

**Collaboration Agreement**

for

**Design, Development and Construction of the ESS Target**

European Spallation Source ERIC

and

the parties listed in this Agreement

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This **Collaboration Agreement** is made on [DATE] by and among:

1. **European Spallation Source ERIC**, Swedish Reg. No. 768200-0018, a European Research Infrastructure Consortium established by decision (EU) 2015/1478 of the European Commission in accordance with Regulation (EC) No 723/2009, having its statutory seat in Lund, Sweden (“**ESS**”);
2. **Ústav Jaderné Fyziky Akademie Vĕd České Republiky, v.v.i. (ÚJF)**, a public research institution, incorporated under the laws of Czech Republic whose registered office is at Husinec- Řež č.p. 130, Husinec-Řež, 250 68, Czech Republic;
3. **Danish Technical University (DTU)**, a public institution, incorporated under the laws of Denmark whose registered office is at Anker Engelunds Vej 1 Bygning 101A, 2800 Kgs. Lyngby, Danmark;
4. **Forchungszentrum Jülich (FZJ)**, a public research institution, incorporated under the laws of Germany whose registered office is at 52425 Jülich, Germany;
5. **Consiglio Nazionale delle Ricerche (CNR)** , a public research institution, incorporated under the laws of Italy whose registered office is at Piazzale Aldo Moro, 7 00185 Roma, Italy;
6. **ESS-Bilbao**, a public consortium, incorporated under the laws of Spain whose registered office is at Poligono Ugaldeguren III, Pol. A, 7B. 48170 Zamudio, Bizkaia - País Vasco, Spain; and
7. **Science and Technology Facilities Council (STFC)**, a UK government body, incorporated under the laws of United Kingdom whose registered office is at Polaris House, North Star Avenue, Swindon, SN2 1SZ, United Kingdom.

The parties listed under (2) – (7) are individually referred to as a “**Collaborator**” and jointly as the “**Collaborators**”.

Each of ESS and the Collaborators is hereinafter individually referred to as a “**Party**” and jointly as the “**Parties**”.

Background

1. The European Spallation Source (ESS) is a joint European project. The ESS facility (the “**Facility**”) will be a world-leading center for materials research and life sciences using neutrons and will host the world’s most powerful neutron source. The Facility is being built in Lund, Sweden, with a data management and software center in Copenhagen, Denmark.
2. The European Commission has, by decision (EU) 2015/1478 of 19 August 2015, established the ESS as a European Research Infrastructure Consortium, responsible for constructing, operating, developing and decommissioning the Facility. The Swedish and Danish Governments have agreed to host ESS with Sweden as the host member state in accordance with Regulation (EC) No 723/2009.
3. ESS has proceeded to the construction phase. As part of this process, ESS is collaborating with leading laboratories and institutes.
4. The Collaborators are leading research institutes within the field of nuclear science and engineering, particle physics and related technologies.
5. Each of the Collaborators has entered into Construction Phase Agreements for the construction phase with ESS, *inter alia* in the form of an in-kind contribution agreement or other agreements, to undertake collaborative design, development and construction activities for the ESS project.
6. Under each of the Construction Phase Agreements as well as a result of ESS overall management of the construction of the Facility, a vast amount of information, such as data and know-how is generated in relation to the design, construction, completion, testing, installation, operation, maintenance, alteration, renewal and demolition and any other related activity throughout the life of the ESS of the Facility and its various parts and units, among others the Target.The Parties have therefore discussed how best to establish and maintain an order where such information, data and know-how can be made available to all Parties working to realise ESS.
7. The Parties now therefore wish to enter into this Collaboration Agreement to form a joint cooperation for the implementation of the Construction Phase Agreements and to define certain mutual rights and obligations of the Parties.

# Definitions

Words and expressions not defined in this Collaboration Agreement shall have the same meaning as as­signed to them in the Construction Phase Agreements.  
  
“**Access Rights**” means licenses and user rights to Foreground and Background.

“**Agreement**” means this Collaboration Agreement, including its Schedules, as amended or changed from time to time in accordance with Article 6.2 below.

## “Background” means information, techniques, Know-how, software and materials (regardless of the form or medium in which they are disclosed or stored) held by Collaborators prior to the con­clusion of the Agreement, or acquired by them in parallel with it, as well as copyrights, other Intellectual Property rights, or rights per­taining to such information, techniques, Know-how, software and materials following applications for, or the issue of, patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

## “Confidential Information” means any scientific, technical, financial, commercial or other information of a confidential or proprietary nature (regardless of the form or medium in which they are disclosed or stored) that are provided by either Party to one or more of the other Parties, and that is clearly marked “confidential”, prior to or after the Effective Date, in connection with this Agreement.

“**Construction Phase Agreement(s)**” means the agreements entered into by ESS and each of the Collaborators for the construction phase, specifying the type of provision of design, development and construction services and delivery of equipment and components to ESS, including all Sche­dules and other appendices thereto and including also any amendments or changes thereto from time to time.

“**Effective Date**” means the date set out in the first page of this Agreement.

“**Foreground**”means the results, including information, whether or not they can be protected, arising from the work carried out by the Collaborators under the Project, as well as copyrights and other Intellectual Property and Know-how or rights pertaining to such results following applications for, or the issue of patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

“**Intellectual Property**” means patents, trade marks, service marks, domain names, company names, registered designs, copyrights, database rights, design rights, confidential information, applications for any of the above, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above.

“**Know-how**” means unpatented technical information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions) that is not in the public domain.

“**Project**” means all the works, services and other activities relating to the efforts undertaken by ESS, with or without the involvement of the Collaborators, to design and construct and commission for operations the target for the ESS machine.

“**Scope of Works**” means the obligations and contributions, including the works and services set out in the Schedule(s) to each of the Construction Phase Agreements.

# The parties’ general undertakings

## The Parties shall undertake collaborative design, development and construction activities for the ESS project according to the provisions of the Construction Phase Agreements. The respective contributions of each of the Parties are specified in the Construction Phase Agreements. In addition to such contributions, each of the Parties agrees:

1. to liaise and communicate with all the other Parties to this Agreement;
2. to participate in a cooperative manner in all the meetings and other activities of the diffe­rent governing bodies under this Agreement;
3. to share its Background and Foreground with all the other Parties to this Agreement, and to protect the Background and Foreground received from the other Parties, in accordance with this Agreement; and
4. to act in good faith and in a manner that reflects the good name, goodwill and reputa­tion of the other Parties and in accordance with good professional ethics.

# organization of the collaboration

## Introduction

### The Parties shall establish the Management Team, the Technical Board and the Collaboration Board as joint bodies for the governance of their collaboration as defined in Article 2, hereinafter referred to as the “**Collaboration**”.

## The Management Team (“MT”)

### MT composition

The MT is composed of:

1. the ESS Head of Target Division (the “MT Chair”); and
2. the ESS Deputy Head of Target Division;
3. the ESS Target Work Package Managers.

The above persons have been appointed prior to the signing of this Agreement.

### MT role

### The role of the MT is:

1. to coordinate the technical, scientific, financial and administrative activities of the Collaboration with ultimate responsibility for cost, schedule, and technical performance control;
2. to assure that milestones and deliverables are met;
3. to integrate all ESS Target Project design activities into a single coherent project; and
4. to assure a smooth transition between design and construction phase.

## The Technical Board (“TB”)

### TB composition

The TB is composed of:

1. the MT;
2. one representative for each of the leaders of the Project work packages and for each of the Collaborators who have entered into a Target-related Construction Phase Agreement with ESS.

### Chair of the TB

### The TB shall be chaired by the MT Chair.

The TB chair shall:

1. convene the TB meetings; and
2. set the agenda for the TB meetings.

### TB role

The main task of the TB will be to ensure the global coherence of the Project through continuous monitoring of the work and planning of all tasks, and coordination of interfaces between Collaborators. It will monitor the progress of each work package.

### TB meetings

The TB chair shall convene the TB as often as is required in the interest of the Collaboration and at least two times per year.

The TB shall not constitute a quorum for any meeting unless at least 2/3 of its voting members are present.

All decisions of the TB will require a 2/3 majority vote of all of the voting members present.

Notwithstanding the foregoing, the ESS representatives will have a veto right in case of decisions which the ESS representatives reasonably shows will be detrimental to the goals and objectives of the ESS project.

### TB minutes

### The TB chair shall ensure that minutes of all TB meetings are drafted and dispatched to all TB members by means of the Collaboration communications tools. The minutes shall be considered as accepted by the TB members if within 15 calendar days from receipt thereof, no member present or represented at the said meeting has objected in writing to the TB chair.

## The Collaboration Board (“CB”)

### CB composition

The CB is composed of:

1. one representative per Collaborator;
2. the ESS Technical Director (without voting rights); and
3. the MT (without voting rights).

### Chair of the CB; elected chair

### At the first meeting of the CB, one of the members shall be appointed as chair for a one-year term with the simple majority of the votes of the voting CB members present. At the end of the one-year period, a new chair shall be appointed applying the same rules and for the same period of time. The chair position shall rotate among the Parties, unless the Parties agree that the chair can be appointed for a second or subsequent period.

The CB chair shall:

1. convene the CB meetings; and
2. set the agenda for the CB meetings.

### CB role

The CB will be responsible for decisions and dealing with activity planning, deliverables and allocation of resources. The CB will be responsible for hearing and for seeking amicable settlement of disputes arising out of, or in connection with, this Agreement in accordance with Article 7 (Settlement of Disputes), which are brought to it by the MT.

### CB meetings

The CB chair shall convene the CB as often as is required in the interest of the Collaboration and at least once per year. Notice to attend a CB meeting shall be given no later than four weeks prior to the meeting.

The CB shall not constitute a quorum for any meeting unless at least 2/3 of its voting members are present.

All decisions of the CB will require a 2/3 majority vote of all of the voting members present.

Notwithstanding the foregoing, the ESS representatives will have a veto right in case of decisions which the ESS representatives reasonably believe will be detrimental to the goals and objectives of the ESS project.

### CB minutes

### The CB chair shall ensure that minutes of all CB meetings are drafted and dispatched to all CB members by means of the Collaboration communications tools. The minutes shall be considered as accepted by the CB members if within 15 calendar days from receipt thereof, no member present or represented at the said meeting has objected in writing to the CB chair.

### Minority rights

### If a Collaborator can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of the CB or the TB, it may exercise a veto with respect to the corresponding decision or relevant part of the decision.

## Inclusion of new Collaborators

A new collaborator may join the Collaboration and enter as a Party to and Collaborator in accordance with this Agreement. The Parties agree that the CB shall accept the inclusion of a new Collaborator if such Collaborator’s contribution to the Project is recognized through a Construction Phase Agreement.

The inclusion of a new Collaborator requires that the new Collaborator signs a written accession agreement under which it agrees to comply with all the terms and conditions of this Agreement.

Before signing the accession agreement the new Collaborator shall execute a Construction Phase Agreement with ESS.

Following the inclusion of a new Collaborator, the new Collaborator shall have all the rights and obligations conferred upon the Collaborators under this Agreement, including the right to be represented in the CB as set out in Article 3.4.1 (a) above.

A new Collaborator shall have Access Rights to the Background and Foreground of the other Parties on the terms and conditions set out in Article 4.4 below. As set out in Article 4.4.3.2 below, a Party may exclude specific Background from its obligation to grant Access Rights to a new Collaborator by means of a written agreement between the Parties established before the new Collaborator joins.

# INTELLECTUAL PROPERTY rights AND CONFIDENTIALITY

## General

### The Construction Phase Agreements set out the rights and obligations as between ESS and each Collaborator with respect to intellectual property rights and Access Rights. This Agreement sets out mutual rights and obligations of the Collaborators with respect to Background and Foreground . For the avoidance of doubt, nothing herein shall limit the rights or obligations of ESS and/or the Collaborators under any of the Construction Phase Agreements.

## Background

### Nothing in this Agreement will amend, change or restrict the ownership of ESS or each Collaborator to its Background.

## Ownership and Protection of Foreground

### Ownership of Foreground

#### Foreground provided by ESS shall remain the property of ESS. Foreground provided by a Collaborator by carrying out work for ESS shall be the joint property of ESS and such Collaborator, unless otherwise agreed.

#### Where ESS and/or several Collaborators have jointly carried out work generating the Foreground and where their respective share of the work cannot be ascertained, they shall have joint ownership of such Foreground. ESS and the Collaborators concerned shall agree amongst themselves the allocation and terms of exercising ownership of that Foreground.

#### Where a Party wishes to transfer ownership of its Foreground, it shall take steps to conclude agreements to pass on to the assignee its obligations under this Agreement, in particular re­garding the granting of Access Rights, dissemination and use of the Foreground. As long as a Collaborator is required to grant Access Rights, it shall give at least 60 days prior notice to ESS and to the other Collaborators of the envisaged assignment and the name and address of the assignee. The prior notice shall include detail and evidence of the steps taken by the Collaborator to ensure the transfer of the obligations under this Agreement to the assignee, in particular regarding granting of Access Rights, dissemination and use of the Foreground.

#### ESS or any Collaborator may object to a transfer of Foreground by another Collaborator within 30 days of notifica­tion of such envisaged transfer, if the transfer would adversely affect its Access Rights. If such objection is made, the transfer may not be made until the transferring Collaborator has demonstrated to the reasonable satisfaction of the objecting Collaborator that legally binding arrangements have been made to secure the Access Rights of the objecting Collaborator.

### Protection ofForeground

#### Where Foreground is capable of industrial or commercial application, the owning Collaborator(s) shall provide for its adequate and effective protection, in conformity with relevant legal provisions, inclu­ding this Agreement, and having due regard to the legitimate interests of ESS and the other Collaborators.

#### Where a Collaborator does not intend to protect its Foreground in one or more countries it shall inform ESS and the other Collaborators. Where a Collaborator intends to waive the protection of its Foreground, the other Collaborators shall be informed at least 45 days prior to the corresponding deadline. In such a case and where ESS or any of the other Collaborators considers it necessary to protect such Foreground in a par­ticular country, it/they may, with the agreement of the Collaborator concerned, adopt measures to protect the Foreground. If ESS and more than one Collaborator is interested in protecting the Foreground, they shall strive to enter into, amongst themselves and the originating Collaborator appropriate agreement(s) to this end. As far as that particular country is concerned, the Collaborator(s) having adopted measures to protect the Foregroundshall take on the obligations regarding the grant­ing of Access Rights in the place of the Collaborator. The Collaborator may only refuse if it can demonstrate that its legitimate interests will be significantly impaired.

#### A Collaborator may publish or allow the publication of data, on whatever medium or orally, concerning Foreground it owns provided that it complies with the agreed publication policy attached as **Schedule 1** hereto.

## Access rights

### Access Rights for the execution of the Project

#### Each Party shall enjoy non-exclusive Access Rights to the Foreground and to the Background of the otherParties, if that Foreground Rights or Background Rights is needed to carry out its own assignment under the Project, as defined by the Scope of Works of the Collaborator requesting Access Rights. Access Rights shall be granted on a royalty-free basis and without any limitation in time.

#### The termination of the participation to this Agreement of a Collaborator shall in no way affect its obligation to grant Access Rights to ESS or the other Collaborators in accordance with Article 4.4.1.1 above until the end of, or during the lifetime of, the Project.

### Access Rights for other purposes

#### ESS and each Collaborator shall enjoy non-exclusive Access Rights to the Foreground and to the Background of the other Collaborators, if that Foreground or Background is related to the Scope of Works and is needed to use their own Foreground. Access Rights to Foreground and Background shall be granted on a royalty-free basis for use in research activities. For use in the development, manufacturing or commercialisation of a product or process or for creation or provision of a service for commercial purposes, Access Rights to Background and Foreground shall be granted on fair and non-discriminatory conditions to be agreed separately.

#### Subject to ESS or the Collaborator’s legitimate interests, the obligation to grant Access Rights in accor­dance with Article 4.4.2.1 shall remain effective for a period of two years after the end of the Project or after the termination of the participation of that Collaborator, whichever falls earlier, unless ESS and the Collaborators con­cerned agree on a longer period.

### General

#### Access Rights referred to in Article 4.4.2 above shall be granted to any of the other Collaborators upon written request. The granting of Access Rights may be made conditional on the conclusion of specific agreements aimed at ensuring that they are used only for the intended purpose, and of appropriate undertakings re­garding confidentiality. The Parties may also conclude agreements with the purpose of granting additional or more favourable Access Rights, including access rights to third parties, or speci­fying the requirements applicable to Access Rights, but not restricting the latter. Any agree­ment providing for Access Rights to Parties and/or third parties must ensure that the potential Access Rights for other Parties (hereunder or under any Construction Phase Agreement) are maintained.

#### ESS or any Collaborator may declare any specific Background excluded from the obligation to grant Access Rights in accordance with the provisions of Article 4.4.1 and 4.4.2. All other Background except that listed in Schedule 2 shall be available for the granting of Access Rights in accordance with the provisions of this Article 4.

#### The obligation to grant Access Rights to Background in accordance with Article 4.4.1.1 and Article 4.4.2.1 above does not include Background which has been excluded by a Collaborator pursuant to a Construction Phase Agreement. The obligation to grant Access Rights to Foregroundin accordance with Article 4.4.2.1 above does not include Foregroundwhich has been excluded by a Collaborator pursuant to a Construction Phase Agreement.

#### Except where the Collaborator(s) granting Access Rights so agrees, such rights shall confer no entitle­ment to grant sub-licences.

## Confidentiality

### If a Party (the “**Receiving Party**”) receives Confidential Information from another Party (the “**Disclosing Party**”), the Receiving Party shall:

1. keep the Confidential Information strictly confidential;
2. make available the Confidential Information only to those of its officers and employ­ees who need to have access to it for the purpose of this Agreement;
3. not pass the Confidential Information to any third party, even under a confidentiality agreement, without the prior written consent of the Disclosing Party (however ESS shall be entitled to disclose such information to persons temporarily assigned to ESS making sure that such persons keep it confidential);
4. use the Confidential Information only for purposes for which it was disclosed under this Agreement;
5. return to the Disclosing Party, upon request or at the latest at the expiration or termination of the Agreement, all Confidential Information which have been supplied to or acquired by the Receiving Party including all copies thereof and to delete all Confidential Information stored in a machine readable form. If needed for the recording of on-going obligations, the Receiving Party may however request to keep an archive copy; and
6. promptly advise the Disclosing Party in writing of any unauthorised disclosure, misappropriation or misuse by any person of Confidential Information as soon as practicable after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

### The foregoing obligations shall not apply to any portion of Confi­dential Infor­mation which the Receiving Party can establish,

1. was known to the Receiving Party prior to its receipt from the Disclosing Party;
2. at the time of disclosure was, or thereafter becomes through no fault of the Receiving Party, generally available to the public by publica­tion or otherwise; or
3. was received without any obligation of secrecy from a third party which, to the best knowledge of the Receiving Party, has the right to disclose the same;
4. was independently developed by the Receiving Party without access or reference to the Confidential Information of the Disclosing Party; or
5. must be disclosed in order to comply with applicable laws or regulations or with a court or administrative order. In this case the disclosure of Confidential Information must be limited to a strictly necessary extent. The Receiving Party undertakes, if and to such extent as legally possible for that Party, to notify the Disclosing Party prior to any such disclosure in order to comply with the appropriate instructions given by the Disclosing Party and to preserve the confidentiality of the information in question.

### Each Receiving Party shall, to the extent permitted by applicable law, impose the same obliga­tions as set out above on all of its officers and employees having access to the Confidential In­formation, both during and following their retention by the Receiving Party. Notwithstanding the foregoing, each Receiving Party shall be liable for any breach of this Agreement by its officers and employees.

### This Article 4.5 shall survive the expiration and any termination of this Agreement for a period of ten (10) years.

# term and termination

## Term

### This Agreement shall enter into force on the Effective Date and shall continue in effect until the completion of the Project.

## Termination

### This Agreement shall terminate in relation to a Party (the “**Excluded Party**”), but shall continue in effect among the other Parties:

1. if the Party is in material breach of its obligations under this Agreement and fails to rectify such breach within 30 days of a notice in writing from any of the other Parties, in which case this Agreement shall terminate immediately if a 3/4 majority of the other Parties vote for such a termination.

### As from the date of termination, the Excluded Party:

1. loses the Access Rights to Foreground produced and Background identi­fied by ESS or Collaborators, after the termination;
2. keeps the Access Rights to Backgroundand to the Foreground of the other Parties (in the state existing on the date of termination), in accordance with Article 4.4.1.2; and
3. where applicable, keeps its entitlement to royalties generated by the use by the other Parties or third par­ties of the Foregroundproduced in the scope of the Project of which it is the owner or co-owner of.

### Upon termination, all the other Parties including parties that have delivered their Scope of Supply shall keep their Access Rights set out in Article 4.4 in relation to the Excluded Party’s Foreground and/or Background.

### An Excluded Party shall return all documents, equipment or materials provided by the other Parties, or destroy them upon their written request, save for copies of documents which the Excluded Party needs to keep for archival purposes in order to comply with applicable laws or regulations.

# miscellaneous

This Agreement constitutes the entire agreement between the Parties with respect to the sub­ject matter hereof and supersedes all prior agreements, whether written or oral, with respect to the subject matter of this Agreement. The Parties agree that this Agreement supplements but does not conflict with the Construction Phase Agreements. In the event of any discrepancy or inconsistency between provisions of this Agreement and any Construction Phase Agreement, the Construction Phase Agreement shall always prevail as between ESS and the relevant Collaborator.

Amendments to or changes of this Agreement shall, in order to be valid, be made in writing and signed by authorized representatives of each of the Parties and shall be clearly stated as amend­ments to or changes of this Agreement.

The bodies set out in Article 3 above do not have any authority to amend or change this Agreement.

No Collaborator shall, without the prior written consent of each of the Parties, assign or other­wise transfer partially or totally any of its rights or obligations under this Agreement.

## ESS shall have the right to assign or otherwise transfer any or all of its rights and obligations under this Agreement to a successor company or other legal entity established by the partner countries in the ESS project.

# Settlement of Disputes

## In case the Parties cannot amicably settle a dispute arising out of or in connection with this Agreement, and such dispute has been handled through the CB without reaching an agreement, the ESS Council (“the Council”) will make a decision on how to settle the dispute. The Council shall decide its own rules of procedure and shall have the right to refer the dispute to another forum, in which case, the governing law shall be the laws of Sweden.

## In the event the Council refers the dispute to arbitration, the rules of arbitration shall be the Rules of Arbitration of the Arbitration Institute of the Stockholm Chamber of Commerce, there will be three arbitrators appointed in accordance with such rules and the place of arbitration shall be Stockholm, Sweden and the language to be used in the arbitral proceeding shall be English.

# assignment

## Except with the prior written consent of ESS and subject to Clause 8.3 in respect of STFC, the Collaborators shall not assign, novate or otherwise transfer partially or totally any of their rights or obligations under this Agreement.

## ESS shall have the right to assign, novate or otherwise transfer any or all of its rights and obligations under this Agreement to a successor entity or other legal entity established by the partner countries in the ESS project.

## Transfer to UKRI

### The Parties acknowledge that United Kingdom Research and Innovation will be established as a body corporate in accordance with the Higher Education and Research Act 2017 and that the property, rights and liabilities of STFC under this Agreement will be acquired by United Kingdom Research and Innovation in accordance with the provisions of that Act.

### The Parties agree that on and with effect from the date on which the UKRI Property Transfer Scheme becomes effective in accordance with its terms (the “Scheme Effective Date”):

* 1. all rights and benefits of STFC arising out of or in connection with this agreement; and
  2. all obligations and liabilities of STFC arising out of or in connection with this agreement,
  3. shall (in each case) be transferred to, and assumed by, United Kingdom Research and Innovation on the basis set out in the UKRI Property Transfer Scheme.

### ESS and all Collaborators undertake that, at any time and from time to time on or after the Scheme Effective Date, it will execute such documents and take such other action as STFC may reasonably request in order to implement and give effect to (i) the transfer of the rights, benefits, obligations and liabilities of STFC arising out of or in connection with this agreement to United Kingdom Research and Innovation; and (ii) the release and discharge of STFC in respect of such obligations and liabilities.

### In this clause 8, “UKRI Property Transfer Scheme” means a property transfer scheme made by the Secretary of State in accordance with the provisions of Schedule 10 to the Higher Education and Research Act 2017 and references to “transfer” and “transferred” shall be construed as references to assignment, novation or to the steps which are necessary to give effect to the arrangements contemplated by this clause.

**In Witness whereof**,

to facilitate execution, this Collaboration Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same Agreement. A signed copy of this Agreement delivered by e-mail shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

|  |  |  |
| --- | --- | --- |
| **European Spallation Source ERIC** |  | **Consiglio Nazionale delle Ricerche (CNR)** |
| *Date* |  | *Date* |
| *Signature* |  | *Signature* |
| *Name (in block letters)* |  | *Name (in block letters)* |
| *Position* |  | *Position* |
| **Ústav Jaderné Fyziky Akademie Vĕd České Republiky, v.v.i. (ÚJF)** |  | **ESS-Bilbao** |
| *Date* |  | *Date* |
| *Signature* |  | *Signature* |
| *Name (in block letters)* |  | *Name (in block letters)* |
| *Position* |  | *Position* |
| **Forchungszentrum Jülich** |  | **Science and Technology Facilities Council (STFC)** |
| *Date* |  | *Date* |
| *Signature* |  | *Signature* |
| *Name (in block letters)* |  | *Name (in block letters)* |
| *Position* |  | *Position* |

**Schedule 1 – Publication Policy**

# 1. DEFINITIONS

Terms used in this Schedule 1 shall have the same meaning as assigned to them in the Collaboration Agreement. The following terms are defined in the Collaboration Agreement but are included for ease of reference:  
  
**"Confidential Information"** means any scientific, technical, financial, commercial or other information of any nature and in any form provided by a Party to one or more of the other Parties, prior to or after the Effective Date, in connection with this Agreement and which information is designated as proprietary and confidential by an appropriate stamp, legend or other notice in writing.  
 **"Foreground"** means the results, including information, whether or not they can be protected, arising from the Project, as well as copyrights and other intellectual property and know-how or rights pertaining to such results following applications for, or the issue of patents, designs plant varieties, supplementary protection certificates or similar forms of protection.

# 2. ACKNOWLEDGEMENT

The Parties acknowledge that it is part of the aim of the Project to disseminate Foreground and to make it available for the purpose of academic research and education. The Parties also recognize that publication of certain Foreground may risk to disclose Confidential Information supplied by a Party hereunder or jeopardize patent or other intellectual property protection.

# 3. PUBLICATIONS COMMITTEE

3.1 PC composition  
The Parties shall form a Publications Committee (the "PC"). The PC shall be composed of one representative from each Party.

3.2 Chair of the PC  
The PC shall be chaired by the representative from ESS ERIC.

3.3 PC role  
The role of the PC is to coordinate the provisions of Article 4 below, including to make decisions on further postponement as set out in Article 4.3.

3.4 PC meetings  
The PC chair shall convene the PC as often as is required. The PC shall meet in person or electronically. The PC shall not constitute a quorum for any meeting unless at least 3/4 of its members are present. All decisions of the PC will require a 3/4 majority vote of all of the members present.

3.5 PC minutes  
The PC chair shall ensure that minutes of all PC meetings are drafted and dispatched to all PC members. The minutes shall be considered as accepted by the PC members if within 15 calendar days from receipt thereof, no member present at the said meeting has objected in writing to the PC chair.

3.6 Prior notification to the PCEach member of the PC has the obligation to inform the other members of the PC in writing at least 30 days prior to any planned publication by its Party that may reasonably have the potential to release Foreground. Any such data envisaged to be published shall, immediately following such notification, be submitted to all the PC members. Notification and submission of data under this Article 3.6 shall not limit the Parties' obligation to notify and submit data under Article 4 below.

**4 RIGHT TO PUBLISH**

4.1 A Party may publish or allow the publication of data, on whatever medium or orally, concerning Foreground it owns provided that this does not affect the protection of that Foreground or the Foreground of any other Party and provided also that the data does not include any Confidential Information disclosed to it by any other Party.

4.2

30 days prior any planned publication the other Parties shall be given a copy of the data envisaged to be published. The Party contemplating the publication shall delay the proposed publication until the end of the 30 day period or longer if an objection is raised as set out in Article 4.3 below.

4.3 Either of the Parties may object to the publication within 30 days after receipt of the data envisaged to be published, if it considers that the planned publication contains Confidential Information disclosed by it or that the protection of its Foreground or Foreground which the notifying Party has not protected (see Article 4.3.2.2 of the Agreement) would be adversely affected by this publication. In the absence of any such objection within the above-mentioned period, it is deemed that all the Parties agree. If an objection is raised as aforesaid, the Parties shall consult with each other with a view to agree on the matter of publication. The planned publication shall be suspended during this consultation period. The planned publication can be postponed for a period of maximum six months from receipt of the data envisaged to be published to allow the objecting Party/Parties to take measures to protect its/their Foreground and Foreground which the notifying Party has not protected (see Article 4.3.2.2 of the Agreement). After this six-month period, publication shall be permitted, except in specific cases where the PC decides that further postponement is required. The PC may decide that the planned publication shall be postponed for an additional period of maximum six months.

4.4 Foreground and Confidential Information supplied by a Party shall not in any event be published without that Party's prior written consent.

**Schedule 2 - Excluded Background Rights**

[Name of Collaborator]

[Excluded Background]

[Name of Collaborator]

[Excluded Background]

[etc.]