**Innosuisse Research Agreement between UNIFR and an industrial partner**

**Important Notices**

This document is a template. It is understood that only the full agreement shall be binding, once signed.

As UNIFR is acting as a public entity, and subject to governmental control, the provisions of the Agreement shall apply except in significantly particular situations.

Depending on the project may be necessary to tailor such Agreement.

The Agreement need to be signed by the rectorate and approval by the Knowledge and Technology Transfer Service is required.

**Any specific modifications and tailoring have to be prepared with the UNIFR Knowledge and Technology Transfer Service.** if you modify it, please, do so in track changes and submit the changes to the Technology Transfer Service for control.

Please contact us at [techtransfer@unifr.ch](mailto:techtransfer@unifr.ch)

**INNOSUISSE RESEARCH AGREEMENT**

between

**University Fribourg, Avenue Europe 20, CH-1700 Fribourg, Switzerland**

(hereinafter referred to as “UNIFR”)

**and**

………………………………………………………………………………………

(name of Company)

…………………………………………………………………………………………………………

…………………………………………………………………………………………………………

(address of Company)

(hereinafter referred to as "COMPANY")

(hereinafter individually referred to as "Party" or collectively as "Parties")

**Preamble**

The Parties have submitted an application (hereafter referred to as the “Innosuisse application”) to the Swiss Innovation Agency (hereafter referred to as "Innosuisse") to carry out the project called .................................................................................. (title of the Innosuisse Project).

This Agreement applies to the co-operation between the Parties as covered by the “Innosuisse Grant Funding Contract” (hereafter referred to the "Innosuisse Contract"), which shall be established between the Parties and Innosuisse, after acceptance of the Innosuisse application and prior to the Project start.

This Agreement is subject to the cumulative conditions that the Innosuisse Application for funding is accepted by Innosuisse and that the Innosuisse Contract is signed.

**1. Statement of Work**

1.1 In close collaboration with COMPANY, UNIFR hereby undertakes to perform the research work described in the Innosuisse application attached as Enclosure 1 (hereinafter referred to as "the Project") which shall be an integral part of this Agreement. The Project shall be carried out under the supervision of Mr/Mrs/Prof.:

………………….………………………………………………………………………………………

(name and title of the person in charge)

1.2 COMPANY hereby undertakes to collaborate with UNIFR during the Project and to bring its competencies for the benefit of the Project and to furnish UNIFR in due time with documentation, information and data necessary to accomplish the Project according to Enclosure 1. COMPANY shall also provide UNIFR with all the data, information and costs statements necessary to establish the scientific and financial reports according to the Innosuisse Contract. Whenever it is deemed necessary during the Project, the Parties may mutually agree upon regular or separate meetings to be held at the place of business of one of the Parties hereto.

1.3 Any modifications to the scope of the Project, to the budget, any priorities and scientific options to be decided in the course of the Project shall be subject to prior mutual written agreement and to the agreement of Innosuisse.

1.4 In case of discrepancies or contradiction between this Agreement and any of its enclosures, the Agreement itself shall prevail.

**2. Term of Agreement**

This Agreement shall become effective on ........................... (effective date, dd.mm.yyyy) and remain effective for the duration of the Project, i.e. until ........................... (end date of the Project, dd.mm.yyyy).

This Agreement will have effect at the date the Innosuisse Contract will enter into force and will remain effective until the completion of the Project. This Agreement shall be considered as null and void in case of Innosuisse has not accepted the Project and thus has not signed an Innosuisse Contract, or a Party has not signed the Innosuisse Contract.

**3. Payments**

3.1 The financial contribution of Innosuisse amounts to (amount in CHF, no subject to VAT):

………………………………………..….......

(financial contribution of Innosuisse)

This contribution is received and managed by UNIFR.

3.2 The contributions of COMPANY are the following (amount in CHF) :

Contribution in kind: ………………………………………..….......

(contribution in kind of COMPANY)

Contribution in cash: ………………………………………..…....... + VAT

(contribution in cash of COMPANY)

Such cash contribution shall be paid to UNIFR according to the following conditions:

………………………………………..….......

(payment schedule)

………………………………………..….......

(payment schedule)

………………………………………..….......

(payment schedule)

UNIFR shall send invoices to COMPANY according to this schedule and the payments shall be done by COMPANY to UNIFR within thirty (30) days of receipt of the invoices.

**4. Results and Intellectual Property**

4.1. All results, patentable or not, copyrightable or not, obtained in the execution of the Project by

UNIFR (hereinafter referred to as "UNIFR Results") shall be communicated to COMPANY in form of

common meetings, reports or publication drafts. Subject to the provisions of articles **4.2** to **4.10** of this

Agreement, UNIFR and COMPANY shall be free to use such results.

4.2 COMPANY shall notify UNIFR in writing of its interest for legal protection of UNIFR Results, in

which case COMPANY shall have the right to file a patent application in its own name and at its own

expenses. This notification shall reach UNIFR within three (3) months from the date the concerned results were first disclosed to COMPANY, subject to the one (1) month period set forth in article 6.2 in case that UNIFR submit a draft of scientific publication.

4.3 Title to an invention conceived or first reduced to practice by UNIFR in the performance of the

Project shall be transferred from UNIFR to COMPANY upon COMPANY filing a patent application on

such invention, provided that such filing occurs within three (3) months from the date COMPANY

notified UNIFR of its interest according to article **4.2.** COMPANY shall bear all costs related to the patent

prosecution and shall inform UNIFR of all major steps in such prosecution and of any decision to abandon

the patent; COMPANY shall provide UNIFR with a copy of any patent application(s) and of any issued

patent(s). During the deadlines pursuant to articles **4.2** and **4.3**, each Party agrees to treat the UNIFR Results concerned as confidential.

4.4 In the event that COMPANY files a patent application pursuant to article **4.3**, COMPANY shall

have under any such patent application and patent issued thereon (hereinafter referred to as "a Patent")

exclusive exploitation rights for applications, which are within the following field of use:

.........................................................................................................................

(*description of the Field of Use*)

(hereinafter referred to as "the Field of Use").

In consideration of UNIFR 's contribution to the Patent and the exclusive rights of COMPANY thereon,

COMPANY hereby agrees to pay UNIFR either a flat amount or royalties on the sales made by

COMPANY, its affiliates and/or licensees of products and/or services covered by any Patent. The Parties

shall agree in good faith on a case-by-case basis upon such amount or the royalty rate and the payment,

reporting and verification modalities within 6 months after the date of the first filing of the Patent, which

shall be communicated to UNIFR without delay.

COMPANY hereby grants UNIFR ***[an exclusive / non-exclusive],*** royalty-free and irrevocable license

under any Patent, with the right to grant sublicenses, for applications that are outside the Field of Use.

UNIFR may use any Patent for education and research purposes in any field.

4.5 COMPANY shall demonstrate reasonable efforts to develop and commercialize the technology

covered by the Patent in the Field of Use.

4.6 In the event that COMPANY fails to file a Patent according to article **4.3**, title to the invention

concerned shall remain with UNIFR and UNIFR shall be free to patent or not such invention.

If COMPANY files a Patent as per article **4.3**, but renounces to seek protection in the following

countries/region: USA, Japan, China or Europe (EPO), then COMPANY shall timely inform UNIFR and

give the latter the opportunity to file in its own name and at its own costs a patent application in the

abovementioned countries/region that are not covered by COMPANY Patent.

Should COMPANY decide to abandon a Patent in any countries, COMPANY shall offer to UNIFR the

assignment of such Patent free of charge. COMPANY shall inform UNIFR of such decision at least four

(4) months before the deadline for the performance of the formalities necessary for the maintenance of

the Patent.

4.7 In the event that UNIFR is the owner of a patent application or patent under UNIFR Results

according to article **4.6**, UNIFR hereby grants COMPANY a royalty-free, non-exclusive and irrevocable

license for the use of any such patent application or patent in the Field of Use without the right to grant

sub-licenses except to Affiliates of COMPANY. For the purpose of this Agreement, the term affiliate

(hereinafter referred to as "Affiliate") shall mean any legal entity which is controlled by, has control

over or is under common control with COMPANY whereby "control" shall mean the holding of more

than fifty (50) percent of the capital stock or participating shares entitled to vote for the election of

directors. For the avoidance of doubt, UNIFR has no obligation to maintain such patent or patent

application in effect.

4.8 For computer software developed in the Project by UNIFR, UNIFR hereby grants COMPANY a

royalty-free non-exclusive license to copy, modify, adapt, translate, distribute, sell, display and run such

computer software, provided that COMPANY shall not pass the source code of such software outside

of COMPANY and Affiliates without UNIFR’s prior written approval.

4.9 Any intellectual property solely developed by COMPANY during the course of the Project shall

be COMPANY’s property.

4.10 It is hereby agreed that neither right of use nor license of any kind is hereunder granted to

COMPANY on UNIFR’s intellectual property obtained before, after and/or outside of the Project.

**5. Confidentiality**

5.1 Each Party ("the Recipient") agree to keep confidential and not to use for another purpose than the performance of this Agreement all information belonging to the other Party ("the Disclosing Party") with which it may come in contact during the course of the Project, provided that such information have been clearly labeled as confidential by the Disclosing Party or, if disclosed orally, have been confirmed in writing as being confidential within ten (10) days from their disclosure (hereinafter referred to as "Confidential Information"). Each Party shall be responsible for the compliance by its personnel with these confidentiality obligations.

5.2 The obligations under article 5.1 shall not apply to any Confidential Information that:

- were in the public domain or open to the public at the time they were transmitted to Recipient, or

- became public or open to the public for reasons other than an action or omission attributable to Recipient, or

- were in Recipient's possession, without any limitation regarding their disclosure at the time they were transmitted to Recipient, provided that such prior possession is supported by a written evidence, or

- were obtained in good faith by Recipient and without any commitment relating to confidentiality from a third party entitled to disclose them.

Such obligations shall neither apply to any portion of Confidential Information required to be disclosed as a result of a court order or pursuant to a government action, provided that the Recipient shall inform the Disclosing Party of any such order or action to give the Disclosing Party the opportunity to request a protective order.

5.3 The obligations under this article 5 shall remain effective for five (5) years after termination of this Agreement.

**6. Scientific publications**

6.1 COMPANY recognizes that UNIFR is entitled to publish its scientific results obtained in the performance of the Project.

6.2 Prior to the publication of such results, UNIFR shall submit to COMPANY for review, a draft of the information to be disseminated. COMPANY shall then have one (1) month to request UNIFR to:

a) withdraw any Confidential Information provided by COMPANY (in accordance with article 5); where COMPANY so requires, it shall diligently collaborate with UNIFR in view of replacing the Confidential Information by other non-confidential and scientifically relevant information; and/or

b) postpone, for no more than three (3) months, the publication of UNIFR Results for which COMPANY wishes to file a patent application according to article 4.3.

For the avoidance of doubt, failure to respond within the abovementioned one (1) month period shall be deemed a waiver by COMPANY to exercise the rights under a) and b) with respect to the said publication.

6.3 In case of public presentations in particular at scientific conferences, UNIFR shall submit to COMPANY a written summary of the intended presentation and the provisions of article 6.2 shall apply.

6.4 UNIFR respectively its employees being authors of scientific publication as referred to in this article shall remain the sole owner of the copyright thereon.

**7. No Warranties**

7.1 UNIFR shall perform said Project by applying its best scientific knowledge and best scientific standards. UNIFR has only an obligation of means in the performance of the Project.

7.2 UNIFR makes no warranties, either express or implied, including but not limited to warranties of novelty, patentability, accuracy, non-infringement, merchantability, fitness for a particular purpose of UNIFR Results.

**8. Liability**

8.1 UNIFR shall be liable towards COMPANY only in the event of fraud or gross negligence for any damages suffered in connection with this Agreement.

8.2 In the event that COMPANY decides to commercialize products and/or services based on the results of the Project, COMPANY shall bear the sole responsibility for the conception, use and commercialization of such products or services and shall be liable towards third parties in connection with this conception, use or commercialization. COMPANY agrees to indemnify and defend UNIFR against any such claim from third parties brought against UNIFR; to this end, COMPANY agrees to maintain an adequate insurance coverage.

8.3 Neither Party shall be entitled to commit the other Party to any obligation in connection with this Agreement, without the prior written consent of the other Party.

**9. Communication**

Any notice or communication to be given within the framework of this Agreement shall be forwarded to the following contact persons:

**Communication to COMPANY:**

***…………………………………………………………….***

***(name and first name of the contact person)***

***…………………………………………………………….***

***(address)***

***e-mail: …………………………………………………***

***phone: …………………………………………………***

Communications pursuant to article 4 (Results and Intellectual Property) shall also be sent to:

***…………………………………………………………….***

***(name and first name of the contact person)***

***…………………………………………………………….***

***(address)***

***e-mail: …………………………………………………***

***phone: …………………………………………………***

**Communications to UNIFR:**

University Fribourg (UNIFR)

***…………………………………………………………….***

***(name and first name of the contact person)***

***…………………………………………………………….***

***(research group)***

Avenue Europe 20

CH-1700 Fribourg, Switzerland

***e-mail: …………………………………………………***

***phone: …………………………………………………***

Communications pursuant to article 4 (Results and Intellectual Property) shall also be sent to:

Knowledge and Technology Transfer Service UNIFR

e-mail: techtransfer@unifr.ch

phone: + 41 26 300 65 00

**10. Assignment**

Should COMPANY assign its rights to UNIFR Results and/or to a Patent to a third party, then COMPANY shall impose all the obligations deriving from this Agreement on the assignee.

**11. Survival**

The provisions of articles 4, 5, 7, 8, 10, 11 and 12 shall survive any expiration or termination of this Agreement.

**12. Applicable Law and place of jurisdiction**

12.1 This Agreement shall be governed by the laws of Switzerland, without regard to its conflict of law provisions.

12.2 The exclusive place of jurisdiction shall be Fribourg, Switzerland.

This Agreement may be executed in as many counterparts as is necessary or convenient, each of which shall be deemed an original but all such counterparts shall constitute but one and the same agreement. Facsimile and electronically scanned signatures on this Agreement shall be binding on the Parties.

**University Fribourg (UNIFR)**  **COMPANY**

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(Signature) (Signature)

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*[rector if the agreement is over CHF 50k, (name and title)*

*vice-rector below CHF 50k]*

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(Signature) (Signature)

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*[Responsible professor name and title]*  (name and title)

**Enclosure 1:** Description of the Project (the Innosuisse application)