

CONSORTIUM AGREEMENT (Partners can insert logos)

BETWEEN

**1. LIST OF ALL INSTITUTIONS COLLABORATING TO IMPLEMENT THE PROJECT
INCLUDING THE POSTAL ADDRESS CITY AND COUNTRY**

FOR

**THE IMPLEMENTATION OF THE REGIONAL SCHOLARSHIP AND INNOVATION FUND
SUPPORTED PROJECT**

TITLED,

PROJECT TITLE

CONSORTIUM AGREEMENT

This **Consortium Agreement** (hereafter the “Agreement”) is entered into as of (Day/ Month/ Year (the “Effective Date”)

BETWEEN

The (Name of African Host University”) having a place of business at **(insert location and address of AHU)**, (hereafter the Host Institution”)

AND

INSERT ALL COLLABORATING INSTITUTIONS

- 1.
- 2.
- 3.

Hereinafter individually referred to as a “Party” and collectively as “Parties”.

WHEREAS:

- A. Organization xxxx is a (provide a brief description of each partner and their key role in the project)
- B. The Parties have in common the desire to encourage and facilitate the discovery, dissemination and application of new knowledge as part of the Project entitled “PROJECT TITLE”;
- C. The project has been selected for funding under the PASET Regional Scholarship and Innovation Fund (RSIF) under Grant Agreement No (RSIF/ xxx/xxx) (the Project Grant Agreement) signed between the Host Institution and the International Centre of Insect Physiology and Ecology (*icipe*), the appointed Regional Coordination Unit (RCU) of the PASET RSIF program.

NOW THEREFORE, all Parties agree to act reasonably and in good faith to ensure success of the Project and to meet the requirements of this Agreement as set out under the following terms and conditions

ARTICLE 1: INTERPRETATION

In this Agreement the following words and phrases shall have the following meanings:

“Background Intellectual Property” means intellectual Property owned or controlled by either of the parties prior to the Commencement Date;

“Commencement Date” means the date of the last signature appended on the Project Grant Agreement.

“Confidential Information”	means (i) all information designated as such in (ii) information which relates to the business, affairs, developments and personnel of a Party that was exchanged between Parties in connection with the preparation and performance of this Agreement and (iii) information which may reasonably be regarded as Confidential Information of the Disclosing Party;
“Contributions”	means the non-financial contributions of the Parties including without limitations those set out in the Project Proposal.
“Completion Date”	means the completion date indicated in the Project Grant Agreement
“Force Majeure”	means any circumstances beyond the reasonable control of the affected Party, including but not limited to acute sickness, accidents, weather, riots, strikes, epidemics, acts of God, law, order, ruling, regulation or any other legitimate conditions.
“Foreground Intellectual Property”	means all Intellectual Property generated by any Party in performance of the Project that is not Background Intellectual Property.
“Intellectual Property (IP)”	means any intellectual property of any description including but not limited to all inventions, works of authorship, concepts, designs, developments, documentation, drawings, hardware, improvements, information, specifications, formulae, discoveries, know-how, data, processes, methods, research, software, techniques, technology, tools, and the like, and the intellectual property rights therein, including but not limited to, patents and patent applications copyrights, database rights, design rights (registered and unregistered), trademarks, tradenames, and service marks, applications for any of the above
“Key Background IP”	means the background IP identified and shared by the Parties as essential for implementation of the Agreement.
“Management Committee”	means the committee established by the collaborators for the management of the Project.
“Partner”	means any organization providing cash and/or in-kind resources to the Project
“Project Leader”	means the Lead Applicant of the Project from the Host Institution as identified in the Project Proposal (annex 1)

- “Project” means the activities to be undertaken by the parties in accordance with the Project Proposal, the Project Grant Agreement and the provisions of this agreement as amended from time to time.
- “Third Party Collaborations” means any agreement including an MTA between collaborators and third parties or any consultancy agreement.
- “Work Plan” means the work to be performed, the services to be provided and the activities to be carried out by the Parties pursuant to the Project Grant Agreement.

ARTICLE 2: SCOPE OF THE PROJECT

In conforming to the terms and conditions described in this Agreement and the annexes, which form an integral part thereof, it is agreed THAT:

- 2.1 The scope of work of the Project is as set out under Annex 1-the Project Proposal, attached hereto and by reference incorporated herein, as part of the project implementation and as an integral part of this Agreement.
- 2.2 The performance period of this Agreement shall extend from the commencement date to the completion date as set out under Article 1 and the Project Grant Agreement unless amended by a written agreement of the Parties herein.

ARTICLE 3: KEY PERSONNEL

- 3.1 The Project Leader shall be responsible to *icipe* for the proper management and conduct of the activities and deliverables as well as budget as outlined in the Project Grant Agreement and its Annexes
- 3.2 The implementation of the Project Proposal and workplan under this Agreement shall be under the general technical input of all the collaborating parties as identified below (list names, contacts of representative from each collaborating organization).

ARTICLE 4: PROJECT MANAGEMENT

- 4.1 The Parties shall implement the Project as approved by *icipe* in the Project Proposal, the Project Grant Agreement and the provisions of this Agreement.
- 4.2 The roles of the Parties in implementation of the Project are as defined in the Project Proposal (Annex 1) and as further agreed in this Agreement. Parties undertake to each other to perform their responsibilities and to cooperate in good faith with one another to ensure the proper performance of the project and to comply with the provisions of this Agreement.
- 4.3 The Project Leader shall be the official contact person for all matters relating to the Project. However, the Project Leader has no authority to make any binding commitments without consulting with the other Parties. The Project leader shall be responsible for the overall management of the Project and for ensuring that the Project is administered in accordance

with the conditions set out under the Project Grant Agreement and the provisions of this Agreement. Particularly the Project Leader will;

- a. Receive and transmit all information between the parties;
- b. Prepare and submit required reporting to *icipe*;
- c. Coordinate the exchange of Background Intellectual Property and the disclosure of Joint Foreground Intellectual Property;
- d. Coordinate and schedule periodic discussions of the results, problems and status of each Party's performance under the Project proposal and the provisions of this Agreement;
- e. Schedule and coordinate the exchange of reports and visits by personnel of each Party to facilities of the other Parties, if desired, and other meetings and periodic reviews as appropriate; and
- f. Coordinate any decision that must be made jointly, such as choice of materials, publication and patent pursuit;

4.4 Each party agrees to;

- a. provide all of its participants with space and basic support necessary for their participation in the Project;
- b. cooperate with the other Parties as needed to facilitate the submission of progress reports for the Project; and
- c. provide timely notice of and information about Intellectual Property relating to or arising from the performance of the Project to the Project Leader and the Host Institution.

4.5 Each Party collaborating under this Agreement undertakes to provide accurate information and/ or materials under this Agreement. Parties undertake to correct any information that has been notified to them to be not correct and or misleading.

4.6 Each Party will keep the Project Leader and other parties informed of its activities in the project and shall particularly notify the Project Leader.

- i. any anticipated delays or obstacles to the proper and timely performance of the project;
- ii. any event that may allow *icipe* to discontinue funding of the Project as per terms of the Project Grant Agreement;
- iii. any relevant communication received from third parties regarding the project;
- iv. any proposed third-party collaborations that may affect Foreground IP resulting from the project;

4.7 Where desirable, a management committee shall be established to manage the Project and the scope of work agreed by all Parties.

ARTICLE 5: INDIVIDUAL PROJECT TEAM MEMBERS

5.1 This Agreement shall not be deemed to relieve an individual Project team member from complying with policies and procedures established by the Party employing such a member provided that the terms of this Agreement will control if the policies and procedures established by the Party employing a member conflict with the terms of this Agreement.

5.2 Should a Party utilize the services of another organization in conducting certain components of the Project, the Party shall ensure that the terms under which the services are rendered shall not contradict the terms of this Agreement.

5.3 If an individual Project team member of the Party leaves the Project, the Party shall nominate a qualified and competent replacement. The replacement shall be approved by *icipe* and other Parties performing the Project.

ARTICLE 6: FINANCIAL OBLIGATIONS

6.1 Each Party shall, as part of its cash/in-kind contributions to the project (where applicable) commit a non-refundable cash and/or in-kind contributions to the direct cost of the Project as outlined below;

Name of Partner	Type of contribution (Cash/in-kind)	Year 1 (Value \$)	Year 2 (Value \$)	Year 3 (Value \$)	Total (Value \$)

6.2 In the event funds are provided to any Party by the Host Institution for the implementation of specific activities as outlined in the project proposal and budget, the receiving party commits to provide a timely financial report and support documentation in line with the requirements outlined in the Project Grant Agreement. The Project Leader will communicate the deadlines and outline specific requirements to the party at the point of authorizing the transfer of funds.

ARTICLE 7: CONFIDENTIALITY

7.1 Notwithstanding the rights authorized in Article 8, a Party (“Receiving Party”) shall not disclose to any other person or use for any purpose except as provided by this Agreement, any Confidential Information belonging to the other Party (“Disclosing Party”), unless expressly agreed between the Parties. The obligation to safeguard Confidential Information shall continue for a period of five (5) years from the date of termination or expiration of this Agreement and shall not apply to information which;

7.1.1 the Receiving Party can demonstrate is, at the time of disclosure, already known to the Receiving Party other than from the Disclosing Party and the Receiving Party so informs the Disclosing Party of the same in writing;

7.1.2 is or becomes part of the public domain through no fault of the Receiving Party;

7.1.3 is lawfully obtained from a third Party;

7.1.4 is required by law to be disclosed;

7.1.5 is independently developed by one Party without reference to Confidential Information provided by another Party.

7.1.6 is approved for release from the provisions of this Agreement by prior written authorisation from the Disclosing Party; or

7.1.7 is specifically ordered to be disclosed pursuant to an order of a court of competent jurisdiction.

ARTICLE 8: PUBLICATIONS

- 8.1 All publications directly arising from implementation of the project shall duly acknowledge each Party's contributions and give appropriate recognition for authorship as well as the support and sponsorship from RSIF. Prior to any submission for publication, the authors shall confer to approve of the submission in writing
- 8.2 Arrangements for authorship shall be jointly agreed to by the Parties.
- 8.3 The Parties shall be entitled to jointly publish, present or use any material relating to or arising from the Project provided always that each Party agrees to the content and mode of presentation of such publication. Each Party may use the published material for its own instructional, research or publication objectives.
- 8.4 Any proposed publication or presentation relating to the Project shall be submitted to the Parties for review and comment in a reasonable time of at least 30 days prior to submission for publication or presentation.
- 8.5 Notwithstanding anything contained in Clause 8.4 above, a Party shall not publish, present or use any material relating to or arising from the Project against the written objection of any other Party.
- 8.6 In the event that a proposed publication or presentation contains proprietary information, which needs protection, the Party proposing such publication shall, upon receipt of a written request of the other Party having identified such proprietary information within the review period, delay the publication or presentation to allow filing for relevant intellectual property protection.

ARTICLE 9: INTELLECTUAL PROPERTY.

- 9.1 Wherever possible, the results of the Project shall be made available as public goods. However, where parties deem it is necessary to promote a commercial exploitation of the results of the project, Parties shall pursue adequate measures to obtain IP Rights in accordance with their institutional IP policies.
- 9.2 No Party accepts responsibility for any use which may be made of any work carried out under or pursuant to this Agreement or of the Joint Foreground IP, nor for any reliance which may be placed on such work or Joint Foreground IP, nor for advice or Confidential Information given in connection with them.
- 9.3 Each Party shall require all of its scientists, employees or students conducting research under the Project to assign their rights in any IP conceived during the Project to the Party. Nothing in this clause shall be interpreted to require MSc and or PhD students to assign copyright in their thesis.

- 9.4 No Party makes any representation or warranty that advice or information given by a Party or any of the Parties' respective employees, students, agents or appointees or the content or use of any materials, works or information provided herein (including but not limited to Background Intellectual Property) will not constitute or result in infringement of third-party rights

ARTICLE 10: BACKGROUND INTELLECTUAL PROPERTY

- 10.1 Notwithstanding anything in this Agreement, each Party shall own its respective IP that it has exclusively developed outside the framework of the Project.
- 10.2 Any Party with information about pre-existing IP or contractual arrangement pertaining to a technology, which can potentially limit the performance of the project or the use, implementation or exploitation of the results of the project shall inform the other Parties.
- 10.3 Each Party shall on request grant the other Party a non-exclusive license on fair and reasonable terms to use any Background IP that is required for the exploitation of the Foreground IP.

ARTICLE 11: FOREGROUND INTELLECTUAL PROPERTY

- 11.1 Intellectual Property created independently by one Party under this Agreement shall be owned by that Party and shall be under the exclusive administration and control of that Party.
- 11.2 Intellectual Property created by more than one Party shall be jointly owned by said Parties. Said Parties shall not commercialize the Joint Foreground Intellectual Property without the written consent of all Parties involved in its creation, which shall not be unreasonably withheld.
- 11.3 For greater certainty, if the Parties create Joint Foreground Intellectual Property, the Party wishing to commercialize such Intellectual Property will need to agree on a sharing of commercial terms with the other Parties that participated in its creation.
- 11.4 All Joint Foreground Intellectual Property created or developed by researchers from the Parties shall be jointly administered and controlled and shall in good faith, be governed by the following:
- i. the responsibility for preparing, filing, and prosecuting any patent applications or other protection for the Intellectual Property will be jointly decided;
 - ii. the Parties will work co-operatively to commercially exploit the Joint Foreground Intellectual Property;
 - iii. in the event that a Party does not intend to protect its Foreground IP, it may first offer to transfer it to another Party or any third party and;
 - iv. after deducting patenting and other protection costs to which the Party incurring them may lay claim, remaining revenue will be shared as mutually agreed by the Parties
- 11.5 The Parties acknowledge that notwithstanding the provisions of Article 7 and 8, all Parties, and if applicable, the Project Leader and Parties to this Agreement shall retain the right to use all Foreground Intellectual Property and Joint Foreground Intellectual Property for academic purposes, including teaching and research and non-commercial purposes.

ARTICLE 12: LICENCES

- 12.1 In the event that IP developed during the Project becomes subject to a licensing arrangement; the Parties shall designate one Party (*the 'Designated Member'*) who shall take the lead in negotiating the license. The designated Party may negotiate the license using his/her in-house capacity or may engage the services of a negotiator, provided that the Party shall keep the other Parties informed of all decisions.
- 12.2 During the term of this Agreement, Parties may on request, grant use of its Foreground IP to the other Parties on fair and reasonable terms. The financial terms of exploiting rights of any Joint Foreground IP will be fair and reasonable in the circumstances and will be negotiated considering the financial and intellectual contributions of the Parties towards the IP.
- 12.3 Any royalty payments made by a licensee pursuant to the license agreement shall be shared among the Parties equitably considering the contribution by each Party, unless otherwise agreed by the Parties.
- 12.4 The Partners shall not disclose to any third party any part of Foreground IP financed in whole or in part by RSIF without previously obtaining written permission from either Party
- 12.5 Each Party shall be solely responsible for calculating and distributing to its respective innovator(s) any consideration due to the innovator(s) according to its institutional IP policy.

ARTICLE 13: EXCHANGE OF GENETIC MATERIALS

- 13.1 The Parties shall, whenever exchanging biological material, conclude a Material Transfer Agreement (MTA) setting out the terms and conditions upon which the biological material, from either country, described in the project document will be transferred, held, or applied by the recipient party. The MTA should be signed by the Parties' authorized signatories at the collaborating institutions. A model MTA is attached to this Agreement.

ARTICLE 14: RELATIONSHIP BETWEEN PARTIES

- 14.1 The relationship of the Parties under this Agreement is that of independent contractors (not legal partners), and no Party has the authority to bind the other Parties in contract or to incur any debts or obligations on behalf of the other Parties.
- 14.2 The employees or agents of each Party shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of any other Party.
- 14.3 Each Party shall be solely responsible for the payment of all claims for loss, personal injury, death, property damage or otherwise, suffered by them whether arising out of any act or omission of their employees or agents during implementation of the Project.

ARTICLE 15: RELEVANT LAW AND DISPUTE RESOLUTION

- 15.1 This Agreement shall be construed and interpreted under the laws and regulations that apply where the activities take place. Each of the Parties shall also comply with the laws, regulations and policies applicable to their respective institutions.
- 15.2 General disputes between Parties shall be resolved amicably by the Parties. If the Parties fail to resolve a dispute, they shall appoint a single arbitrator to resolve the dispute. The decision of the arbitrator shall be final and binding on all the Parties.

ARTICLE 16: TERM AND TERMINATION

- 16.1 The term of this Agreement shall be for the duration of the Project. However, to the extent that any IP Rights or licenses are procured as provided under this Agreement, the Agreement shall remain in effect until the expiration of such rights or such license.
- 16.2 The Parties may terminate this Agreement by giving the other members three months' notice.
- 16.3 Each of the parties may terminate this agreement with immediate effect if the other party is involved in a serious violation of human rights.
- 16.4 In the event of termination of the Project by *icipe*, the remaining Parties shall continue to be Parties to this Agreement and shall negotiate any amendments to this Agreement, necessitated by such termination in good faith.

ARTICLE 17: MISCELLANEOUS PROVISIONS

- 17.1 The Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties. No Party may assign any of its rights or obligations arising under this Agreement without the express prior written consent of the other Parties, which consent shall not be unreasonably withheld.
- 17.2 A failure by any Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the said Party and distributed to the other Parties.
- 17.3 If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement, which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.
- 17.4 This Agreement contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto. This provision does not affect the validity of the Party's Project Agreement with *icipe* or any related agreements, exhibits, and appendices entered between the Parties and *icipe*/PASET RSIF initiative.

17.5 All notices required to be given under this Agreement shall be given and addressed to the executing offices of the Parties by confirmed delivery of email or post.

AGREED TO, UNDERSTOOD AND ACCEPTED BY:

{Name of Institution}

Authorized Officer: _____

Title: _____

Sign: _____

Date: _____

{Name of Institution}

Authorized Officer: _____

Title: _____

Sign: _____

Date: _____

{Name of Institution}

Authorized Officer: _____

Title: _____

Sign: _____

Date: _____

{Name of Institution}

Authorized Officer: _____

Title: _____

Sign: _____

Date: _____

Enclosures:

Appendix 1- Project Proposal (Insert the approved project proposal)