

Collaboration Agreement (Template)

Made between

[Wärtsilä]

and

[Party B] [add extra parties if necessary]

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THIS AGREEMENT is made on [date]

PARTIES

- (1) **[Wärtsilä Finland Oy**, a limited liability company duly established and existing under the laws of Finland, with principal offices at Järvikatu 2 – 4, FI-65100 Vaasa, Finland]¹ ("**Wärtsilä**"); and
- (2) [] a company incorporated in [] under number [] whose registered office is at [insert address] ("**Party B**"); [and]
- (3) [add extra parties as necessary] [[] a company incorporated in [] under number [] whose registered office is at [insert address] ([Party C]);²

(together the **Parties** and each a **Party**)

BACKGROUND

- A **WHEREAS** Wärtsilä provides its customers in the marine and energy market with complete lifecycle power solutions,
- B **WHEREAS** [Party B] carries on the business of [insert **description of Party B's business**].
- C **[WHEREAS** [Party C] carries on the business of [insert description of Party C's business]³
- D **WHEREAS**, the Parties acknowledge the importance of a constructive business relationship to plan and optimize the (long term) innovative collaboration for their mutual benefits that will be derived therefrom.
- E **WHEREAS**, the Parties shall maintain open channels of communication during the performance of this Agreement for the early identification and resolution of issues that may lead to disagreements and subsequent disputes between them in respect of this Agreement.
- F **WHEREAS**, The Parties have agreed to collaborate in a programme of research and development work in relation to [insert details] (the "**Project**")
- G **WHEREAS**, This Agreement is supplemental to the Non-Disclosure Agreement, Project Brief, Code of Conduct and Way of Working which, notwithstanding this Agreement, shall remain in full force and effect in accordance with their terms.

² If the agreement is to be between more than two parties, references to the following will need changing: both Parties, either Party. Please complete a 'find and replace' search to amend these.

³ Delete if not necessary. Short summary of general business is sufficient here as this section is not legally binding, just offers an introduction.

1. Performance of the project

1.1 Wärtsilä and [Party B] intend to co-operate in the Project in accordance with the Project Brief within the timescale envisaged in the Project Brief and Appendix [] and in accordance with the budget to be proposed by the Joint Management Committee.

2. Meetings

2.1 The Parties will hold meetings to review the progress of the Project at the dates and times specified in the Project Brief. Changes to this Agreement can be discussed at these meetings and will take place in accordance with Clause 3. Such meetings will be held by any method agreed between the parties and may be either electronically or at Wärtsilä's premises. These meetings will be held at no additional cost to [Party B].

3. Changes to the Project

3.1 Any variation to this Agreement or the Project Brief will be made in writing and agreed by both parties.

4. Joint Management Committee

4.1 Constitution of the Joint Management Committee:

4.1.1 The Joint Management Committee shall consist of a number of each Party's representatives belonging to departments such as, but not limited to, [*Finance, Quality, Research and Development (R&D)*]. The Joint Management Committee will be co-chaired by a project director appointed by each Party.

4.1.2 Each of Wärtsilä and [*Party B*] shall be entitled to remove and replace the permanent members of the Joint Management Committee (including its project director) appointed by it in its absolute discretion by notice in writing to the other Party. Other non-permanent representatives of each Party may attend the meetings according to needs raised by current activities. A quorum of the Joint Management Committee shall be one representative of each of the parties to this Agreement.

4.1.3 The members of the Joint Management Committee shall meet on a regular basis subject to the needs of the Project, for ongoing activities (such as review of progress of the working groups and resolution of outstanding issues). Decisions of the Joint Management Committee shall be by simple majority, other than the following:

4.1.3.1 Any decision which necessitates a change to the Project Brief, which must be unanimous; or

4.1.3.2 Any change to the allocation of any funding, which shall also be by simple majority but where [Define the Party] will have a casting vote.

4.1.4 Both Parties shall use all reasonable endeavours to ensure that the consensus mechanism for reaching a decision shall not delay the project schedule defined in the Project Brief and Appendix []. Any disputes shall be settled in accordance with clause 20. Minutes of each meeting of the Joint Management Committee shall be signed by a representative of Wärtsilä and by a representative of [*Party B*].

4.2 Role of the Joint Management Committee

- 4.2.1 The Joint Management Committee shall be in charge of the follow-up of the implementation of this Agreement and the coordination of the following activities:
- 4.2.2 project scheduling and recommending changes to the Project Brief, where necessary;
- 4.2.3 review of the Project Brief at the end of a Project Stage and subsequent modification of the Project content, such changes to be implemented for the following Project Stage;
- 4.2.4 review of expenses and expenditure and preparing draft budgets of spending needs;
- 4.2.5 setting-up working groups as they deem necessary, defining their scope and level of authority and managing them by giving instructions and recommendations whenever necessary for the performance of the above functions;
- 4.2.6 discussing and arbitrating any outstanding issues or conflicts arising within the working groups and the operational levels described in this Agreement;
- 4.2.7 to assist the Parties and their Representatives in managing the business relationship and resolving any issue or disagreement before it develops into a dispute under this Agreement; and
- 4.2.8 any other tasks allocated or requested by both parties in connection with the Project.

5. **The project personnel and conduct**

5.1 **Key Staff**

Each Party will ensure that:

- 5.1.1 each of their Key Staff will have the relevant experience and be fully competent and suitable to carry out the tasks and duties assigned to them in connection with the performance of the Project;
- 5.1.2 each of their Key Staff will devote sufficient time and attention to the performance of the Project, unless otherwise agreed in advance by all Parties;
- 5.1.3 if a member of the Key Staff is absent for any reason (including any temporary absence) (an "**Absent Member**") there will be at least one other member of the Key Staff who understands and is capable of performing (to the level required by this Agreement) the role and duties of the Absent Member in relation to the Project;
- 5.1.4 Neither Party will, without the consent of the other Party, either change the role or responsibilities of any member of the Key Staff or remove any member of the Key Staff from the performance of the Project for more than [NUMBER] consecutive days except where such member of the Key Staff is absent on sick leave or other statutory leave (such as maternity, parental or adoption leave) or has ceased to be employed or engaged by the employing Party.

The Parties will use all reasonable endeavours to maintain the continuity of each member of the Key Staff in their roles.

5.2 Right to require removal of Key Staff

Either Party will immediately remove from any involvement in or responsibility for the provision of the Project any member of their Key Staff who, in the reasonable opinion of Wärtsilä or Party B (as appropriate) :

5.2.1 is not performing his or her role in respect of the provision of the Project properly, efficiently or effectively; and/or

5.2.2 is, for any other reason, unacceptable or inappropriate for the provision of the Project.

Any communication requiring the removal of any Key Staff must be sent to the relevant Party by form of written notice.

5.3 Consequences of Removal of Key Staff

Both Parties will:

5.3.1 following the removal of any member of the Key Staff, ensure such person is replaced promptly with another person with the necessary training, experience and skills to perform the Project in accordance with this Agreement;

5.3.2 if any member of the Key Staff is replaced ensure that a full and effective knowledge transfer process is in place and fully adhered to for the transfer of any relevant knowledge from the outgoing member of Key Staff to the replacement member of the Key Staff;

5.3.3 ensure that all members of the Key Staff who cease to be engaged in the performance of the Project (for any reason) return all Confidential Information held by them to [Party B] or Wärtsilä (as appropriate).

6. Exclusivity

6.1 Each Party undertakes to the other that it will not, during the continuation of this Agreement (or, if earlier, the conclusion of joint research and development activities hereunder) carry out or participate in any research and development project in the same Field of use as the Project, whether alone or in co-operation with a third party, without the consent of the other.

7. Treatment of IPR

NOTE: Relevant clauses to be inserted (one is included here as an example). Please see separate table for examples of other IPR positions which can apply to SPC Projects.

7.1 Background IP

7.1.1 This Agreement does not affect the ownership of any Intellectual Property Rights in any Background or in any other technology, design, work, invention, software, data, technique, Know-how, or materials which are not Project Results. The Intellectual Property Rights in them will remain the property of the Party which contributed them to the Project (or its licensors). No licence to use any Intellectual Property Rights is granted or implied by this Agreement except the rights expressly set out in this Agreement.

7.1.2 Each Party grants the other Party a royalty-free, fully paid-up, non-exclusive licence to use its Background IP, which it has contributed to the Project, for the purpose of carrying out the Project. None of the Parties may grant any sub-licence to use the other Party's Background IP except to any Party's Group Companies, and any person working for or on behalf of it or any of its Group Companies, to use any Party's Background for the purpose of carrying out the Project.

7.2 **Foreground IP**

7.2.1 Wärtsilä will own the Intellectual Property Rights in the Project Results.

7.2.2 [In accordance with the terms of the IP Payment Plan/Licence,] Wärtsilä grants [Party B] a [non]-exclusive, indefinite, fully paid-up, royalty free licence (with the right to sub-licence) to use the Intellectual Property Rights in any of the Project Results in the [Territories/Fields of Use] [or the following territories and fields of use: XX]

7.2.3 [Party B] may grant any sub-licence to use the Project Results and, if applicable, may allow any of its Group Companies and any person working for or on behalf of [Party B] to use the Project Results [in the Territories/Fields of Use].

7.2.4 Notwithstanding the clauses above, Wärtsilä will take such steps as they may decide from time to time, to register and maintain any protection for those Intellectual Property Rights, including filing and prosecuting patent applications, and taking any action in respect of any alleged or actual infringement of any Intellectual Property Rights in its Project Results. The costs of any actions taken under this clause 7.2.4 shall be paid by Wärtsilä.

7.3 The Parties shall immediately give notice in writing to the other of any challenge to the other Parties' Intellectual Property or any inadvertent disclosure or unauthorised use of such Intellectual Property or know-how which comes to its knowledge. The Parties shall, at Wärtsilä's expense, give such assistance as is reasonably requested by either Party to assist in the prevention of any such infringement, challenge or unauthorised use. [Party B] shall not institute any legal proceedings without Wärtsilä's prior written consent.

7.4 Any breach of this clause will be considered a material breach.

8. **Cyber-security**

8.1 Each Party understands the need to follow and implement standard information security protocols pertaining to the security of data information as well as confidential data and information appropriate for its industry. If a Party is not already following and implementing such industry standards, the Party shall establish Cyber Security safeguards appropriate for the Project under industry standards and that comply with any applicable laws, rules, regulations of the jurisdiction where the Project is being performed.

8.2 Each Party shall:

8.2.1 document the degree of compliance with Cyber Security policies;

- 8.2.2 implement appropriate Cyber Security safeguards and otherwise use reasonable endeavours
 - 8.2.3 to ensure the Confidentiality, Integrity & Availability of Information Assets;
 - 8.2.4 have in place appropriate plans and procedures to allow it to respond efficiently and
 - 8.2.5 effectively to a Cyber Security Incident; and
 - 8.2.6 regularly review its Cyber Security arrangements to verify its application in practice and
 - 8.2.7 maintain and keep records evidencing the same.
- 8.3 All employees and contractors of either Party carrying out Project-related work on the Smart Partner Campus with use of, or access to (i.e. via an active ACCDOM), Wärtsilä's Information and Operations Technologies (IT and OT) systems and/or information and data at any level, shall comply with the standardised approach to the use of Information and Operations Technologies (IT and OT) systems and equipment, as detailed in the Acceptable Use Policy (AUP) found in Annex [4].
- 8.4 Each Party shall use reasonable endeavours to ensure that any third-party providing services on its behalf in connection with the Agreement complies with the terms of Notice clauses 8.1 and 8.2.
- 8.5 Each Party's implementation and adherence to its Cyber Security is subject to the audit provisions of the Agreement.
- 8.6 Any independent infrastructure implemented, maintained or operated on Smart Partner Campus premises by [Party B] shall be subject to yearly Cyber Assessments including vulnerability and penetration testing performed by Wärtsilä's Cyber Security team. [Party B] shall undertake cyber security monitoring of any independent network or system implemented, maintained or operated on Smart Partnership Campus premises
- 8.7 Each Party shall adhere to the cyber security incident instructions as included at Appendix [4].

9. Confidentiality

- 9.1 Each of the Parties undertakes to the other that it will:
- 9.2 keep confidential all information (written or oral) concerning the Foreground Intellectual Property, the Background Intellectual Property of the other Party or the other Party's business or affairs that it shall obtain or receive as a result of the discussions leading up to, or the entering into this Agreement or in the course of it except that which:
- 9.2.1 is trivial or obvious;
 - 9.2.2 it can reasonably demonstrate was already in its possession prior to the commencement of such discussions; or
 - 9.2.3 is in the public domain other than as a result of a breach of this clause.

- 9.3 use information covered by this clause 9 only as expressly provided under this Agreement or otherwise as and to the extent required for the purpose of exploiting its rights and fulfilling its obligations under this Agreement; and
- 9.4 take all reasonable steps as shall from time to time be necessary to ensure compliance with the provisions of this clause by its officers, employees, agents and sub-contractors.
- 9.5 Notwithstanding anything contained elsewhere in this Agreement, the provisions of this clause 9 shall remain in effect if, and when, this Agreement is terminated or expires.
- 9.6 Any breach of this clause will be considered a material breach.

10. **Warranty and indemnity**

- 10.1 Each Party warrants to the other that:
- 10.2 it is the owner or licensee of all relevant rights in and to its Background Intellectual Property and all other materials made available for the purposes of the Project and has the authority to grant the rights granted hereunder and that the use of such Background Intellectual Property or materials or any of them in or in relation to the Products or the Project or the operation of the Project in accordance with this Agreement shall not infringe the rights of any third party;
- 10.3 it has the necessary power and authority to enter into this Agreement and to grant the licences granted hereunder; and
- 10.4 the signatories to this Agreement are duly authorised to execute this Agreement on behalf of such Party.
- 10.5 Each Party (the **Indemnifying Party**) shall be liable for and will indemnify the other Party (together with its officers, servants or agents, Affiliates and permitted licensees) against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the other Party arising out of any breach by the Indemnifying Party of its warranties provided that:
- 10.6 prompt notice is given to the Indemnifying Party of any such claims or suits;
- 10.7 the Indemnifying Party shall have the option to undertake and conduct the defence and/or settlement of any such claims or suits and that the other Party cooperates with the Indemnifying Party in the defence of any such claims or suits;
- 10.8 no admission shall be made or other action taken which may prejudice the ability of the Indemnifying Party to defend or prosecute any claims without the prior consent of the Indemnifying Party;
- 10.9 no settlement of any such claims or suits is made without the prior written consent of the Indemnifying Party; and
- 10.10 in no event shall either Party be liable for any consequential damages or loss of profits which the other Party may suffer arising out of any breach by a Party of its warranties hereunder.

- 10.11 In relation to any data which the Party has brought to the Project, both Parties warrant that:
- 10.12 they have obtained all authorisations, licences, consents and approvals, to allow it to use the information;
- 10.13 it is the most up to date version of the information owned or accessible by the Party; and
- 10.14 where the Party has quoted or confirmed the source of such information, such source is, to the best of the Party's knowledge, accurate.

11. **Limitation of Liabilities**

- 11.1 No Party shall be liable to another Party for indirect or consequential loss or damages such as but not limited to loss of profit, loss of revenue or loss of contracts except, unless otherwise agreed in this Agreement.
- 11.2 The total accumulated liability of a Party towards all other Parties collectively under this Agreement shall be limited to the amount of **[INSERT AMOUNT]**, unless otherwise agreed in this Agreement.
- 11.3 Nothing in this Agreement will operate to exclude or restrict any Liability of a party:
 - 11.3.1 For gross negligence;
 - 11.3.2 for its fraud or fraudulent misrepresentation or the fraud or fraudulent misrepresentation by a person for whom it is vicariously liable;
 - 11.3.3 for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.

12. **Other heads of loss for which it is agreed not to exclude or limit Liability**

- 12.1 Without prejudice to 10.10, nothing in this Agreement will operate to exclude or restrict either party's liability arising under:
 - 12.1.1 clause 9;
 - 12.1.2 for a deliberate breach of this Agreement by that party;
 - 12.1.3 for a wilful default of that party under this Agreement which deprives the other party of the whole or substantially the whole of the benefit of this Agreement and was intended to cause the other party harm; or
 - 12.1.4 either party's liability under the indemnities contained in **clauses 10.5 or 7.**

13. **Equitable Remedies**

- 13.1 Nothing in this clause 12 will prevent or restrict the right of a party to seek injunctive relief or specific performance or other discretionary remedies of the court.

14. **Termination**

- 14.1 Either Party may terminate the Agreement with immediate effect, by giving written notice to the other Party, upon occurrence of any of the following:

- 14.1.1 non-performance by either Party which subsists for a period of 30 consecutive days or longer;
- 14.1.2 where the other Party commits a breach of any material term of this Agreement which is capable of remedy, and is not remedied within thirty (30) days from the date of written notice from the Terminating Party to remedy such breach;
- 14.1.3 where the Project Funding or any part thereof has not been paid when due or where the other Party fails to pay any monies under this Agreement which has been properly incurred and remains due and owing to the Terminating Party;

14.2 If either Party wishes to terminate the agreement for any reason not mentioned in 14.1 above, such Party must send written notice to the other Party and call a meeting of the Joint Management Committee in order to discuss the consequences of such termination. Both Parties agree that there may be a form of compensation payable upon such cancellation in respect of work already completed or funds already provided for future Project Stages. This shall also be decided by the Joint Management Committee, acting reasonably.

15. **Term of Agreement**

- 15.1 This Agreement will commence on the Commencement Date and will continue until [insert date] unless otherwise terminated by either Party in accordance with **clause 14, 16 and 17.**

16. **Termination for insolvency**

- 16.1 Either party may terminate this Agreement immediately by giving written notice to that effect to the other party if the other party becomes Insolvent.
- 16.2 Each party will notify the other party immediately upon becoming Insolvent.

17. **Termination for change of control**

- 17.1.1 The Agreement may be terminated by either Party by giving not less than 7 days' written notice to the other Party if:
 - 17.1.1.1 there is a Change in Control of a Party which results in a Client Competitor obtaining Control of the other Party;
 - 17.1.1.2 Party obtains Control of a Client Competitor;
 - 17.1.1.3 a Client Competitor acquires all or a substantial part of business, assets or undertaking of a Party then used to perform the Project; or
 - 17.1.1.4 Party acquires all or a substantial part of the business, assets or undertaking of a Client Competitor.

18. **Consequences of expiry or termination**

18.1 **Effect of termination on contractual obligations**

Following the Termination Date:

- 18.1.1 the following provisions will continue in force: **clauses 7, 9, 10, 18.2, 20, 22, 27, 29**, Error! Reference source not found., parts [] of the Project Brief] [and] [INSERT APPENDIX

NUMBERS eg. cyber, insurance], together with any other provisions which expressly or impliedly continue to have effect after expiry or termination of this Agreement; and

18.1.2 all other rights and obligations will immediately cease without prejudice to any rights, obligations, claims (including claims for damages for breach) and liabilities which have accrued prior to the Termination Date.

18.2 **Return of information**

Within 20 days after the Termination Date either Party will (and will procure that all Staff involved with the Project will):

18.3 Agree on the delivery of all Records and all Project Results together with all copies of the same;

18.4 if requested to do so, destroy or permanently erase (if technically feasible) all confidential information; and

18.5 cease to use any Confidential Information obtained only as a result of the Project.

18.6 **Confirmation of compliance**

Party will, upon request, certify to the other Party in writing that it has (and its staff) have complied with **clause 18.2**.

18.7 **Confirmation of Project Delivery to Wärtsilä or another Developer**

18.7.1 If this Agreement terminates prior to the completion of the Project, all Parties will do everything that is reasonably required in order to ensure that the Project can be successfully transferred to Wärtsilä or another collaboration partner (as appropriate) in a professional, timely and orderly manner and with the minimum of disruption. The parties agree to co-operate in good faith and will ensure the complete and effective transfer of all knowledge, technology and Know-How reasonably required for the completion of the Project. The Joint Management Committee will be engaged to oversee this process and may place any obligation on either Party which they deem necessary for an effective transfer.

19. **Export control and sanctions compliance**

19.1 Parties shall notify each other of any changes to their Ownership during this Agreement or any other changes which may be relevant to Export Control or Sanctions Laws (as defined below).

19.2 In relation to their activities under this Agreement, the Parties shall comply with all applicable laws, statutes, regulations and regimes relating to export control and sanctions (**Export Control and Sanctions Laws**) and not to do anything to put Wärtsilä or any other Party in breach of any such Export Control and Sanctions Laws.

19.3 The Parties shall contractually oblige all members of their Group or any third parties they may engage in connection with the Project do so only on the basis in similar terms to clause 19.1. Each Party shall be responsible for the compliance by such persons employed or engaged by them with Export Control and Sanctions Laws.

19.4 Each Party agrees, if requested, to provide the other with reasonable assistance to enable compliance with any Export Control and Sanction Laws.

20. **GDPR**

20.1 Each party shall, at its own expense, ensure that it complies with the requirements of all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy.

20.2 Wärtasilä privacy notice can be found [here](#).

21. **Dispute resolution**

The parties must attempt to solve all differences arising out of or in connection with this Agreement in an amicable manner. Any disputes will first be referred to the Joint Management Committee who shall be responsible for (i) maintaining open and regular communications, (ii) exploring the facts and circumstances related to any disagreements or disputes between the Parties, including any disputed matter, and (iii) finding ways to prevent, mitigate or resolve any disagreements or disputes between the Parties, including any disputed matter.

21.1 In the case where this is not possible, the parties being deemed to have failed in this attempt if no written Agreement between them is signed within 90 calendar days from the first notification of the difference of opinion given by the most diligent party to the other by registered letter with acknowledgement of receipt and if a contrary convention is not available, all disputes arising out of or in connection with this Agreement shall be referred for mitigation to a neutral mediator, to be decided by mutual agreement of the Parties. The costs of mediation fees and costs in connection with any mediator's services under this Agreement shall be borne equally by the Parties.

21.2 If any dispute remains unsettled following the above two options, it shall be settled under the Rules of Arbitration of the International Chamber of Commerce (the 'Rules') by one (1) or more arbitrators appointed in accordance with the said Rules. The proceedings before the arbitral tribunal shall be governed by the and, where these rules are silent, by Finnish law. The arbitration shall be held in Helsinki, Finland and shall be conducted in the English language.

22. **Entire agreement**

22.1 The Parties agree that this Agreement and any documents entered into pursuant to it including but not limited to the Project Brief and Code of Conduct and relationship principles constitutes the entire Agreement between them and supersedes all previous Agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

22.2 Each Party acknowledges that it has not entered into this Agreement or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement or any documents entered into pursuant to it, except in the case of fraudulent misrepresentation. No Party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.

23. **Notices**

- 23.1 Notices under this Agreement shall be in writing and sent to a Party's registered office or address as set out on the first page of this Agreement (or to the fax number or email address set out below). Notices may be given, and shall be deemed received:
- 23.2 by first-class post: three days after posting;
- 23.3 by airmail: seven days after posting;
- 23.4 by hand: on delivery;
- 23.5 by email to [address] in the case of Wärtsilä and [address] in the case of [party B]: on receipt of a confirmation of delivery.
- 23.6 This clause does not apply to notices given in legal proceedings or arbitration.

24. **Assignment**

- 24.1 No Party may assign, subcontract or encumber any right or obligations under this Agreement, in whole or in part, without the prior written consent of each of the other Parties (such consent not to be unreasonably withheld or delayed).
- 24.2 However, Parties may transfer and assign this Agreement and any rights and liabilities under this Agreement to a company of the same group of companies.
- 24.3 Notwithstanding clause 24.1, a party may perform any of its obligations and exercise any of its rights granted under this Agreement through any Affiliate, provided that it gives the other party prior written notice including the identity of the relevant Affiliate. Each party acknowledges and agrees that any act or omission of its Affiliate in relation to that party's rights or obligations under this Agreement shall be deemed to be an act or omission of that party itself.

25. **No partnership or agency**

- 25.1 This Agreement relates to the single project to which it refers. Nothing in this Agreement constitutes, or shall be deemed to constitute, a partnership between the Parties nor make any Party the agent of another Party.

26. **Insurance**

- 26.1 Both Parties shall procure, or caused to be procured, at their own cost, and maintain or cause to be maintained in full force and effect from the Starting Date to the date completion of the Project, any relevant insurance with responsible insurance carriers, including (but not limited to) cyber security insurance.

27. **Severance**

- 27.1 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.

28. **Waivers**

28.1 No failure, delay or omission by either Party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right or remedy. No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.

29. **Governing law**

29.1 This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of Finland.

30. **Counterparts**

30.1 This Agreement may be executed in any number of counterparts. All counterparts taken together when all signed, constitute one agreement. A Party may execute this Agreement by signing any counterpart.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

On Behalf of Wärtsilä:

Signature

Signature

Name (in full)

Name (in full)

Title

Title

Place Date

Place Date

On Behalf of [Party B]⁴:

Signature

Signature

Name (in full)

Name (in full)

Title

Title

Place Date

Place Date

⁴ Replicate as necessary for all parties to the agreement

APPENDIX 1

DEFINITIONS

Field of Use	the technical field of application and/or product markets, as set out or described in the Project Brief] [to be deleted if not possible to 'define' the project
Affiliate	means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with, one of the Parties;
Agreement	Shall mean this agreement between Wärtsilä and [Party B, Party C], including the appendices
Background IP	means any and all Intellectual Property Rights that are not Foreground Intellectual Property, owned or controlled by the relevant Party or licensed to the relevant Party prior to or outside the Project, and in any event generated without reliance on any Foreground Intellectual Property or other Intellectual Property Rights connected with the Project but required for the purposes of the Project;
Client Competitor	A person that is a competitor [or has a Group Company that is a competitor] of Wärtsilä or of any of Wärtsilä's Group Companies, such that if they were to become (indirectly) involved in the Project through an acquisition or other similar means, conflicts of interest may cause issues for Project performance;
Commencement Date	means the date of this Agreement;
Confidential Information	shall mean any information or data or both, or the substance of this Agreement, whether communicated by or on behalf of either Party to the other Party, disclosed before, on or after the date of signature of this Agreement, including but not limited to, any kind of business, commercial or technical information and data in connection with the purpose of this Agreement except for information which is demonstrably non-confidential in nature. The information shall be Confidential Information irrespective of the medium in which that information or data is embedded and if the Confidential Information is disclosed orally, visually or otherwise. Confidential Information shall include any copies or abstracts made of it as well as any products, apparatus, modules, samples, prototypes or parts that may contain or reveal the Confidential Information.

Control	means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and the expression change of control shall be construed accordingly;
Cyber Security	are the technologies, processes, procedures and controls implemented by a Party that are designed to protect Information Assets from Cyber Security Incidents;
Cyber Security Incident	means any reasonably suspected or actual unauthorized access to or acquisition, disclosure, use, or loss of Party's Information (including hard copy records) or breach or compromise of a Party's Cyber Security, whether through attack, socially engineered deception or otherwise, that presents a potential threat to either Party's Information Assets;
Field	For the purpose of Intellectual Property rights the [see drafting notes in IP section and carry these through here to define the field. If this is not relevant to the IP Option you have chosen, please delete.]
Foreground IP	means all Intellectual Property Rights and other matter capable of being the subject of Intellectual Property Rights that is conceived, first reduced to practice or writing or developed in whole or in substantial part in the course of the Project;
Group	in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.
Information Assets	are information technology systems, operational technology, networks, applications or devices and the data contained within such systems;
Insolvent	has the meaning given to it in the relevant Insolvency legislation in effect from time to time;
IPR	<p>means copyright, rights related to copyright such as moral rights and performers rights, patents, rights in inventions, rights in confidential information, know-how, trade secrets, trademarks, geographical indications, service marks, trade names, design rights, rights in get-up, database rights, databases, data exclusivity rights, approvals, utility models, domain names, business names, rights in computer software, mask works, topography rights, the right to sue for infringement, unfair competition and passing off, and all similar rights of whatever nature wherever in the world arising and, in each case:</p> <p>(a) whether registered or not,</p> <p>(b) including any applications to protect or register such rights,</p>

- (c) including all renewals and extensions of such rights or applications,
- (d) whether vested, contingent or future, and
- (e) wherever existing;

Joint Management Committee means the committee charged with day to day management of the Project constituted as set out in clause 4;

Key Staff those Staff recognised by the Parties as being materially important to the successful performance of the Project, as listed [in Appendix X/the Project Brief] or additionally designated as Key Staff by the [written agreement] of the Parties from time to time.

Know-How formulae, methods, plans, inventions, discoveries, improvements, processes, performance methodologies, techniques, specifications, technical information, tests, results, reports, component lists, manuals and instructions

Non-Disclosure Agreement means the initial non-disclosure agreement entered into by the Parties on [details];

Project means the programme of joint research and development work between the parties, to be carried out as part of the Smart Partner Campus programme and as detailed the Project Brief;

Project Brief means the agreed master schedule setting out details such as, but not limited to, the specifications of the Project, methodology of the project and key project milestones as subsequently developed and amended between the Parties from time to time;

Project Results the information, Intellectual Property, materials [and products] arising out of or in connection with the Project, and other tangible or intangible results and data of, any research, development or other work undertaken by the Parties in connection with the Project

Project Stages means the five potential stages of the Project as set out in the way of working and Project Brief, being discover, ideate, explore, transform and incubate. Together each representing a Project Stage.

Records any and all records created by or on behalf of [Party B]

Way of working The summary of the approach taken at the Smart Partner Campus, as shared by Wärtsilä at the outset of the Project and as updated from time to time

In this Agreement:

- 1.1.1 a reference to this Agreement includes its schedules, appendices and annexes (if any);
- 1.1.2 the table of contents, background section and any clause, schedule, appendix or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement;
- 1.1.3 a reference to a 'Party' includes that Party's personal representatives, successors and permitted assigns;
- 1.1.4 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.1.5 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.1.6 a reference to a gender includes each other gender;
- 1.1.7 words in the singular include the plural and vice versa;
- 1.1.8 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.1.9 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (including email);
- 1.1.10 a reference to legislation is a reference to that legislation as in force as at the date of this Agreement or amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a Party under this Agreement; and
- 1.1.11 a reference to legislation includes all subordinate legislation made as at the date of this Agreement or from time to time under that legislation.

APPENDIX 4: Cyber Security Incident

1. Upon discovery of any potential or actual Cyber Security Incident which affects or is likely to affect other Party's ability to perform its duties relevant to the Project, the other Party shall without undue delay provide notice the other Party.
2. The Party whom discovered the Cyber Security Incident shall:
 - (i) promptly take all steps reasonably necessary to mitigate and/or resolve the Cyber Security Incident;
 - (ii) as soon as reasonably practicable provide the other Party with details of how it may be contacted and any information it may have which may assist the other Party in mitigating and/or preventing any effects of the Cyber Security Incident;
 - (iii) provide assistance as reasonably requested by the other Party to evaluate the Cyber Security Incident and work with the joint management committee to determine an appropriate response.
3. Each Party shall share with the other Party any information that subsequently becomes available to it which may assist the other Party in mitigating and/or preventing any effects of the Cyber Security Incident.
4. Each Party shall not only properly respond to the Cyber Security Incident but also take action to prevent recurrence of a similar Cyber Security Incident in the future.

Please find Wärtsilä's Acceptable Use Policy here (still missing from this document)

Please find Wärtsilä's Security Policy here (still missing from this document)