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COLLABORATION FRAMEWORK AGREEMENT

BETWEEN



**THE CONSORTIUM FOR THE CONSTRUCTION, EQUIPPING
AND EXPLOITATION OF THE SYNCHROTRON LIGHT
SOURCE "CELLS"**

AND



THE FUNDAÇÃO PARA A CIÊNCIA E A TECNOLOGIA (FCT)

11 February 2019



FCT- CELLS
COLLABORATION FRAMEWORK AGREEMENT
REFERENCE/2019

From one part, the FUNDAÇÃO PARA A CIÊNCIA E A TECNOLOGIA, located at Av. D. Carlos I, 126, 1249-074 Lisbon, Portugal, (hereinafter referred to as "FCT"), I.P. and represented in this act by its President, Prof. Paulo Ferrão,

From the other part, the CONSORTIUM FOR THE CONSTRUCTION, EQUIPPING AND EXPLOITATION OF THE SYNCHROTRON LIGHT SOURCE (hereinafter referred to as "CELLS"), having its seat at Cerdanyola del Valles, Barcelona, Spain, with VAT number Q0801209-H and duly represented by its Director, Dr. Caterina Biscari,

Hereinafter "Party" and collectively "Parties".

CONSIDERING THAT:

- I. FCT is the Portuguese public agency that supports science, technology and innovation, in all scientific domains, under responsibility of the Ministry for Science, Technology and Higher Education, ensuring Portugal's participation in international scientific organizations, fostering the participation of the scientific community in international projects and promoting knowledge transfer between R&D centers and industry;
- II. CELLS was incorporated by agreement between the Ministry of Science and Technology and the Generalitat de Catalunya (Regional Government of Catalonia) on 14 March 2003 with as its purpose the construction, equipment and later exploitation of a synchrotron light laboratory;
- III. In the pursuit of this purpose, CELLS and FCT are interested in establishing collaborations involving research, development and innovation on issues related to the beamlines;

The mutual benefit that the Parties would derive from collaboration between them;

AGREE AS FOLLOWS:



Article 1 Purpose

- 1.1 This Agreement establishes the framework for collaboration between the Parties in the spirit of enhancing scientific and technical exchanges, of developing common projects, of easing the access to the scientific instrumentation in the considered institutions by both scientific communities. The Parties agree that none of the clauses or conditions of this agreement legally bind the Parties or are capable of generating contractual obligations.
- 1.2 The initial list of collaboration's objectives is set out in Annex 1.
- 1.3 The implementation of this Agreement by the Parties shall be subject to the availability of resources at the Parties.
- 1.4 The Parties shall use the results of their collaboration for non-military purposes only.

Article 2 Project(s)

- 2.1 Each Party's contribution to a specific collaboration ("Project"), including the required resources, the duration of the activities and any deliverables, milestones, acceptance procedures and the management of the Project shall be set out in specific Agreements. Except as specified otherwise, the Project shall be subject to the provisions of this Framework.
- 2.2 Except as the Parties agree otherwise, each Party shall bear the cost of its participation in the collaboration and the Project(s).

Article 3 Experts

- 3.1 Each Party shall ensure the selection of experts ("Experts") with the necessary skills and competence to execute each Project on its behalf. The Portuguese Experts may come from third party institutions designated by FCT ("Third Party").
- 3.2 Where CELLS acts as a host Party in the execution of a Project, the Portuguese Experts will be coordinated by FCT. FCT will take appropriate measures to ensure that the selected Experts (i) shall have a legal link with a Portuguese institution, (ii) FCT or the designated Third Party shall be responsible for their social insurance, (iii) the Portuguese Experts shall maintain medical insurance cover adequate in Spain for themselves and accompanying family members, which shall include cover for occupational illness and accidents, and (iv) the Portuguese Experts shall have adequate financial resources to support themselves and accompanying family members. Any Party involved through Portuguese Experts shall hold CELLS free and harmless from liability in connection with the subject matter of this Article.

- 3.3. Where it is FCT or a designated Third Party that acts as a host Party in the execution of a Project, the obligations set out in Article 3.2 shall apply mutatis mutandis to CELLS for any participating Experts employed by CELLS.
- 3.4. Wherever the involvement of Third Party Experts is envisioned, FCT with the support of CELLS shall promote the adhesion of the Third Party and its Experts to the provisions of this present article and to the following articles 4, 5, 6, 7 and 8 on Conduct and Safety, Intellectual Property, Publications, Confidentiality and Liability. The involvement of a Third Party shall require the signature of a specific agreement with the Third Party that shall treat, amongst others, the before mentioned aspects.

Article 4 **Conduct and safety**

- 4.1. The Experts shall comply with the rules of conduct and safety in force at the host Party.
- 4.2. Any equipment or other item contributed by a Party to the collaboration shall conform to the safety rules in force at the host Party where it will be installed and operated.

Article 5 **Intellectual Property**

- 5.1. The disclosure of information under this Agreement does not create any proprietary right for the receiving Party. The parties may ask each other to sign Non-disclosure Agreements before the beginning of their collaboration.
- 5.2. Title in intellectual property developed by a Party in the execution of this Agreement shall be vested in that Party, who shall grant the other Party a free, non-exclusive license for the use of such intellectual property in the execution of its scientific program by itself or through its partners and contractors excluding commercial exploitation.
- 5.3. Where intellectual property is developed jointly by the Parties and title is therefore vested in them jointly, they shall grant each other a free, non-exclusive license for the use of such intellectual property in the execution of their scientific programs by themselves or through their partners and contractors, and for commercial exploitation.
- 5.4. The providing Party provides no warranty in respect of intellectual property made available by it under this Agreement, and the receiving Party shall hold it free and harmless from any liability arising from its use (including, as the case may be, by its partners and contractors) of such intellectual property.

Article 6 **Publications**

- 6.1. The Parties shall strive to jointly promote publishing the results of the Projects as Open Access publications.

- 6.2 In so far as the Parties do not jointly publish the results of a Project, publications by one Party involving results developed by the other Party shall be subject to the latter's prior written approval, which shall not be withheld unreasonably.
- 6.3 Publications shall acknowledge the collaboration between the Parties including, whenever appropriate, the Experts having taken part in the development of the results covered by the publication.

Article 7 Confidentiality

The Parties agree to execute the Projects in a spirit of openness. However, where, exceptionally, confidentiality is required, the following provisions shall apply:

- 7.1 Each Party shall treat as confidential any information provided to it by the other Party that is designated as confidential. Except as agreed otherwise in writing, this obligation shall continue for a period of five (5) years from the date of termination of this Agreement.
- 7.2 The receiving Party shall:
- not use confidential information for any other purpose than for the execution of this Agreement;
 - limit the circle of recipients of such confidential information on a need-to-know basis and ensure that the recipients are aware of and comply with the obligations as specified in this Article.
- 7.3 No confidentiality obligation shall apply to information which:
- (i) the receiving Party demonstrates was in the public domain prior to its communication by the disclosing Party;
 - (ii) became part of the public domain after such communication but not through any fault of the receiving Party;
 - (iii) was already in possession of the receiving Party at the time of signature of this Agreement;
 - (iv) has been lawfully received by the receiving Party from a third party without any confidentiality obligation; or
 - (v) has been developed by the receiving Party independently and outside the scope of this Agreement.

Article 8 Liability

In connection with any specific Agreement which will be signed under this Framework

- 8.1 Except as provided in Articles 5.4, 9.2 and in this Article, each Party shall bear its own loss and damage.

8.2 Subject to Article 8.3, the responsible Party shall indemnify the other Party for its loss and damage resulting from gross negligence or willful misconduct by the responsible Party, or a violation by the responsible Party of the rules of conduct and safety in force at the host Party.

8.3 Notwithstanding the foregoing, the Parties shall in no event be liable to each other for any consequential loss or damage, such as loss of income or of availability of data or installations.

Article 9

Entry into force, duration and termination

9.1 This Agreement shall enter into force on the date of signature. It shall remain in force for the duration of four years, unless terminated by joint agreement, or by one Party giving at least three (3) months prior written notification to the other Party. It may be extended for an equal successive period through written agreement between the parties. Except as otherwise agreed by the Parties, termination of this Agreement shall be without prejudice to the completion of outstanding Projects set out in Addenda to this Agreement.

9.2 In case of a substantial breach by a Party of its obligations under an Addendum to this Agreement, the other Party may terminate that Addendum in whole or in part if no corrective action satisfactory to the other Party is taken within one (1) month of the issue of a letter of notice by the other Party to the breaching Party. The breaching Party shall reimburse the other Party for all direct costs wholly and necessarily incurred by it as a result of the termination, in an amount that shall not exceed the remaining amount payable as of the date of termination of the Addendum.

9.3 Articles 3.2, 5, 7, 8 and 10 of this Agreement shall survive its termination, howsoever caused.

Article 10

Dispute resolution

10.1 The Parties declare that this Agreement is the result of good faith; therefore, undertake to perform the possible actions to ensure compliance and stipulate that any discrepancy regarding the interpretation and/or compliance of its terms and clauses, will primarily be resolved by the mutual agreement of the parties.

Article 11

Coordination and contact persons

The Parties shall each nominate a coordinator, who together shall coordinate the execution of this Agreement, as well as contact persons. They will act also a Monitoring Committee, providing a biennial report on the outcome of the collaboration.

Their names and contact details are set out in Annex 2.

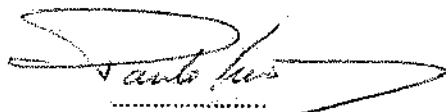
Article 12
Amendments

Any amendment to this Agreement shall be made in writing and signed by the authorized representatives of the Parties.

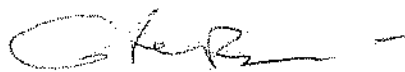
Signed on 11 February 2019, Cerdanyola del Vallès, Spain

FUNDAÇÃO PARA A CIÊNCIA E A TECNOLOGIA

The Consortium for the Construction,
Equipment and Exploitation of the
Synchrotron Light Laboratory (CELLS)



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Paulo Ferrão
FCT President



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Caterina Biscari
CELLS Director

ANNEX 1: Initial list of possible collaboration objectives (Projects)

Project 1:

Portuguese User Access and Participation of Portugal as observer in ALBA SAC

1.1 – Access to ALBA Synchrotron Beamlines of Portuguese users

CELLS will apply to Portuguese academic users the same regime applied to Spanish users, for a four-years period starting from the date of signature of present agreement. This regime includes the funding of travel and accommodation costs for up to three users per proposal, and is valid for those proposals which are granted beam time in the competitive user calls, evaluated by the BeamTime Review Panel, BTRP.

1.2 – Participation to ALBA SAC

CELLS offers a seat as “observer” to a prominent Portuguese scientist in the ALBA Scientific Advisory Committee, to be designated by the Portuguese community, in order to take into account opinions and views of the Portuguese community in CELLS activities and in future strategic decisions. Travel and accommodation expenses will be covered by CELLS.

This participation can be a starting point for future major involvement of Portuguese institutions in ALBA Synchrotron.

Project 2:

Postdoctoral program

Postdocs are key elements for building up expertise in synchrotron instrumentation and methods and scientific development. A postdoctoral program launched by the Spanish and Portuguese administrations would be the seed to train Portuguese scientists into ambitious tasks, as building instruments or launching original synchrotron based research projects, while strengthening CELLS capacities. CELLS specifically fosters collaborations in the scientific priority areas, namely drug design and characterization, biological processes involving drugs, magnetic nanomaterials, catalysis and environmental sciences, materials for energy related applications, and is also open to developments in the field of accelerators and beamline technologies.

The selection shall be done by a selection committee with representatives from both countries.

The program could envisage up to four grants for the different scientific fields and up to two grants for the technological fields. Appropriate funding schemes should be developed for the specific agreements.

The post-doc position will be announced at the CELLS webpage, and will follow the usual competitive process, but open only to scientists working in Portugal as well as to Portuguese scientists working abroad.

Project 3:

Association to Synchrotron ALBA

Portuguese synchrotron user community is routinely using beamtime in some of the European synchrotrons, including ALBA, here through the competitive access mode, which has an average success ratio of 50%.

The availability of beamtime at ALBA, beyond what is obtained through the competitive general access, will have the benefit of further developing Portuguese capabilities, including training of young researchers, fostering common research projects, and obtaining a privileged window in the LEAPS consortium, which includes all European Accelerator-based Photon Sources.

The agreement defines the conditions for Portuguese researchers access to beamtime in the experimental beamlines of ALBA synchrotron to perform their experiments. It can include access to other future instruments hosted at ALBA, as the foreseen Advanced Microscope Centre, through specific extensions of the agreement.

This agreement can be the basis for a future participation of Portuguese institutions in the construction of new beamlines at ALBA of special interest for the Portuguese scientific community.

Annex 2: Coordinators and contact persons

- For CELLS:

Dr. Caterina Biscari
Director
cbiscari@cells.es

- For FCT:

Prof. Paulo Ferrão
President
paulo.ferrao@fct.pt