finance the Project in accordance with the budget estimation included in the Project Plan at maximum the total amount of EUR X.

Furthermore, the value of the advisory work EUR xx shall be considered as Sitra's financing to the Project.

In accordance with applicable law, VAT shall not be collected and paid for financing services.

The Partner shall record the Project costs separately in the Partners accounting and maintain and keep this separate record, so that the amount and basis of the costs can be verified later, if necessary. In addition, the Partner shall report to Sitra regarding the Project and the actual costs incurred in it in accordance with appendices 1 A and 1 B.

The Partner shall provide Sitra with all information regarding the use of the funding granted under this Agreement as requested by Sitra. Sitra has the right to audit the use of the funding using a third-party auditor, to the extent Sitra deems it necessary.

Sitra shall finance the Project in [two] separate instalments against the Partner's invoices, which have been approved by Sitra, as follows:

- | | | |
|---------------|-------|---|
| 1. instalment | EUR X | at latest [date], provided that: |
| | | - this Agreement has been signed by both Parties, |
| | | - the Managing Body has been appointed |
| | | - <i>[other project-specific terms]</i> |

- | | | |
|---------------|-------|----------------------------------|
| 2. instalment | EUR X | at latest [date], provided that: |
|---------------|-------|----------------------------------|

- The Project has been fully completed in accordance with the Project Plan and the terms of this Agreement, the costs incurred in the Project have been reported to Sitra in accordance with appendices 1A and 1B and Sitra has accepted the Cost Statement Reports,
- The Final Administrative Report, detailed in section 7.1, has been delivered to Sitra and Sitra has accepted it,

Sitra's funding equals [X] % of the Project budget estimation.
Partner's own contribution for the Project equals [X] % of the Project's budget estimation.

In the event that the actual Project costs are less than estimated as per the budget, Sitra's funding shall be adjusted accordingly.

The Partner commits to refund Sitra's funding if the Project does not materialize. Should the Project be implemented on a smaller scale than planned, the sum returned to Sitra should be in proportion to the level of implementation of the Project.

7 Deliverables and Intellectual Property Rights

7.1 Deliverables

Deliverables (hereinafter "the Deliverables") include all new materials and outputs created in connection with the Project, including but not limited to, any and all, methods, solutions, devices and other tangible assets and materials regardless of whether they may be protected under any immaterial property law or under a non-disclosure agreement, surveys, reports, information, conclusions, observations, experience, best practises and other written material as well as pictures and photographs.

The Deliverables do not include such materials and intellectual property rights acquired by a Party in connection with this Project, which are used under a third-party licence, or which are otherwise subject to the limitations of a third-party.

Immaterial property rights means all new immaterial property rights created in connection with the Project, including but not limited to, any and all patents, utility models, trademarks, copyright, right to integrated circuit design, copyright of design and knowledge protected by non-disclosure agreement and applications related to immaterial property rights.

Background Material (hereinafter "the Background material") includes all materials and outputs created before the Project or outside the scope of this Project; regardless of the creator; including but not limited to, any surveys, reports, information, conclusions, observations, experience, best practises and other written material as well as pictures and photographs and regardless of whether they are protected or able to be protected with intellectual property rights, e.g. copyright, patent or confidentiality. The Background material is not part of the Deliverables.

If a Party or a third-party discloses Background material to the other Party for the execution of this Project, the intellectual property rights and other rights to such Background material shall remain the exclusive property of the disclosing Party. The disclosed Background material shall solely be used for the purpose of executing this Project.

The Final Administrative Report of the Project (hereinafter "the Final Administrative Report") means a report detailing the content, execution, the Partner's insights and experiences, results and impact of the Project. The Final Administrative Report shall be composed by the Partner in accordance with further instructions provided by Sitra in writing, e.g. by email.

For the sake of clarity, it is noted that the Final Administrative Report must not include any trade secrets of the organizations participating in the Project.

The Final Administrative Report is not part of the Deliverables.

Deliverable Results means all Deliverables and Immaterial property rights

7.2 Intellectual Property Rights of the Deliverables and the Final Report

Title to the Deliverable Results shall be vested to the Partner, unless otherwise agreed in this Agreement.

published.

License of Sitra to use the Deliverable Results

The Partner hereby grants Sitra a free, unlimited, non-exclusive and non-restricted user right. Sitra may assign or transfer the user right specified in this clause or grant sub-licenses under such a user right to third parties unless otherwise agreed in this agreement in order to spread the knowledge and best practises included in the Deliverable Results with the exception of any trade secrets that may be included in the Deliverable Results.

The Partner represents and warrants that the Deliverable Results do not infringe upon any intellectual property rights or other rights of third parties. The Partner shall, at its own expense, defend, indemnify and hold Sitra harmless against any and all costs resulting from claims and actions alleging that the Deliverables Results infringe upon any intellectual property rights of a third party, provided that Sitra has used the Deliverable Results in accordance with this Agreement. The Partner shall pay all damages awarded in a trial agreed to be paid to a third party if Sitra has acted in accordance with the foregoing.

Rights pertaining to the Final Administrative Report

The Partner hereby grants and transfers the Final Administrative Report and copyright and other intellectual property rights thereto to Sitra with full title at the moment they are formed. For the sake of clarity, it is noted that the transfer of the rights pertaining to the Final Administrative Report grants Sitra the right to use, copy, share, publish and modify the Final Administrative Report in both written and digital form in Finland or as a translation outside of Finland, and a right to forward

the rights to a third party. Therefore, Sitra has the right to forward information contained in the Final Administrative Report to third parties or grant licences thereto.

The Partner represents and warrants, and shall be responsible for ensuring, that the Project Responsible and other persons involved in the implementation of the Project, assign all rights to the Final Administrative Report to the Partner. The Partner shall be fully responsible for compensating such persons for the assignment of rights to the Final Administrative Report, at its own expense. In addition, the Partner represents and warrants that the Final Administrative Report does not infringe upon any intellectual property rights or other rights of third parties.

The Partner shall, at its own expense, defend, indemnify and hold Sitra harmless against any and all costs resulting from claims and actions alleging that the Final Administrative Report infringes upon any intellectual property rights of a third party, provided that Sitra has used the Final Administrative Report in accordance with this Agreement. The Partner shall pay all damages awarded in a trial agreed to be paid to a third party if Sitra has acted in accordance with the foregoing.

For the avoidance of doubt, the payments under Section 6 of this Agreement shall be deemed to include compensation for the title granted to Sitra under this Agreement. The payments shall be the sole compensation payable by Sitra to the Partner in connection with this Agreement. Sitra shall in no event be liable to pay, reimburse or compensate the Partner for any other costs, expenses or payments for its performance under this Agreement.

The Partner is responsible for covering all costs related to any payments made to any possible third parties participating in any way in carrying out the Project.

8 Duties and Responsibilities of the Partner

The Partner is responsible for diligent and professional implementation and overall management of the Project in accordance with this agreement and all appendices.

The main phases of the Project are described in the Project Plan.

The Partner is responsible for reporting the costs and expenses according to the appendices 1A and 1B.

The Partner represents and warrants that the funding provided by Sitra is solely used for the purpose of achieving the Project's goals and for the costs described in the Project Plan.

Public Procurement

Sitra is a contracting authority as described in the Finnish Act on Public Contracts and Concessions (*Laki julkisista hankinnoista ja käyttöoikeussopimuksista 1937/2016*) (hereinafter "Act"). The Partner represents and warrants that it is familiar with the contents of the tendering obligation of the Act and undertakes to put the procurements to be carried out with the Project financing out to tender if the Project funding obtained from Sitra and other contracting authorities exceeds 50% of the overall Project financing.

Economic Activities

The Partner represents and warrants that it does not engage in any economic activity and the funding granted under this Agreement shall not be used for the purposes of its economic activities during or after the Project.

OR

The Parties acknowledge that in accordance with the EU state aid rules, the Partner engages in both economic and non-economic activities. However, Partner represents and warrants that the funding granted under this Agreement shall not be used for the purposes of its economic activities during or after the Project

Should the EU's supervisory authority consider the financing granted under this agreement to include such state aid that the EU state aid regulation deems forbidden, Sitra has the right to demand the financing to be paid back to Sitra with penalty interest.

Except for procurements executed in accordance with the Act [or in accordance with national procurement regulations as agreed above in this Section 8 under "Public Procurements"] with funding granted by Sitra under this Agreement, and if part of the funding is channelled to undertakings, the Partner is responsible for ensuring the channelling of funds is market-based, as per the [applicable] EU state aid rules.

If despite the representation and warranties of the Partner, the funding is deemed to benefit the economic activities of the Partner or another entity, Sitra shall not be liable for any direct or indirect damage caused to the Partner or another entity. Funding which is incompatible with the EU state aid rules can be recovered from the Partner with interest.

Accessibility

The Act on the Provision of Digital Services (*laki digitaalisten palvelujen tarjoamisesta 306/2019*) imposes obligations on Sitra. The Partner commits to ensure that the Deliverables, meet the requirements of the guidelines of accessibility attached as appendix 3.

Compensation for Damages

The Partner shall be independently liable for any damages it causes to Sitra, other participants of the Project or to third parties. However, the Partner shall not be liable for any indirect or consequential damage caused to Sitra in connection with this Agreement.

9 Project Communications and Right to Use as a Reference

Project communications shall be agreed between the Parties separately in writing, e.g. by email or by making a separate written plan on Project communications. With respect to Project communications, the Partner has the right to mention Sitra as the financier of the Project. However, the Partner does not have the right to use Sitra's logo. More specific details concerning Sitra's visibility in Project communications can be detailed in the communications plan, if deemed necessary.

As the financier of the Project, Sitra is entitled to visibility in all Project communications and publicity in the media and the public arena.

After the completion of the Project, the Partner may not use Sitra's name or logo as a reference in the Partner's own operations, general marketing materials or otherwise without a separate prior written consent of Sitra.

10 Processing of Personal Data

To the extent the Parties process personal data when fulfilling their obligations under this Agreement, they shall comply with all effective and applicable data processing and privacy protection laws. Both Parties shall be independent controllers of data (who determine the purposes and means of the processing of personal data) as defined in applicable law. The Party shall also be responsible for ensuring that the processing of personal data shall be carried out in accordance with the laws and professional data protection practice applicable to it.

In addition, the Parties commit to take appropriate technical and organisational measures to ensure safe processing of personal data. The Parties commit to ensure their processing of personal data and data security meet the requirements of data protection regulation that might enter into force after this Agreement has entered into force.

11 Delays

If the Partner determines that a delay will occur or is likely to occur, it shall, without delay, notify Sitra in writing of the delay. In such cases, Sitra can unilaterally alter the payment schedule agreed in Section 6 or the period of the Project agreed in Section 3 to correspond to the actual progression of the Project or can withhold payment of the instalments referred to in Section 6 entirely if the delay is significant.

Sitra also has the above-mentioned right if the implementation of the Project at any time significantly deviates from what has been agreed in the Project Plan and this Agreement. In the event the Project is delayed, or the implementation deviates from what has been agreed, Sitra and Partner can, if necessary, enter into a new Agreement on how to continue the Project and realise the financing thereof.

12 Assignment of the Agreement

The Partner may not wholly or partly assign its rights and obligations under this Agreement to any third party except with the prior written consent of Sitra.

The Partner may not change the Project Responsible, the project manager named in the Project Plan or any other key personnel in the Project except with the prior written consent of Sitra.

13 Amendments to the Agreement

A Party may not deviate from the Project Plan in a manner that would endanger the implementation of the Project, schedule or the purpose of the Project, except with the prior written consent of the other Party. If such factors occur during the implementation of the Project, that require amending or modifying the Agreement or its appendices, a Party must inform the other Party without delay.

All amendments and/or additions to the Agreement must be agreed in writing to be valid.

14 Termination of the Agreement

Sitra has the right to terminate the Agreement in the event of such a change in the circumstances or any preconditions of this Agreement that would endanger the implementation or the purpose of the Project or if the Partner has in any other way breached the Agreement and has failed to remedy such a breach within 15 days of the receipt of Sitra's written notification.

In the event of such a termination by Sitra, the Agreement shall terminate within one (1) month of the receipt of Sitra's written termination notification by the Partner.

In addition, Sitra has the right to terminate the Agreement with immediate effect if, the Partner has breached the Agreement intentionally or through gross negligence; or:

- commits a material breach of its obligations detailed in this Agreement and the Project Plan, or
- the Partner has in any other manner acted against the purpose of the Agreement, against good faith or against good business or administrative practice.

The Partner has the right to terminate this Agreement with immediate effect if Sitra neglects to make the Payments in accordance with this Agreement in the event where the Partner has fulfilled all its obligations and duties in accordance with this Agreement, or if Sitra commits a material breach of its other obligations under this Agreement.

The termination with immediate effect enters into force by the receipt of the termination notification.

15 Consequences of the Termination

The Partner shall not be entitled to any compensation or damages in the event the Agreement is terminated in accordance with Section 15, except for direct damages relating to the termination when the Partner uses its right to terminate the Agreement with immediate effect.

If the Agreement is terminated in accordance with Section 15, Sitra shall pay for the part of the Project implemented by the Partner up to the date of termination in relative portion to the amount of Sitra's funding detailed in Section 6, provided that all the materials and reports and Partner's report concerning the current status of the Project are handed over to Sitra.

16 Confidentiality

For purposes of this Agreement, "Confidential Information" shall mean any information or documents disclosed by a Party ("Disclosing Party") to the other Party ("Receiving Party"), either directly or indirectly, in writing, orally or by inspection of tangible objects, which contain trade secrets, other comparable information of business activities or other information, ideas or concepts, which are being created as a result of the Project proprietary to the Disclosing Party or any third party that has furnished it to the Disclosing Party.

The Receiving Party having received Confidential Information shall keep such information confidential.

However, Sitra has the right to disclose information concerning this Agreement, the Partner, the amount of the funding and the Project in accordance with the Act on the Openness of Government Activities (*laki viranomaisten toiminnan julkisuudesta, 621/1999*), excluding information considered confidential under said act, if information is requested from Sitra under the Act.

Notwithstanding the confidentiality provisions of this Agreement, Sitra may disclose any information associated with the financing of the Project, to the supervisory authorities.

17 Governing Law and Dispute settlement

This Agreement, and any dispute, claim or controversy arising out of or relating to this Agreement, or the breach, termination or validity thereof, are governed by and construed in accordance with the laws of Finland excluding its choice of law provisions.

Any disputes arising out of or in connection with this Agreement, shall be settled amicably through negotiations. All disputes arising out of or in connection with this Agreement which cannot be settled through amicable negotiations between the respective Parties shall be settled by the District Court of Helsinki.

18 Term of the Agreement

This Agreement shall enter into force and become binding on the signing date after the Agreement has been signed by both Parties.

The appendices attached to the Agreement supplement and are an integral part of the Agreement. In the event of a discrepancy between the appendices and the Agreement, the terms and conditions of the Agreement shall prevail followed by the appendices in numerical order.

The Agreement shall be binding until the Parties have fulfilled all their obligations under this Agreement. The Sections 7, 8, 9, 10, 16 and 17 of this Agreement shall survive the expiration or termination of this Agreement.

19 Signatures

This Agreement can be executed in one (1) or more identical copies. Delivering the signature page by email or signing the Agreement with an electronic signature service is considered equal to signing the original copy.

The Parties have signed this Agreement on the date marked on the signature page or on the date marked in the electronic signature service as the signature date.

In [place], [date] [month] 202X

[Partner]

[Name, title]

email:

Tel.no.:

Agreement no. [Sitra - xxx]

In [place], [date] [month] 2020

Sitra, the Finnish Innovation Fund

[Name, title]

APPENDICES:

Appendix 1: Funding Project's Monitoring and Cost Annex (appendix 1A) and Cost Statement Report (appendix 1B)

Appendix 2: Project Plan, [date]

Appendix 3: guidelines of accessibility for Sitra's co-operation partner