**Research Agreement**

between

Institution Name

Street Address

Town, Country

Represented by (Person)

hereinafter referred to as “**Partner**”

and

Eidgenössische Technische Hochschule Zürich

Rämistrasse 101,8092 Zürich,

represented by Prof. Dr. Thomas Peter,

Institute for Atmospheric and Climate Science,

Universitätstrasse 16, 8092 Zurich

Switzerland

hereinafter referred to as “**ETH Zurich**”

ETH Zurich and Partner individually hereinafter referred to as a “Party”, together as “Parties”,

concerning the project Name

**Preamble**

ETH Zurich, in particular the Atmospheric Chemistry Group of the Institute for Atmospheric and Climate Science headed by Prof. Thomas Peter, has strong research interest in processes that control the distribution of atmospheric water vapor as well as the related radiative effects To investigate the role of cirrus clouds in this respect Dr. Wienhold has developed Compact Optical Backscatter AerosoL Detector (hereinafter “COBALD Sondes”), which complements sophisticated water vapor measurements on balloon borne radiosonde payloads by characterizing the abundance and character of particular matter from their optical backscatter.

Partner, description of partner, interests in and background of interest in collaborating with ETH Zurich ….

ETH Zurich is interested in the data generated by the COBALD Sondes and its analysis together with Partner.

The Parties wish to collaborate with each other in order to improve scientific understanding concerning …. Enhanced knowledge is gained in this research area from dedicated balloon campaigns employing … and COBALD Sondes allowing for …

Therefore, the Parties enter into the following Agreement.

**1. Subject of the Agreement**

1.1 The Parties will conduct the joint research project title in accordance with the goals, and timeframes as described in more detail in the project description in Annex A (hereinafter the “Project”).

1.2 The purpose of the collaboration is to perform scientific balloon soundings with the COBALD Sondes during time range and to analyse the resulting data in order to have a better scientific understanding of xxx (hereinafter “RESEARCH PURPOSE”).

**2. Project Organisation**

2.1 The Parties hereby designate the following persons as point of contact:

From ETH Zurich: Dr. Frank Gunther Wienhold as Project leader under the scientific direction of Prof. Thomas Peter, Institute for Atmospheric and Climate Science, Universtiätstrasse 16, 8092 Zurich, Switzerland; Tel.: +41 44 633 21 70, Email: frank.wienhold@env.ethz.ch

From Partner: point of contact

2.2. All correspondence relating to this Agreement must be addressed to the above listed points of contact, if not agreed otherwise by the Parties in writing. Legal questions and matters relating to intellectual property should also be addressed to: ETH transfer, Rämistrasse 101, CH-8092 Zurich, Tel +41 (0)44 632 23 82, Fax +41 (0)44 632 11 84, E-mail: transfer@sl.ethz.ch.

Changes will be notified to the other Party in writing, for which email notification is sufficient.

2.3 The Parties will coordinate the performance of the Project and will support each other to the best of their abilities. Project meetings will take place through remote communication and Partner will report to ETH Zurich on the progress of the Project following each COBALD launch. The Project will be carried out under the scientific direction and responsibility of Name from Partner.

**3. COBALD Sondes**

3.1 For the purpose of the performance of the scientific Project ETH Zurich will provide Partner at the date of delivery as further specified in Annex A with the following non-returnable research equipment: xx COBALD Sondes, in iMet configuration and lab-tested (phase adjustment, test of monitor and signal levels, sonde checkout in launch configuration for telemetry test including the iMet radiosonde).

3.2 Partner acknowledges that the engineering and construction of the COBALD Sondes is not subject to specific terms or standards (including limitations with respect to performance, constancy of results, documentation, service-ability, reliability or other requirements of Quality assurance, good manufacturing and/or laboratory practice).

3.3 Partner is already familiar with the COBALD Sondes and disposes of highly skilled and experienced staff and scientists in the operation, maintenance and application the COBALD Sondes. Therefore, the Parties agree that no additional instructions or know-how transfer regarding the handling and operation of the COBALD Sondes is needed. However, ETH Zurich will provide additional support if necessary.

3.4 ETH Zurich ensures that the CABALD Sondes will be ready to be launched upon their receipt. Any preparatory measures exceeding the usual preparatory calibration activity shall only be undertaken if agreed in writing between the Parties.

3.5 Whereas, ETH Zurich shall be responsible and bear the cost to comply with all applicable legal requirements necessary to manufacture and export the COBALD Sondes from Switzerland to Partner in country, Partner shall be responsible and bear the cost to comply with all applicable legal requirements necessary to obtain and import the COBALD Sondes into the place of destination which shall be address for delivery, contact person and phone number

**4 Remuneration**

4.1 Partner shall pay ETH Zurich a total amount of CHF xxx .--, which is a non-commercial value, for the COBALD-Sondes (produced unit cost of CHF 1’800.--) and the assistance rendered hereunder, plus shipping and insurance cost of CHF xxx.-- The payment of CHF xxx.-- is due at the delivery of the COBALD Sondes and will be transferred by Partner within 30 days upon receipt of the respective invoice to an account nominated by ETH Zurich.

4.2 Partner’s responsibility includes payment of cost, duties and taxes levied on account of importation into "destination". Any bank transfer charges in relation to the remuneration will be borne by Partner.

**5. IP Rights and Data**

**5.1 COBALD Sondes**

5.1.1 Partner acknowledges that the title to any form of intellectual property rights such as but not limited to intellectual property rights incorporated in, or relating to the COBALD Sondes, the development and construction thereof, including patents, software, specifications, know-how, technology, programs, documentation, modifications, amendments or extensions thereof and any other kind of intellectual property rights, whether or not registered, shall remain vested exclusively in ETH Zurich (hereinafter “ETH IPR”).

5.1.2 Partner shall not copy, register, sell, distribute acquire or claim any ownership rights in the COBALD Sondes and ETH IPR by reason of this Agreement. Partner shall not have the right to modify, alter, disassemble, decompose or otherwise reverse engineer the COBALD Sondes. Partner shall not at any time try to do, or permit others to do any acts that could impair, affect or dilute the COBALD Sondes and ETH IPR. Partner will notify ETH Zurich immediately in case Partner obtains knowledge of any such third party acts.

5.1.3 The COBALD Sondes shall only be used for the RESEARCH PURPOSE i.e. the performance of the Project. Any other use needs the prior written consent of ETH Zurich.

**5.2 Research Results**

5.2.1 All results generated in performance of the Project and all rights attached thereto are hereinafter referred to as “Project Results”. Project Results shall be owned in equal shares by the Parties as co-owners, irrespective of the contributions of the Parties.

5.2.2 Either Party shall have the non-exclusive, worldwide, perpetual right to use the jointly owned Project Results or any part thereof unrestrictedly for scientific research and educational purpose in any field. Either Party may develop, modify or create derivative works based on the Project Results or any part thereof including the right of sublicenses’ of the Parties to do anything of the foregoing. Any other use of the Project Results such as but not limited to the commercialization of the Project Results is subject to additional agreement by the Parties.

5.2.3 The rights of the Parties to intellectual property rights that have been generated previously, after or outside of the Project (hereinafter “Background IP”) shall not be affected by this Agreement.

**6 Confidential Information**

6.1. "**Confidential Information**" is to be understood as any information of a technical, scientific, financial, commercial, operational or other kind, which is labelled as confidential and exchanged in any form and to which access is given by the disclosing Party to the receiving Party. The receiving Party shall maintain secrecy with respect to Confidential Information of the disclosing Party. This obligation of confidentiality applies irrespective of whether access has been or is given to the Confidential Information in writing, orally, electronically, or in the form of samples, models, products or equipment. If Confidential Information is communicated in a non-written form, the other Party must be notified in writing within 10 days that this information is to be treated as confidential. The obligation of confidentiality ends five (5) years after the termination of this Agreement.

6.2 The receiving Party undertakes not to use the Confidential Information of the disclosing Party for purposes other than the Project envisaged by this Agreement.

6.3 The Parties undertake to impose the same obligation of confidentiality on persons who are not employed by them (e.g. students, assistants, consultants), but have access to the Confidential Information.

6.4 Confidentiality obligations shall not apply for such information for which the receiving Party can prove that such information:

* was already in the public domain before it was disclosed by the disclosing Party or it is afterwards made public through no fault of the receiving Party;
* was disclosed to the receiving Party by a third party with authority to do so;
* was already known to the receiving Party before being disclosed by the disclosing Party;
* is free to be disclosed according to Section 6;
* was developed by the receiving Party independently of the disclosing Party’s Confidential Information.
* is required by law or a regulatory body to be disclosed, in which circumstances the receiving Party shall wherever practicable give reasonable advance notice of the intended disclosure to the other Party.

**7. Publication**

7.1 It is contemplated that the Project Results will be jointly published or presented by the Parties. If however, the Party agree that Project Results shall be published by one Party solely, the Parties agree to the following procedure:

7.2 Prior to such disclosure, the Party shall submit a substantive draft to the other Party (ies) for review. The other Party (ies) shall then have one (1) month to notify the publishing Party of any objection concerning its Confidential Information and/or affected Intellectual Property Rights. If an objection is raised, discussion shall be held without delay to determine acceptable modifications to resolve the issue and allow dissemination within three (3) months. Failure to respond within the abovementioned one month period is considered as approval of the Publication by the other Parties.

7.3 In case of a planned presentation or other disclosure at scientific conferences, the Party planning to present shall submit to the other Party a written summary of the intended disclosure and the provisions above shall apply, whereby the time indicated under a) shall be reduced to one (1) month.

7.4 The contribution of the other co-owning Party of the Project Results shall be mentioned according to the academic standards.

**8. No warranties**

8.1 The Parties shall perform the Project to the best of their scientific knowledge exercising due care and taking into account the current state-of-the-art. They will endeavor to achieve the goals of the Project aimed for.

8.2 ETH makes no representation and no warranties of any kind whatsoever, neither express nor implied with regards to the COBALD Sondes and embedded ETH IPR. Partner acknowledges that the COBALD Sondes are experimental in nature and are delivered “AS IS”.

8.3 By its nature research involves the risk of unforeseen consequences. The Parties therefore do not guarantee that the intended goals and results of the Project will be reached. The Parties make no warranties, neither express nor implied, regarding the Project Results, including but not limited to warranties of originality, accuracy, non-infringement of third party rights, merchantability, completeness or fitness for a particular purpose. There is no duty to conduct searches with regard to registered intellectual property rights.

**9. Limitation of Liability**

9.1 Subject to Section 9.2 and with the exception for personal injury and death, the Parties assume no liability for any damages, including but not limited to any indirect or consequential loss or similar damage (e.g. loss of profit, loss of revenue or loss of contracts; other cost and expenses including cost due to unexpected deficiency of one or more COBALD Sondes) suffered in connection with this Agreement, provided such damage was not caused by a wilful intent or act of gross negligence.

9.2 The Parties use the COBALD Sondes and embedded ETH IPR as well as any Project Results at their own risk. Therefore, Partner shall, notwithstanding Section 9.1, to the fullest extent permitted by the applicable law, defend, indemnify and hold ETH Zurich harmless against third party claims (including but not limited to claims based on mandatory product liability law) which are based on the use of the COBALD Sondes and/or the Project Results by Partner.

9.3 The limitations of liability in Section 9.1 and 9.2 shall also be applicable to all auxiliary persons (including but not limited to consultants and students), agents and subcontractors involved by the Parties, and to any kind of (Confidential) Information exchanged as well as to Background IP and all other deliverables supplied under this Agreement.

**10. Term and right of termination**

10.1 This Agreement will enter into force once signed in full by the Parties, shall have effect
from Start Date and will automatically terminate upon completion of the Project, which is approximately on End Date. The provisions of Sections 5 -11 shall continue to apply after the termination of the Agreement.

10.2 Before the date of termination, each Party may prematurely terminate this Agreement only in the event of a fundamental contractual breach by the other Party. Before premature termination, the Party that wants to initiate premature termination shall give the other Party thirty (30) days to remedy the breach.

10.3 The Partner shall compensate ETH Zurich for all cost that were incurred until effective termination with respect to the COBALD Sondes. Salaries are not included under the terms of this agreement.

11. **General Provisions**

11.1 This Agreement governs the contractual relationship of the Parties in relation to the Project solely and exclusively. Any earlier agreements between the Parties governing the same subject matter are hereby terminated. Amendments and additions to this Agreement are only valid if made in writing and legally signed by all the Parties.

11.2 If individual provisions of this Agreement are invalid or the fulfilment thereof is impossible, the validity of the remaining parts of the Agreement will not be affected. The Parties undertake that in such cases they will, without delay, replace the invalid provision with a valid one whose content most closely replicates the original intention. The same shall apply in the event of any omission in the Agreement.

11.3 The Parties agree that general information concerning the nature of the Project such as the field of the research and the identity of the Parties can be made public.

11.4 The Parties do not, through this contractual relationship, acquire any rights from the other Party apart from those which are explicitly conferred by this Agreement. Nothing in this Agreement shall imply any partnership, agency or joint venture relationship between the Parties.

11.5 No Party shall be entitled to commit another Party to any obligation in connection with this Agreement, without the prior written consent of the other Party.

 Rights and obligations arising from this Agreement may not be transferred to third parties without the written permission of the other Party. Such permission may not be unreasonably withheld. In the event of a transfer of ownership of Project Results by one Party to a third party, the transferring Party shall inform the other Party accordingly and shall ensure that the rights of the other Party, especially the licenses granted to it under this Agreement, will not be affected by such transfer.

11.6 The Parties will provide each other promptly, to the extent possible, with any mutual assistance required to enable the Parties to exercise the rights which are conferred on them by this Agreement. In particular they will provide the signatures required to obtain rights in intellectual property.

11.7 This Agreement shall be construed and governed by the laws of Switzerland, without reference to its conflict of laws principles, and shall not be governed by the United Nations convention of International Contracts on the Sale of Goods (the Vienna Convention). The sole place of jurisdiction is Zurich.

11.8 The Appendix forms an integral part of this Agreement. In the case of deviations between the Appendix and the Agreement, the Agreement shall prevail.

Signed by the duly authorized representatives of the Parties:

Partner Location, Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Name of Company**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name, Function Name, Function

Zurich, Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ETH Zurich**

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Prof. Dr. Thomas Peter Dr. Frank Gunther Wienhold

APPENDIX A **PROJECT DESCRIPTION**

Project description providing motivation, purpose, goals, and timeframes

Contributions of the Parties

|  |  |  |
| --- | --- | --- |
| Description  | Responsibility  | Dates |
| Prepare customs clearance for the shipment of xx COBALD Sondes | Partner  | \* date \* |
| Shipment of xx COBALD Sondes | ETH Zurich  | \* date \* |
| Providing ETH Zurich with the specific date of the sounding(s)  | Partner | 14 days before the launch takes place  |
| Launch of the COBALD Sondes | Partner | According to the Partner project plan  |
| Providing ETH Zurich with the sounding data | Partner | Upon availability, typically a few days after the launch  |
| Post-processing of the sounding data. | ETH Zurich | Within two weeks after access to the sounding data  |
| Analysis and interpretation of the Project Results  | ETH Zurich & Partner jointly | During the course of the project |
| Joint publication and presentation of the Project Results gained to the scientific community  | ETH Zurich & Partner jointly  | During and after the performance of the Project  |