



CLIMATE-KIC HOLDING B.V.

PARTNERSHIP AGREEMENT

## Parties

**CLIMATE-KIC HOLDING B.V.** a company (number 63299658) duly incorporated under the Laws of the Netherlands, with registered office located at **Padualaan 8, 3584CH, Utrecht, Netherlands.**

(1) (“**CK Holding**”)

(2) “**PARTNER**”

Name	
Legal status	
Address of registered office	

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

## Background

- A. CK Holding’s mission is to contribute to innovation in climate change mitigation and adaptation.
- B. The Partner has demonstrated achievements in the field of climate change mitigation and adaptation and fills an expertise/innovation gap in a strategic area of the wider partnership of CK Holding known as “**Climate-KIC**”.
- C. CK Holding, together with its partners, form the partnership Climate-KIC made up of organisations from a wide range of sectors, geographies and structures who wish to work together to focus on innovation in climate change mitigation and adaptation.
- D. CK Holding supports its partners through funding, driving strategy and providing the ecosystem for partners to engage with Climate-KIC to build a partnership that is recognised internationally in the field of climate change innovation and to collaborate to identify, develop and bring to market climate change adaptation and mitigation technologies.
- E. CK Holding is the wholly owned subsidiary of Association Climate-KIC, an Association incorporated under the Laws of Netherlands under number 52000117 with its registered office at Heidelberglaan 2, 3584 CS Utrecht which was set up in 2009 in response to a call by the European Institute of Innovation and Technology (EIT), a body of the European Union which since 2014 operates under the H2020 research and innovation programme to contribute to sustainable economic growth and competitiveness by reinforcing the innovation capacity of the European Union and its Member States and to boost their capacity to convert outputs from research into high value products and services in the field of climate change adaptation and mitigation.



## IT IS AGREED AS FOLLOWS:

### 1. Purpose

The purpose of this Agreement is to set out the rights and obligations of the Partner and CK Holding in its partnership with Climate-KIC (the “**Partnership**”).

### 2. Duration of Partnership

- 2.1. The Partner shall remain bound by the terms of this Agreement from **dd/mm/yy (Head office to complete)** until the date it withdraws or is excluded in accordance with the terms of this Agreement.
- 2.2. The Partner may not assign or transfer any of its rights or obligations under this Agreement to any other party. In the case of a merger or demerger, assignment or transfer of this Agreement may be allowed with written approval by CK Holding.

### 3. Climate-KIC and the Locations

- 3.1. Climate-KIC is managed through centres of CK Holding (“**Locations**”) (further information on Locations can be found on CK Holding’s website).
- 3.2. Locations are responsible for:
  - (i) creating and managing new collaborative opportunities with partners for climate innovation within Climate-KIC’s challenge platforms;
  - (ii) providing a platform to bring together expertise and resources of partners to generate, incubate and accelerate climate innovation and to educate their innovators and entrepreneur;
  - (iii) providing administrative services on behalf of the partners falling within their location to include financial and legal support and coordination; coordination and management of partner and pipeline information; coordination and leadership of planning and reporting activity; targeted communication and marketing of Climate-KIC activities; and organisation of local governance and coordination and management of local events; and
  - (iv) reporting and planning activities for CK Holding.
- 3.3. The Partner will be allocated to a Location and this will be its first point of contact for all matters relating to Climate-KIC.
- 3.4. The Partner shall take appropriate measures to engage with its Location and, where appropriate, with the wider research, business and governmental communities and the public as appropriate about its activities with Climate-KIC; to foster dialogue and debate and engage with activities on the issue of climate change mitigation and adaptation; and to highlight the support of CK Holding.

## 4. Rights and Obligations of Partners

### 4.1. General Obligations

The Parties to this Agreement undertake to participate in Climate-KIC to further its mission and to cooperate, perform and fulfil on time all of their obligations under this Agreement as may be reasonably required from them and in a manner of good faith as prescribed by applicable law.

### 4.2. Sharing of Information

Each Party shall provide all information reasonably required by Climate-KIC that is necessary to carry out its tasks and shall take reasonable measures to ensure the accuracy of any information and materials it supplies to Climate-KIC.

### 4.3. Rights of Partner

The Partner has the right to be involved with Climate-KIC's projects and activities ("**Partnership Activities**") and contribute its expertise to focus areas identified in CK Holding's multi-year strategy to develop the Partnership Activities.

In addition, the Partner has the right to:

- (i) receive funding for Partnership Activities;
- (ii) receive information from Climate-KIC; and
- (iii) use CK Holding's Logo (as defined in clause 8) in accordance with the terms of this Agreement.

## 5. Partnership Activities

5.1. CK Holding provides funding to the Partner and other partners and, where applicable, in-kind contributions to activities that directly contribute to innovation in climate change mitigation and adaptation. All or part of this funding will be provided by third parties and CK Holding acts as agent for those third parties funding Partnership Activities.

5.2. The Partner shall commit itself to the cooperation with other partners and CK Holding in certain Partnership Activities, subject to the following terms:

- (i) The Partner is free to decide in consultation with CK Holding in which Partnership Activities it wishes to participate and where required, is entitled to apply for funding for those Partnership Activities.
- (ii) For each Partnership Activity, the Partner and CK Holding shall agree on the terms of this Partnership Activity in writing and shall inter alia include:
  - a. a description of the activities to be carried out by the Partner;
  - b. the identity of the Partner and if any, third parties involved in this Partnership Activity;
  - c. the timeframe within which this Partnership Activity will be carried out;
  - d. any intellectual property rights or economic benefit sharing requirements applicable to the Partnership Activity;
  - e. the contributions, in kind and in cash, to be made by the Partner and CK Holding to this Partnership Activity; and
  - f. the identity of the source of third party funding and any applicable terms and conditions.

- (iii) The Partner has no obligation to receive funding from CK Holding but if it does, the Partner shall accept the conditions of funding imposed by any third party providing all or any part of the funding for those Partnership Activities and these terms are available for inspection on CK Holding's SharePoint site or other document sharing location to be communicated to the Partner from time to time.

## 6. Partnership Service Fees

6.1. In return for the partnership fee payable by the Partner to CK Holding under clause 6.2, the Partner shall have access to the following benefits and services:

- (i) access to a network of unique partners which have activities in climate action;
- (ii) strategy delivery - a professional organisation that implements strategy efficiently and effectively;
- (iii) honest broker fundraising - delivering on the honest broker proposition to identify, approach, propose and close fundraising for climate change innovation from funding sources;
- (iv) funder relationship management - funders have needs and procedures to follow and Climate-KIC manages these on behalf of the partners to provide operational and financial information to funders and to simplify the interface between the funder and the partners;
- (v) grant management - organising offers, selection and ongoing management of projects and programmes to deliver climate innovation;
- (vi) communications - promotion of the Partnership's external image and delivery of networking opportunities; and
- (vii) financial control and funder cost and performance reporting - management of consolidation processes and statements to funders, including implementing and managing reporting systems, quality control, auditor management and coordinating funder reporting review processes.

6.2 The Partnership service fee (the "**Partnership Fee**") of €12,500 per annum shall be due and payable by the Partner to CK Holding with the following discounts being applied where relevant:

1. €5,000 per annum for small and medium sized SMEs<sup>1</sup>; and
2. €500 per annum fee for micro SMEs<sup>2</sup>.

The Partnership Fee will be due and payable in advance on 1 January of each year (or, if the Partner joins later in the year, on the 1<sup>st</sup> day of the calendar month immediately following the effective date of such accession). The Partnership Fee will be pro-rated according to the number of full months in a year of Partnership. The Partnership Fee will be invoiced by and payable to CK Holding.

The Partnership Fee may only be waived in respect of the Partner if it is proposed by CK Holding's CEO and approved by Association Climate-KIC's Chairperson.

6.3 CK Holding shall review the Partnership Fees once a year and this may be subject to change in January (or such other date as determined by CK Holding).

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<sup>1</sup> See [http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm) for definition.

<sup>2</sup> See [http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index\\_en.htm](http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/index_en.htm) for definition.

- 6.4 Partnership Fees are payable on the date and at the frequency set out in the partnership structure in clause 6.2 above.
- 6.5 All amounts expressed in this Agreement are exclusive of any value added tax or any other locally applicable equivalent transaction taxes (including sales tax, excise tax, goods and services tax, consumption tax, business tax or similar taxes), all of which is payable by the Partner at the rate and in the manner from time to time prescribed by law. In the event of withholding, the Partner is required to gross up the amounts charged by CK Holding such that the CK Holding receives an amount equal to that initially due before withholding.

## 7. Confidential Information

- 7.1. Each Party undertakes that it shall not at any time during this Agreement and for a period of five (5) years after termination disclose to any person any information disclosed to it by the other Party concerning CK Holding and the Partnership Activities and which has been explicitly marked as “confidential” or of which the confidential nature is clear, is “**Confidential Information**”, except as permitted by clause 7.2.
- 7.2. Each Party may disclose the other Party’s Confidential Information:
- (i) to, its employees, officers, agents, consultants or subcontractors and those of its Affiliates<sup>3</sup> (“**Representatives**”) and any other partner of CK Holding who needs to know such information for the purposes of carrying out the Party’s obligations under this Agreement, provided that the disclosing Party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this clause 7 as though they were a Party to this Agreement. The disclosing Party shall be responsible for its Representatives’ compliance with the confidentiality obligations set out in this clause 7; and
  - (ii) as may be required by law, court order or any governmental or regulatory authority.
- 7.3. Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party’s Confidential Information other than those expressly stated in this Agreement are granted to the other Party or to be implied from this Agreement.
- 7.4. Notwithstanding the foregoing provisions, the obligation set out in clause 7.1 shall not apply to:
- (i) information, which at the time of disclosure, was published, known publicly, or otherwise in the public domain;
  - (ii) information which, after disclosure, is published, becomes known publicly, or otherwise becomes part of the public domain through no fault of the receiving Party;
  - (iii) information which, after disclosure, is made available to the receiving Party in good faith by a third party who is under no obligation of confidentiality or secrecy to the disclosing Party; or

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<sup>3</sup> In this Agreement, “Affiliate” means any legal entity that is under the direct or indirect control of a Party, or under the same direct or indirect control of a Party, or that is directly or indirectly controlling a Party. “Control” may take either of the following forms: (a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity; (b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

(iv) information developed by the receiving Party independently.

- 7.5. In respect of any information or materials supplied by one Party to the other under this Agreement, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose of such information or materials, nor as to the absence of any infringement of any proprietary rights of third parties.

## 8. CK Holding's Logo

- 8.1. The logo appearing on the cover page of this Agreement (or such other logo as CK Holding adopts as its principal logo) (the "**CK Holding Logo**") may only be used by the Partner in connection with Partnership Activities and to identify itself as a Partner, subject to the conditions in clause 8.2.
- 8.2. The Partner shall always:
- (i) use the CK Holding Logo in accordance with instructions and guidelines of CK Holding notified to the Partner from time to time;
  - (ii) include a suitable acknowledgement of the support of CK Holding in the form specified by CK Holding from time to time; and
  - (iii) inform CK Holding if it uses the CK Holding Logo in connection with any external publicity or promotion for CK Holding and projects and activities of Climate-KIC.
- 8.3. The Partner shall do nothing which may either lessen the distinctiveness of the CK Holding Logo or which may bring it or CK Holding into disrepute.
- 8.4. CK Holding may use the Partner's name solely for the purposes of describing the projects and activities of Climate-KIC or identifying the Partner. Any other use will require prior written permission of the Partner acting in its sole discretion.

## 9. Withdrawal/Termination

### *Withdrawal*

- 9.1. The Partner may withdraw from Climate-KIC at any time by giving at least four weeks' notice through registered mail to the CEO of CK Holding of its withdrawal. During this period, the rights and obligations of the Partner shall remain in full force and effect.

### *Default*

- 9.2. A Partner that does not comply with any provisions of this Agreement or does not fulfil the conditions of Partnership is referred to as a "default" for the purposes of this clause 9.
- 9.3. In the event of a default which is irremediable or is not remedied within one month of the date of receipt of a written notice requiring the default to be remedied from CK Holding, CK Holding may decide to terminate the Partnership of the defaulting Partner.
- 9.4. Upon a decision to terminate the Partnership in accordance with clause 9.3, CK Holding shall send a notice of decision of termination stating the reasons of termination which shall take effect after expiry of a period of thirty (30) days.

### *Immediate Exclusion*



- 9.5. CK Holding may, at its discretion, terminate the Partnership of the Partner on notice with immediate effect if:
- (i) during a full calendar year, funding received via CK Holding is nil, co-funding to CK Holding-funded projects is nil; and spend on innovation for climate change adaptation is nil; or
  - (ii) the Partner prejudices Climate-KIC in an unreasonable manner; or
  - (iii) the Partner is granted a moratorium of payments or has been declared insolvent; or bankrupt or if similar measures have been taken under foreign law.

#### *Effects of Termination*

- 9.6. In case of withdrawal, exclusion termination of the Partner in accordance with clause 9, the Partner shall remain liable for its Partnership Fee, as far as applicable, in relation to the current financial year. Such withdrawal or termination shall not affect the commitments entered into or liabilities incurred by either Party towards the other Party prior to such withdrawal or termination.

## 10. Liability

- 10.1. The Partner's liability to CK Holding under, arising from or in connection with this Agreement is limited in each calendar year to its own acts and omissions and to the amount of funding received by the Partner from CK Holding during that calendar year, or – in case no funding has been received – to a compensation not exceeding fifty thousand euros (€ 50,000).
- 10.2. Subject to clauses 10.3 and 10.4, CK Holding's liability to the Partner under, arising from or in connection with this Agreement is limited in each calendar year to the amount of the funding from CK Holding due to the Partner in respect of that calendar year, or – in case no funding has to be paid to the Partner – to a compensation not exceeding fifty thousand euros (€ 50,000).
- 10.3. The Partner shall only be liable for liabilities, costs, expenses, damages or losses suffered or incurred by CK Holding to the extent that they are caused by the Partner.
- 10.4. No limitation of liability shall apply in the case of:
- (i) damage caused by a wilful act, gross negligence, fraud or other criminal offence;
  - (ii) liability for infringement of intellectual property, or breach of confidentiality, injury to persons or damage to physical property; or
  - (iii) liability which cannot lawfully be limited or excluded.
- 10.5. Neither Party shall be liable to the other for indirect or consequential losses.

## 11. Notices

- 11.1. Notices to Climate-KIC shall be in writing (by email or letter) to the following address:

Climate-KIC Holding B.V. European Headquarters  
21 Great Winchester Street  
London EC2N 2JA  
United Kingdom

or such other address as notified to the Partner in writing from time to time.

11.2. Notices to the Partner (by email or letter) shall only be sent to the registered address, emails and numbers set out on page 1 of this Agreement. The Partner may change its registered addresses, emails and numbers provided that they have notified the CEO of CK Holding in writing, such change to be effective upon receipt of notice by CK Holding.

11.3. Notification by letter includes delivery by postal services and courier services.

11.4. Any written notice or other communication to be given pursuant to this Agreement shall be effective upon receipt and shall be deemed to have occurred:

- (i) if delivered by hand, at the time of delivery;
- (ii) if sent by email, upon receipt of an automatic notification of receipt or receipt of a confirming return email;
- (iii) if sent by regular mail five working days after posting; and
- (iv) if sent by registered mail upon registered delivery of the mail to the recipient.

## 12. Miscellaneous

12.1. CK Holding may without the prior written consent of the Partner assign, transfer or otherwise delegate (in whole or in part) or charge or deal in any manner with the benefit or the rights under this Agreement.

12.2. Amendments to this Agreement can only be made in writing and signed by duly authorised representatives of the Parties.

12.3. Nothing in the Agreement shall be construed as or shall operate to create a partnership or joint venture of any kind, an agreement of employment or a relationship of principal and agent between CK Holding and the Partner, and neither Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

12.4. If any part or provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be rendered void, invalid or unenforceable, such voidness, validity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect and the Parties shall use all reasonable endeavours to replace the relevant provision with one that is enforceable and which is closest to the Parties' intent of that provision.

12.5. This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has signed at least one counterpart. Each counterpart when executed shall be treated as an original and all the counterparts together shall constitute one and the same instrument.

## 13. Resolving Disputes

13.1. If any dispute arises in connection with this Agreement, the .....<sup>4</sup> of the Partner and the CEO shall, within 14 days of a written request from one Party to the other,

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<sup>4</sup> Insert position of the Partner

meet in a good faith effort to resolve the dispute. If the dispute is not resolved at that meeting, the matter shall be escalated for resolution to the Chairman of the Supervisory Board of CK Holding and the .....<sup>5</sup> of the Partner.

13.2. The Partner and CK Holding may elect unanimously to seek to resolve by mediation any dispute or difference which cannot be settle amicably by them.

13.3. All disputes or differences arising in connection with this Agreement which cannot be settled amicably under clause 13.1 and 13.2 within six months, shall be subject to the jurisdiction of the District Court of Amsterdam.

## 14. Governing Law

14.1. This Agreement shall be governed by the laws of Netherlands.

**IN VIEW OF WHICH** the Parties to this Agreement have executed this Agreement through the signatures of their duly authorised representatives:

Signed by: \_\_\_\_\_

Title: \_\_\_\_\_

For and on behalf of **CLIMATE-KIC HOLDING B.V.**

Signed by: \_\_\_\_\_

Title: \_\_\_\_\_

For and on behalf of \_\_\_\_\_ (Partner)

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<sup>5</sup> Insert position of the Partner