

## ETANKFIRE Consortium (PARTNER) AGREEMENT – Phase 1

### 1 General

Phase 1 of the ETANKFIRE project has been established on the initiative of the department of Fire Technology at the SP Technical Research Institute of Sweden (SP) in close cooperation with Resource Protection International (RPI). Stakeholders have been invited to become a partner in the ETANKFIRE consortium according to the ETANKFIRE Project – Rules for participation<sup>1</sup> (hereafter referred to as “ETANKFIRE Rules”).

This ETANKFIRE Consortium agreement (hereinafter referred to as Consortium agreement) provides the formal details of participation for each funding partner (Full or Associate) of the ETANKFIRE Consortium. A separate Consortium Agreement will be signed for partners of the RT Group.

#### 1.1 Definitions

Below are short definitions of terms used in the agreement, further definitions can be found in subsequent chapters.

Project	ETANKFIRE – Ethanol Tank Fire Fighting
RT Group	Research and Testing Group (nominally SP, RPI)
RT Partners	Participants in the RT Group (this is the same as the RT Group until such time as additional members have been identified)
Funding Partner	Full or Associate Partner providing funding as outlined in the ETANKFIRE Rules
ETANKFIRE Consortium	The group of ETANKFIRE Full and Associate partners who have signed counterparts to this agreement including SP and RPI
Steering Committee	The decision-making section of the ETANKFIRE Consortium, defined in the ETANKFIRE Rules <sup>1</sup>

#### 1.2 The Agreement

This Consortium agreement is an independent agreement between SP (as Project Leader) and the funding Partners of the ETANKFIRE project.

With regard to items such as the amount and distribution of the funding, the project content, goals, budget, time frame, reporting, etc., please also refer to the ETANKFIRE Rules<sup>1</sup> and the project description and annexes thereto (the project description, including annexes, is referred to hereinafter as “Description of Work (DoW)”<sup>2</sup>).

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<sup>1</sup> ETANKFIRE Project-Rules for participation, dated 2012-03-07

<sup>2</sup> ETANKFIRE Description of Work, dated 2012-03-07

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### **1.3 Partners covered in the Consortium Agreement**

This Consortium Agreement, and its counterparts, pertains to the work assigned to the RT Partners in the project called ETANKFIRE and the funding of research and testing within the project. Annex 1 contains a list of all Partners (Full and Associate). Note that this Annex will be updated as new partners are added to the Consortium. The list of Partners will also be available at the ETANKFIRE website.

### **1.4 Project Manager**

SP will manage the ETANKFIRE Project and all research and testing activities. SP will direct the day-to-day operation of the research and testing activities and is responsible for the establishment of a Consortium Agreement for the ETANKFIRE project with funding partners on behalf of the RT Group (this document). SP is also responsible for establishing a separate Consortium Agreement with RT Partners.

### **1.5 Steering Committee**

The Steering Committee (SC) will be established and will consist of one representative from each Full Partner and one representative each from SP and RPI.

Each representative has one vote.

The SC will be the decision making body of the consortium and will participate in selecting fuels, extinguishing tactics, selection of foam concentrate(s) and other extinguishing media/systems and advise the RT Group on matters concerning detailed project planning and evaluation of test data.

Decisions in the SC will be taken by consensus. If required, decisions will be based on voting and a 2/3 majority will be applied. Should the SC not be in agreement (2/3 majority) concerning technical planning of the project, the final decisions will be taken by the RT Group. A decision on termination of the project prior to completion of all planned deliverables shall be unanimous.

RPI or SP will provide a Secretary to the SC who will be responsible for administrative matters, and will take and circulate meeting notes of the SC meetings but will not be a member of the SC and not entitled to vote.

Each Partner will nominate its representative on the SC to the SC Secretary and will inform the Secretary in writing of any change in representation. A substitute for a nominated representative of a Partner will be entitled to attend a SC meeting and vote in lieu of a nominated representative. Such substitute should be announced to the Secretary in writing a minimum of 7 days before the meeting.

The SC will monitor and keep all Partner representatives of the ETANKFIRE Consortium informed of the progress of the project. Any significant changes to the DoW according to clause 6.1 will be notified to all Partner representatives of the ETANKFIRE Consortium through the minutes of SC meetings.

See also paragraph 4 and 9.4 in the ETANKFIRE Rules.

## **2 RT Partner Responsibilities**

### **2.1 Deliverables and reporting**

The obligations of the RT Partners to this Consortium agreement with respect to project deliverables and reporting are set out in the ETANKFIRE Rules and DoW, and in subsequent supplemental agreements with the ETANKFIRE Consortium, in accordance to clause 6.1.

### **2.2 Reciprocal exchange of information**

The RT Partners to this Consortium agreement are obliged to engage in an open and reciprocal exchange of information with the ETANKFIRE Consortium concerning any and all conditions and circumstances of importance to the execution of the project, such as progress, results, identified problems or other deviations.

### **2.3 Finances**

The obligations of the RT Partners to this Consortium agreement with respect to finances are based on the DoW.

- SP is responsible for coordination and contacts regarding technical and financial reporting from the RT Partners to the ETANKFIRE Consortium and Steering Committee. The RT Partners must submit accounts for their portions of the project without delay, as well as all project results, reports, etc. which the Project Leader may need to discharge the responsibilities to the ETANKFIRE Consortium and Steering Committee.
- SP is responsible for the administration of the partnership fees paid by the ETANKFIRE Consortium. The same responsibility applies to the disbursement of funds that are assumed to be paid to the RT Partners.

### **2.4 Payment**

The ETANKFIRE Consortium Funding Partners shall provide project funding according to paragraph 9 in the ETANKFIRE Rules. This means that for Phase I of the ETANKFIRE project, Full Partners pay a fee of 50 k€ and Associate Partners a fee of 20 k€.

Partnership fees should be paid as a single one-time payment. The payment will be due 30 days after the partnership contract is signed.

The fees will be put on an escrow account at SP (hereafter referred to as “ETANKFIRE account”).

Should funding be approved through the provision of fuel, dates for the delivery of fuel will be agreed with the RT Group.

### **2.5 Disbursement to RT Partners**

The disbursement of project funds to the RT Partners from the ETANKFIRE account shall take place as follows:

Disbursement will be based on the budget estimations for each WP as defined in the DoW, including possible revisions according to clause 6.1. The distribution of the funds between the RT Partners involved should be based on the agreed distribution of work. For each WP the following rules should be applied.

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- 50 % within one month of received funding or at start up of work within the particular WP.
- 20 % when tests are completed.
- 20 % when a draft technical report is available
- 10 % when the technical report is approved by SC

For the work in WP0 (Management) and WP6 (Dissemination), the disbursement should be distributed over the project duration period with 30% disbursement each time and the remaining 10% when the final project report is approved by the SC.

### **3 Competing activities**

Before the project begins, each individual Partner must notify the RT Group of any research activity or other projects in which they are engaged or planning that could compete with the goals of the project regulated by this agreement.

### **4 Dissemination**

#### **4.1 Internal dissemination**

The internal dissemination of test data from the RT Group to the ETANKFIRE Consortium is described in the ETANKFIRE Rules, paragraph 7 and paragraph 6.1 for Full Partners and paragraph 6.2 for Associate Partners.

All Partners shall ensure that this information is not spread beyond their company/organisation.

All technical reports will initially be confidential until reviewed by all Partners and approved by the SC (see clause 4.2).

#### **4.2 External dissemination and publications**

The external dissemination and publication of project results from the RT Group is described in paragraph 7 in the ETANKFIRE Rules. Beyond these, the following restrictions should be applied.

All official reports shall be approved by the Steering Committee before publication.

The publication of any results before a relevant technical report or a project report is officially published shall be made only with the approval of the Steering Committee.

In connection with publication of project results, the names of all RT Partners and the ETANKFIRE Consortium shall be indicated. The test results shall not be identified with any specific fire protection or fire suppression system or media manufacturer or product.

The ETANKFIRE Consortium is not permitted to use project results for marketing purposes until all official reports have been published and/or the project is completed, unless prior approval is given by the SC.

If required, the RT Group will provide sensitive information to regulatory agents in order to proceed with project testing in a timely manner.

## **5 Entitlement to project results**

After the publication of official reports, the ETANKFIRE Consortium participants are all equally entitled to the project results, including intellectual properties, and may utilise them freely provided that the test results are not identified with any specific manufacturer or product, see also 4.2.

## **6 Other provisions**

### **6.1 Amendment or supplementation of this agreement**

This Consortium agreement, the ETANKFIRE Rules or the DoW may be amended or supplemented only with the approval of the Steering Committee according to the provisions in clause 1.5.

The need for revisions of the DoW can be foreseen depending on the number of partners in the ETANKFIRE Consortium and thereby the available funding, and as a consequence of the results obtained in the various work packages.

### **6.2 Confidentiality**

If confidential information should be exchanged during the project period, e.g. for legal or safety reasons, it may be exchanged only in writing, and the information must be marked "Confidential". The recipient of such information shall be obligated to refrain from disclosing it or using it for any purposes other than those agreed, and to store the received information in an appropriate and responsible manner to prevent its disclosure to outsiders.

### **6.3 Defection**

If a RT Partner wishes to leave the project before the end of this Consortium Agreement it shall be reimbursed as a maximum for the efforts until the date of leaving, provided that these efforts are within the definitions in the DoW. The reimbursement shall be decided by SP in consultation with the Steering Committee.

If a Full or Associate Partner of the ETANKFIRE Consortium chooses to discontinue their association with the ETANKFIRE project before the end of this Consortium Agreement, the partnership fees paid or due to be paid (or received contribution in-kind) will not be refunded. Payment will be required at the time of the participant's defection of any funding that is obligated but has not yet been paid.

### **6.4 Delay and deviations**

In case of delay or if a RT Partner does not fulfil its obligations according to this agreement or the DoW, reallocation of funds and/or revisions to the work and time plan are possible after approval of the Steering Committee.

### **6.5 Liabilities**

- Each RT Partner shall be liable for any losses or damages to itself that may arise as a result of its own actions.
- Each RT Partner must notify SC of any and all claims for damages or the like brought against the RT Partner and related to the project or subprojects thereof.

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- No Consortium Partner shall be liable for any indirect (derivative) losses or damages that it has inflicted on another Partner, unless they are inflicted intentionally or through gross negligence.

#### **6.6 Force Majeure.**

No failure or omission by either Partner to carry out or observe any of the terms or conditions of this Consortium Agreement shall, except in relation to obligations to make payments under this Agreement and except where herein expressly provided to the contrary, give rise to any claim against the Partner in question or be deemed a breach of this Agreement if such failure or omission arises from any cause reasonably beyond the control of that Partner (such as war, mobilisation, strike, lockout, blockade, fire, major machine damage or similar events).

#### **6.7 Termination of the Project**

If the SC unanimously decides to terminate the Project prior to completion of all planned deliverables, the remaining project funding will, after full disbursement to the RT Partners for completed work, be returned to the Partners on a prorated basis determined by their principal investment.

## **7 Start of project and period of validity**

### **7.1 Start of project**

The effective date for start of the project is the date when a minimum of 4 partners has signed this agreement.

The work according the DoW will then commence within a maximum of one month from this effective date.

### **7.2 Period of validity**

This Consortium agreement is valid for the same period of time as defined in the DoW or until such time as the final approval of all project reports.

The assumed and agreed provisions concerning the rights to the project results shall continue to remain in effect after the expiration of the Consortium agreement.

## **8 Choice of law**

This agreement is subject to Swedish law.

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## 9 Disputes

Disputes concerning the interpretation or application of this Consortium agreement in respects other than as stated in chapters 4 and 5, as well as disputes based on other agreements or legalities arising from this Agreement shall be settled by arbitration in accordance with the Swedish Arbitration Act. Arbitration proceedings shall take place in Gothenburg.

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Place and date

**SP Technical Research Institute of Sweden**  
**Department of Fire Technology**

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Signature  
Björn Sundström  
**Head of SP Fire Technology**

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Place and date

**Partner Company Name**

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Signature  
xxxxxxxxxxxxxx  
**Position**