

General terms and conditions

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These are the general terms and conditions for contracts between the Nordic Energy Research (NER) and projects in which one or more participants have received grants from NER.

The contract documentation includes the general terms and conditions and the annexes listed in the text of the contract for the individual contract. These annexes are Project Description (Annex 1), Project Participants (Annex 2), Economy (Annex 3), Milestone Plan (Annex 4), Special Conditions (Annex 5) and Model of Cooperation Agreement (Annex 6).

The general terms and conditions are applicable to all project contracts entered into by NER. If an agreement is made that deviates from the general terms and conditions, the annexes to the contract shall so note. In such cases the annexes shall take precedence over the general terms and conditions. No agreement may be made in the cooperation agreement that is contrary to the general terms and conditions; in such cases the provisions of the general terms and conditions shall take precedence over the cooperation agreement.

The contract is not valid until all sections of the agreement, including signed cooperation agreements with all participants, have been completed.

The contract is subject to Norwegian law.

1.0 Project Structure

Annex 2 specifies the project owner, project manager and project participants. Annex 6 consists of the cooperation agreement, which regulates the division of responsibility between the project owner and project participants. The project owner signs a contract with NER on behalf of the project. The division of responsibility between the project owner and project participants is regulated in the cooperation agreement.

1.1 Project Owner

The project owner is the legal owner of the project. The project owner is responsible for the project and enters into an agreement with NER on behalf of the project participants. The project owner delegates the daily operation of the project and appoints a project manager for the project.

1.2 Project Manager

The daily management of the project is carried out by the project manager on behalf of the project owner. The project manager is responsible for keeping the coordinating advisor at NER informed of the progress of the project.

The project manager obligates the partnership covered by the cooperation agreement. The project manager is therefore responsible for embedding in the partnership any supplemental agreements entered into. Messages that NER sends to the project manager will be considered to have been received by all the project participants.

If a project has sub-projects, a manager must be selected for each individual sub-project. The project manager is responsible for keeping NER informed as to who is a sub-project manager.

The project manager and sub-project managers shall have documented skills and/or experience in leadership and project management. The project owner is responsible for ensuring that this is followed up.

Neither the project participants nor project owner may select a new project manager without discussing this with NER. NER can compel participants to select a new project manager, should the circumstances so require. NER shall be kept informed on an ongoing basis as to who is working on the project among the individual project participants.

The project number and title must appear on all correspondence from the project manager/project owner to NER.

1.3 Steering Group

In projects of a certain size, or in cases where NER or one of the project participants so demands, an individual steering group must be set up for the project.

The steering group shall be chosen by the project participants, and is responsible for the implementation and management of the project. The composition and authority of the steering group shall be agreed upon and stated in the cooperation agreement.

NER has the right to participate as a member of the steering group at any time it deems it necessary. The project manager is responsible for ensuring that NER receives all notices and minutes for steering group meetings within the project on an ongoing basis.

1.4 Contact at NER

The coordinating advisor at NER will be the project's formal point of contact at NER. If NER decides to change its coordinating advisor, NER shall be obligated to notify the project thereof without undue delay.

In addition to the coordinating advisor, persons from NER's communication and administration will be involved in the project activities where appropriate.

2.0 Project Conditions

Funds are pledged subject to the condition that the Nordic governments/Nordic Council of Ministers put sufficient funds at NER's disposal, that no changes in government regulations (laws, provisions, standards, etc.) of importance to the implementation of the project or changes contrary to the conditions of the given pledge take place, and that no other unexpected circumstances arise that are beyond NER's control.

In such cases, the pledge shall become void without any liability on the part of NER.

2.1 Period of Validity

The contract has been prepared in two originals, of which NER retains one and the project manager the other. The project manager shall distribute copies of the contract to the other project participants.

The contract shall remain in effect for five years after the project completion date. It shall also be binding upon those who have countersigned the contract through the cooperation agreement, but have for some reason withdrawn from the cooperation.

The agreements and provisions regarding the rights to the project results shall continue to apply after the contract has expired.

2.2 Material changes in the project

Material changes in the project must be approved by NER and stated in a separate supplemental agreement signed by NER and the project manager on behalf of the project.

If the steering group, project manager or one of the project participants finds that the project cannot be implemented, either wholly or in part, in accordance with the plans that form the basis for NER's pledge, or if any unforeseen problems arise that would entail significant extra costs if they were to be overcome, they must inform NER in writing thereof without undue delay. In such cases, NER reserves the right to cancel without delay all payments to and activities in the project in which it is involved.

Deadlines in the agreed Milestone Plan (Annex 4) that are not adhered to shall be viewed as material breaches of contract if the project has been unable to provide a reasonable explanation for the delay or a proposal for a revised Milestone Plan.

2.3 Changes of lesser significance in the project

Agreements on internal changes of lesser significance between the participants in the project may be made between the project manager and the affected participants. NER must be notified of such changes in writing.

2.4 Subcontractors and equipment

The project participants undertake to enter into agreements with consultants, subcontractors and any other third parties they may engage to prevent same from having any rights to the project results.

Each individual party to the agreement shall be obligated to enter into agreements with their employees to the effect that inventions and other results within the project shall not accrue to the employee.

Unless otherwise agreed in the cooperation agreement or in the contract, the project participants shall be joint owners of the equipment and software bought or developed through the project using NER funds. Within the scope of the contract and the provisions regarding the use of the project results, the steering group may decide what is to happen to the equipment when the project has been concluded.

This can include the steering group transferring the equipment to others. The individual project participant has no right to claim compensation in connection with such transfers.

If the steering group is in disagreement, NER shall decide who is to take over the equipment. In the event of breach of the contract, NER may demand that the equipment be transferred to NER without compensation.

The project participants undertake to keep all types of equipment insured and in good condition. The equipment may not be pledged as security during the project period.

2.5 Change of Ownership

NER must be notified immediately in the event that any person or company acquires decisive direct or indirect control of one or more of the project participants by acquiring shares, through agreements or in any other manner. In such cases NER shall be entitled to set new terms and conditions for continued funding.

If, in the opinion of NER, a change of ownership is in violation of the project's original intention, NER may demand that the project manager in question transfer his/her rights to the project results to NER, or that the grant received by the project participant in question be repaid in full.

2.6 Supplemental Agreements

All material changes to the project must be stated in separate agreements as supplements to this contract. Supplemental agreements must be marked with the project number and serial number.

3.0 Project Implementation

The implementation of the project shall begin no later than three months from the date of the letter of pledge from NER to the project manager, and be completed without undue delay.

Request for prolongation of a NER-project is accepted only in specific situations and only up to 6 months. No request for more funding is accepted. A formal request for prolongation has to be made, including the reasons for delay and a revised description of tasks and timetable.

3.1 Milestone Plan

When a contract is entered into, the milestone plan shall be enclosed as Annex 4. The plan must contain the project's internal milestones as a supplement to the following compulsory milestones:

1. Project Start-Up

The first activity in the project shall be carried out within three months of the signing of the contract.

2. Project Start-Up Meeting/Kick-off

NER shall summon the project manager to a project start-up meeting or workshop, which will address issues of relevance with respect to project management and informational activities, and provide information on NER's administrative routines. Travel and lodging expenses shall be covered internally by the project.

3. Communication plan finalized

The communication plan must describe how the project is to achieve its goals and specify the target groups for the communication work.

The project participants undertake to draw up a communication plan, and to revise and update it on an ongoing basis in a manner consistent with the progress of the project. NER reserves the right to demand at any time that this communication plan be updated. The project manager shall then update the plan in cooperation with NER and the other participants without undue delay and send it to NER.

4. Year-end status report

Status reports must be prepared, taking into account the guidelines for status reporting that can be found on NER's website, www.nordicenergy.net.

In cases where the project is concluded within the first two months of a year, the project shall not be required to provide a status report at the end of the preceding year.

5. Project mid-term evaluation

A mid-term evaluation of the project and its implementation and progress will be made in the end of 2013 or beginning of 2014. The project shall deliver required information and participate in the evaluation process.

6. Project Finalization Meeting

NER shall summon the project manager to a project finalization meeting, possibly together with other project managers, at which the project's concluding phase shall be discussed with regard to the reporting and other plans. Travel and lodging expenses shall be covered internally by the project.

7. Final Report

The project shall produce a final report within the date of the conclusion of the project. The final report must contain:

- a. Scientific Report
- b. Financial Report (approved by auditor)

The reports are to be written in accordance with the guidelines in effect from time to time on NER's website, www.nordicenergy.net.

8. Evaluation

The project manager must, as a part of reporting activities described in point 7. above, fill out an evaluation form regarding the execution of the project, based on his/her experiences.

9. Project end date

The project end date is the date when the agreed deliveries have been made and the final report submitted. If the project has fulfilled the agreed delivery requirements, NER will pay the final instalment.

NER must be informed of and approve any changes in the Milestone Plan. In cases where the Milestone Plan (including communication plan) is not adhered to, payments from NER will cease to be made. Deviations from compulsory items must be clarified in the project Milestone Plan, Chapter 4.

Any special requirements for the project must be stated in the special terms and conditions of the contract, Annex 5.

NER may demand at any point that the project manager present the project or its results to NER.

3.2 Project deliveries

A short description of the individual deliveries in the project must be provided in Annex 1. These are to be marked as D1, D2, etc. and entered in the Milestone Plan in Annex 4. "Deliveries" refer to everything from final expert reports to key activities in the project, including result dissemination activities.

3.3 Information Exchange

The parties to the agreement undertake to engage in an open and mutual exchange of information regarding all conditions of significance to the execution of the project, including the implementation of the project, results achieved, discovered problems and other deviations.

Unless otherwise agreed between the project participants, each participant may freely publish his/her own project results during the project period. The results must also be sent to the advisor at NER during that period.

3.4 Confidentiality

Should any exchange of confidential information take place during the contract period, it may take place only in writing, and the information must be marked "Confidential". The recipient of such information undertakes not to pass on the information or use it contrary to the contractual conditions and assumptions, and to store the information received in such a manner that it cannot be accessed by unauthorised persons.

4.0 Results and rights

All results from projects in which NER has invested funds shall be publicly accessible unless otherwise agreed by the parties.

4.1 Publishing Results

The project results may, if the project participants so demand in writing from NER and NER consents, remain confidential for a maximum of six months following the conclusion of the project, when dealing with research which does not involve industry. Industry shared projects may be classified as confidential for patent, competition and economic reasons. The period for this is a maximum of two years.

The foregoing notwithstanding, NER shall be entitled, at any time, to publish the project title, a brief project summary, the names of the project owner, participants and managers, the project period, the project budget and details on NER's funding.

4.1.1 Logo usage

All printed communication from the project is to include the NER logo. Other logos may also be used see annex 5 for instructions. The NER logo can be downloaded from the NER website or requested from NER directly.

4.1.2 Communication responsibilities

The project manager is obliged to inform NER's communication department of all publications including a short summary of each for possible publication on NER related websites. During the course of the project period the project manager or another project participant is to present results to the board of NER. This is to be done in the 4th quarter of every year starting the second year of the project period.

Throughout the project period the project manager or another project participant is to active take part in events such as seminars, conferences and workshops organized by NER in relation to the project's scope.

4.1.3 Communication Report

In connection with the final economic report of the project the project manager is to provide a communication report based on the format

- a. Challenges in the project
- b. How the challenges were meet
- c. The key findings in the project

4.1.4 Program web

NER will implement a subsite for the project/program as part of NER's website. The subsite may be public or password projected if the project falls under the rules of confidentiality in section 4.1. The content will be developed together with the program participants and new functions as e.g. social media will be considered. The project participants are obligated to update project information on a regular basis as requested by NEF.

4.1.5 Cost of communication activities

All communication activities are to be covered by the funding provided for the project. No additional funds can be applied for to undertake communication activities.

4.2. Use of project results

A goal for the project is that results lead to knowledge creation and diffusion with the ultimate goal to bring the technologies to the market. The individual project participants shall have a right of first refusal on patenting or in any other manner protecting the results of their contributions to the project, and on using the results.

Prior to the conclusion of the project, the project participants must notify NER in writing of their desire to assume rights or to use the results or parts thereof. This deadline may be extended in special cases.

4.3 Project results and ownership

Rights to project results may pertain to patentable inventions, methods, formulas, recipes or patterns, software and other systematised data, along with other similar elements that may be of financial value.

The way in which the formal ownership of the results is to be regulated is set out below. Those project participants not receiving grants from NER are also bound by these provisions.

Those parts of the project results which can be identified as individual rights shall belong to the party to the agreement that developed said part of the project result, unless otherwise agreed.

If two or more parties have collaborated on the development of a part of the project results that can be identified as an individual right, those participants shall co-own that part of the project results, unless otherwise agreed.

The participants shall be co-owners, with shares corresponding to each participant's share of the total work performed to achieve the part of the project result in question, unless otherwise agreed.

Research results shall be co-owned by the project participants, with co-ownership in equal parts, unless otherwise agreed.

4.4. Exclusive rights to results and patents

Project participants wishing to use the results of their contribution exclusively must enter into an agreement to such effect with NER.

In the absence of an agreement with NER, a holder of rights may not sell rights or grant licensing rights to any enterprises or institutions outside the Nordic region.

4.5 Conflicting activities

Prior to the start of the project, the individual project participants shall notify the other participants of any research activities, product development or other projects in which they are engaged or plan to be engaged that may come into conflict with the objectives of the cooperative project regulated by this agreement.

5.0 Economy

Decisions on project funding are made by NER's board of directors, and the amount is set in NOK. The grant has a ceiling in terms of both an amount and a set share of the approved project costs, cf. Annex 3 of the contract. Funding is distributed on an annual basis.

5.1 Budget

The project budget (Annex 3) shows the division of funds among the project participants per year, and disbursements will be made with reference thereto. Changes in the budget during the course of the project that exceed 10% of the total budget or 20% of a single item must be submitted to and approved by NER.

If the costs incurred by the project participants in the project or parts thereof turn out to be lower than the approved cost ceiling, the amount of the grant will be reduced to NER's percentage of the real costs, based on an audited and approved final accounting.

If the real costs exceed those budgeted, no increase in NER's funding of the project will be made.

5.2 Disbursement

The following applies to projects with a duration of more than one year:

After the contract has been signed, the project may request disbursement of 50% of the first year's grant. The remainder of the year's grant plus 50% of the next year's grant may be disbursed when the annual report has been received and approved. 50% of the final year's grant is withheld until the end date of the project. The requirement for disbursement is that all delivery requirements have been fulfilled and that final reports, including project accounts, have been approved.

The project contract must be signed by the project owner & project manager and NER's managing director before the first payment is made.

Funds are disbursed against invoice. Project participants must submit invoices to the project manager, who approves them and submits one collective invoice till NER in accordance with the rules for disbursement of grants set out in these general terms and conditions.

The project manager is obligated to disburse project funds to the participants as quickly as possible.

5.3 Cessation of obligation to disburse

As a supplement to and explication of the aforementioned conditions regarding the cessation of the obligation to disburse the grant or any remaining portion thereof, the obligation to all project participants shall cease in the event that

- A. project accounts have not been kept satisfactorily by one or more of the project participants,
- B. the project does not meet the agreed delivery requirements,
- C. work on the project does not follow the agreed structure, and the changes have not been approved in writing by NER,
- D. work on the project has been discontinued or given a lower priority by one or more of the project participants. The same applies to significant delays in the project.
- E. A final report with project accounts has not been supplied in accordance with the contract.

5.4 Repayment

NER may demand immediate repayment of funds disbursed to a project participant in the event that:

- A. the project participant in question has provided incorrect or insufficient information regarding circumstances of importance to NER's commitment or to the disbursement,
- B. the funds or portions thereof have been used to cover costs other than those agreed,
- C. the project participant has not fulfilled his/her part of the cooperation agreement between the participants,
- D. any other material breach of this contract occurs,
- E. a final report with project accounts has not been submitted in accordance with the Milestone Plan in the contract.

5.5 Project Accounts

Each project participant shall keep their own accounts of their actual costs. The accounts shall contain the project participant's total costs and the same items as the approved budget.

Costs incurred prior to the starting date for the project established in the contract may not be included in the cost documentation.

The project manager shall see to it that each individual project participant keeps project accounts in accordance with NER's guidelines. In addition, the project manager must keep an overall account for the entire project, based on the individual accounts, and keep an account of coordinating costs. Coordinating costs shall be entered as a separate item in the overall accounting.

When the project has been completed, the project manager shall be obligated to submit a final account approved by an auditor to NER. This is part of the project's administrative reporting requirement (see Item 3.2).

The project manager is directly responsible to NER for each individual project participant's disposition of NER's grant.

6.0 Cessation, disputes and inspection

If the cooperation between the project participants ceases before the project has been concluded (see Milestone Plan, Annex 4), the affected participants and project managers shall be obligated to notify NER immediately thereof, and to provide information in writing as to how the project may potentially proceed.

The same applies when a significant part of the cooperation comes to a halt contrary to the plans for the project. In such situations NER shall not be obligated to make any further disbursements to the project participants, and may demand repayment of funds already disbursed.

6.1 Disputes

Disputes in connection with this contract shall be resolved by arbitration in accordance with applicable Norwegian law, cf. the Arbitration Act of 14th March 2005.

If a dispute concerns issues relating to the cooperation agreement, including disputes between project participants, NER shall appoint three arbitrators who shall constitute the arbitration panel. The arbitration panel shall be competent to decide all issues concerning rights and the use thereof.

6.2 Checks and inspection

Project participants shall consent to the checks of the project that NER may decide upon from time to time, including those made to determine that funds are being used as agreed.

The project participants must produce relevant documentation at the request of NER. NER may also inspect the project books as necessary.

NER may, on its own initiative, carry out inspections of a project at times determined at NER's own discretion. The project participants undertake to make all the relevant documents and annexes included in the project available to those appointed as inspectors by NER.