

General Cooperation Agreement

between

Helmholtz-Zentrum hereon GmbH

a company duly incorporated under the Laws of Germany,

with registered office in

Max-Planck-Straße 1, 21502 Geesthacht

- HRB 285 GE (Register Court) -

represented by its directors;

- Hereinafter referred to as "**Hereon**" -,

and

Karpenko Physico-Mechanical Institute of the National Academy of Sciences of Ukraine

Naukova Str., 5, Lviv, 79060, Ukraine

- 03534506 (Registration Code) -

represented by its director,

- Hereinafter referred to as "**Karpenko**" -,

Individually referred to as "Party" and collectively as "Parties"

Preamble

Hereon is a publicly funded non-profit research institution. As a member of the Hermann von Helmholtz Association of German Research Centres e. V. (registered association), Hereon operates in the field of materials and coastal research. Its Institute of Surface Science focusses on increasing the sustainability of material systems used in complex environments via design of functional surfaces and extending their service life through control of the corrosion processes.

Karpenko is publicly funded non-profit research institution. As a member of the National Academy of Sciences of Ukraine, Karpenko is scientific and research center in the field of fracture mechanics and strength of materials, physicochemical processes of corrosion and anticorrosion protection, nondestructive testing of materials and technical diagnostics of structures and environments.

The Parties intend to co-operate scientifically in the field of corrosion science and the development of new corrosion-resistant materials, anti-corrosion treatments, organic and inorganic additives for anti-corrosion treatments, as well as understanding the electrochemical mechanisms leading to anti-corrosion effects of metallic materials exploited in complex environments.

§ 1 Subject of General Cooperation Agreement

This General Cooperation Agreement is made to establish a formal link between Hereon and Karpenko Physico-Mechanical Institute of the National Academy of Sciences of Ukraine and to provide an umbrella legal framework for scientific research activities in cooperation between the Parties. The scientific research cooperation will encompass exchange and dissemination of scientific information and joint research activities in the scientific field of corrosion science. In particular, development of anti-corrosion treatments, including surface treatments and corrosion inhibition, for extending the service life of metallic materials will be addressed.

The scope of the Agreement also includes international and European grant applications. However, for individual projects for which funding has been granted to the Parties, separate written agreements will be closed.

§ 2 Organization and Contact

For the purpose of coordinating the Cooperation activities, the Parties shall each nominate one member of their staff as the contact person. The contact details are stated below:

For Hereon:

Dr. Sviatlana Lamaka

Phone: Mobile: +49 170 5914 365

E-mail: Sviatlana.Lamaka@hereon.de

For Karpenko:

Prof. D.Sc. Zinoviy Nazarchuk

Phone: +38 032 263 3088

Phone: Mobile: +38 067 3323 410

E-mail: Nazarchuk@nas.gov.ua

§ 3 Visits

The Parties may conduct staff visits for the purposes of the cooperation. The visit of personnel will happen in the forms of invitation of guests to the host institutes agreed by both Parties. The delegating Party shall oblige his personnel to respect the instructions of the receiving Party and to comply with the general and safety regulations of the receiving Party. The receiving Party will not take out any insurance policies for the persons sent by the delegating Party. It is recommended that the

respective persons have special accident, health, and liability insurance for their stay at the receiving Party. The employment contracts shall remain unaffected.

§ 4 Confidentiality

- (1) "Confidential information" means communicated and disclosed protected or non-protected technical and/or business information, including but not limited to plans, models, materials, prototypes, components, algorithms, software, items, etc., whether in written or other form which are marked as confidential. Oral or visual information must be designated as confidential and must be summarized in writing and marked confidential to the receiving Party within thirty (30) days of the original communication by the communicating Party.
- (2) The Parties undertake to treat the confidential information transmitted to them ("information recipients") within the framework of this agreement by the other Party (the "information provider") confidentially for up to 3 years after the end of the term of this agreement and not to be disclosed to third parties.
- (3) With regard to all confidential information obtained within the scope of the subject matter of the agreement the recipient undertakes to:
 - use the confidential information only for the subject matter of the agreement,
 - to ensure that only those of its employees, bodies or members receive confidential information that absolutely need to carry out their work within the scope of this Agreement according to and to oblige these persons with regard to the confidentiality of the information in accordance with this Agreement,
 - to treat the confidential information of the information provider as one's own confidential information, so that access by unauthorized persons is

excluded as far as possible, in particular not to pass them on to third parties, not even under a corresponding confidentiality agreement,

- not to copy or reproduce the confidential information without the prior written consent of the provider of the Information,

- at the written request of the information provider, return all confidential information, obtained or that has become accessible, including all copies, and destroy all confidential information stored in machine-readable form. This does not apply to routinely made backup copies of the electronic data traffic and information that the other Party must keep under applicable law, provided, however, that this confidential information and/or copies thereof - insofar as the return or destruction for technical/legal cannot take place immediately for any reason - are subject to the provisions of this agreement until the return or destruction actually takes place. The material recipient destroys the material upon request of the sender but latest after the research work with the material has been completed.

- the confidential information provided by the other Party, are to be treated carefully and not to be exploited, in particular not to make it the subject of applications for industrial property rights.

(4) The confidentiality obligations do not apply if and to the extent that the confidential information is demonstrably

- already generally known at the time of transfer to the Party or

- becomes generally known after its handover, unless this occurs due to a breach of this agreement by the respective Party or

- was already known to a Party at the time of receipt from the other Party or

- developed independently by employees of the recipient of the information who had no access to the confidential information that has

become accessible from the provider of the information, or

- provided to a Party by a third party without any obligation of confidentiality, or
- released for publication based on the prior written consent of the information provider.

- (5) Insofar as a statutory right of publication cannot be restricted or confidential information must be released by law or official/judicial order, this publication or release does not constitute a violation of the confidentiality obligation. In these cases, however, the information recipient will notify the information provider as early as and to the extent legally and actually possible about the publication or release. For all other confidential information, the obligations under this § 4 remains unaffected.

§ 5 Data privacy

The Parties undertake to safeguard the applicable legal requirements for the protection of personal data to which they receive access or about which they obtain knowledge on the basis of the collaboration. However, the Parties are not undertaking processing of personal data as a scientific activity within the Cooperation. In case the Parties wish to process personal data as a part of the scientific activities in the future, a separate written document regulating such processing has to be agreed upon prior to the processing.

§ 6 Material Transfer

- (1) The Parties may decide to supply each other with cost free sample material for test purposes.
- (2) The material may be used by the Material recipient solely for the following purpose: usage as raw material for fabrication of specimens or ready-to-

use specimens for experimental investigation and characterization in the frame of an individual research study agreed on by the contact persons of the Parties by e-mail.

- (3) The material will not be transferred to any third party.
- (4) Rights of use of know-how associated with the material, any registered or granted property rights or copyrights are not granted on the basis of this agreement.
- (5) The Party providing the material retains sole ownership of the material at all times. The recipient of the material is not entitled to reverse engineer any information from the material, to decompile, to disassemble or to examine its composition and/or production chemically or otherwise in any other way.
- (6) The material recipient will inform the sender of the material of the complete (test) results in relation to the material by written notice or provide the sender with a manuscript describing the results of the research at the time the manuscript was submitted for publication. When a publication results from research using the material the sender is credited accordingly in the publication.
- (7) The recipient of the material will promptly notify sender of the material in writing of any invention, discovery, modification or improvement resulting from the use of the material. Results belong to both Parties and are registered in the names of both. The Parties are entitled to use and license the results as well as any property rights registered or granted for their term as their own, without financial compensation. The Parties will agree on the further treatment of the results on a case-by-case basis.

§ 7 Publications

- (1) The Parties aim to publish jointly. The Parties shall plan and offer to one another the possibility to make joint publications based on their co-operation in the project.
- (2) In exceptional cases, where a publication about the cooperation/ and or the results by only one Party is agreed between the Parties, the publication shall be submitted to the other Party by sending a complete documentation of the proposed publication (e-mail being sufficient). The latter shall review the submitted materials and, preferably within fourteen (14) days, but no later than four (4) weeks after their receipt, inform the former in writing (e-mail being sufficient) of its response. No Party shall unreasonably refuse to give consent. Such publications shall bear a reference indicating that the respective research has been initiated under this Agreement. The authors shall acknowledge important work and intellectual contribution of the other Party in the publication.
- (3) If the proposed publication contains confidential or proprietary information of the other Party, this Party will have the right to demand that the confidential information be deleted from the publication by adjusting the publication to the indispensable extent needed to protect the confidentiality interests. Any adjustment shall take into account the legitimate interest of the publishing Party.
- (4) Unless the other Party, within thirty (30) days of receipt of the complete documentation of a proposed publication (original text), objects to such publication or demands that confidential or proprietary information be deleted, the Party's consent shall be deemed given.
- (5) The Parties agree that as far as student theses, doctoral or habilitation projects are affected by the work in projects arising from this agreement, the parties will take due account of the legal obligations and legitimate

interests of the affected students, doctoral candidates or post-doctoral students but only in accordance with obligations arising out of this Article.

- (6) The obligations stated in this Article shall continue to apply for two (2) years after the expiration of this Agreement.

§ 8 Background Intellectual Property

- (1) Background intellectual property shall mean all project-related intellectual property (protectable and non-protectable, regardless of whether protected or unprotected) of the Parties already existing at the start of the Agreement or arising outside the Cooperation after the start of the Agreement, including industrial property rights, copyrights, inventions, know-how, computer programs and other rights which are made available by the respective Party to the other Party during the Cooperation. Each Party shall remain the owner of its background intellectual property.
- (2) To the extent necessary for the performance of the Agreement, the Parties shall grant each other a royalty-free, non-exclusive, non-transferable and non-sublicensable right to use their background intellectual property contributed to the Cooperation, limited to the duration and purposes of the Agreement, provided that no third party rights conflict therewith.
- (3) For purposes outside of the Agreement and for a period of one (1) year after termination of this Agreement, each Party shall be willing to grant upon written request a non-exclusive, non-transferable and non-sublicensable right to use its background Intellectual Property at arm's length conditions after termination of the Agreement, provided that the Party can freely dispose of it at the respective time of granting. The details shall be regulated by the Parties in a separate written agreement prior to any use. The Parties are free to agree on further rights of use.

- (4) The Parties do not warrant that the background intellectual property brought into this cooperation by them is free from third party property rights. There shall be no obligation to conduct research in this respect. However, as soon as one Party becomes positively aware of such property rights, it shall inform the other Party thereof without delay.

§ 9 Foreground Intellectual Property

- (1) All results obtained in the course of the implementation of the project, in particular findings, inventions, developed objects, processes and computer programs, including acquired industrial property rights, know-how, copyrights and other rights, the descriptions of the findings and the recordings, test arrangements, models and prototypes produced in the course of the implementation of the project in all development and production phases shall be referred to as work results.
- (2) Work results in which only employees of one Party are involved belong to this Party.
- (3) Work results involving employees of both Parties shall be jointly owned by both Parties. In the case of joint inventions, the Parties shall agree in writing in particular on the invention shares, application, maintenance, defense, distribution of proceeds, bearing of costs as well as on the use of joint inventions. The Parties shall reach a separate written agreement on the details in each individual case at arm's length conditions prior to any use. As long as such a written agreement has not been concluded among the Parties, the Parties undertake to refrain from any commercial use of the joint invention. The Parties shall endeavor to conclude such an agreement in a timely manner. Copyrights and software (including computer programmes) shall be handled analogously.
- (4) Each Party shall inform the other Party in writing about the inventions

created during the implementation of this agreement within one month prior to the application for property rights.

- (5) Each Party shall bear the employee inventor's compensation to be paid to its employees itself, unless otherwise agreed.

§ 10 Use of Results

- (1) The Parties shall grant each other free of charge a non-exclusive and non-transferable right to use all information and results arising from the cooperation during the term of this Agreement for the purpose of this Agreement.
- (2) Irrespective of § 10 (1), each Party shall receive a non-exclusive, non-transferable, non-sublicensable, royalty-free right of use, unlimited in time and place to all work results for its own non-commercial scientific purposes in research and teaching, which shall also include purely scientific collaborations with other research institutions.
- (3) If a Party intends to commercially use the results from the other Party or commercially use the results that have been produced together under this Cooperation the Parties shall agree on a reasonable license fee under customary market conditions to be paid for such use. Rights of use for commercial activities will be specified in a separate agreement prior to use.

§ 11 Liability

- (1) In carrying out the cooperation under this agreement, the Parties shall exercise the necessary scientific care and shall ensure compliance with the state of the art in science and technology. The Parties shall exercise the usual care in their own affairs in the transmission of information. The Parties shall not be liable, either during the duration of the cooperation or

after the end of the Agreement, for the correctness and completeness of the information transmitted by them within the framework of this agreement, nor for damages of any kind arising from the utilization of this information. The Parties do not warrant that the results produced by them on the basis of this agreement do not infringe any third-party property rights. However, as soon as one Party becomes aware of such property rights, it shall inform the other Party thereof without delay. However, there shall be no obligation to conduct research in this respect.

(2) The liability of the Parties for damages – on whatever legal grounds, in particular for culpa in contrahendo, impossibility, default, tort and for other direct or indirect damages – shall be excluded unless one of the following cases applies:

- a) the Party concerned has fraudulently concealed a defect;
- b) there is a damage resulting from injury to life, body or health which is based on an intentional or negligent breach of duty by the Party concerned or by one of its legal representatives or vicarious agents;
- c) there is other damage resulting from an intentional or grossly negligent breach of duty by the Party concerned or by one of its legal representatives or vicarious agents;
- d) there is a damage resulting from the negligent breach of essential contractual obligations which is not already covered by § 11 (2) a) to c) and § 11 (2) e). Essential contractual obligations are obligations the fulfillment of which makes the proper performance of the contract possible in the first place and compliance with which the other partner regularly relies on and may rely on. In this case, however, the liability of the Party concerned shall be limited to the amount of the damage typical for the Agreement and foreseeable at the time of conclusion of the Agreement; or

e) the Party concerned is subject to mandatory statutory liability, in particular liability under the Product Liability Act.

- (3) Insofar as the liability of the Party concerned is excluded or limited in accordance with the above provisions under § 11 (2) this shall also apply to the personal liability of the executive bodies, legal representatives, employees, staff and vicarious agents of the Party concerned.

§ 12 Financial Conditions

Unless not separately and differently agreed, each Party bears the costs of its respective part of work.

§ 13 Entry into force, Duration, Termination

- (1) This agreement is effective from the moment it is signed by both parties, depending on the date of the last signature and is initially valid for a time period of ten years. It will be reviewed in the course of the third year of operation and may, six months before the expiry of this agreement, be extended by mutual written agreement by a further three years or a time frame that both Parties agree on under the same conditions.
- (2) In case of termination current actions shall be completed unless the Parties agree otherwise.

§ 14 Miscellaneous

- (1) This Agreement shall be signed in form of an advanced electronic signature via the signature software called "FP Sign". Hereon will initiate the signature procedure via FP Sign. There will be no exchange of handwritten original signatures.
- (2) If any provision contained in this Agreement should be unenforceable, it shall be assumed that the remaining provisions are intended to remain

in force. In such a case, however, the Parties shall endeavour to replace the unenforceable provision with one which comes closest in its commercial result to that which was intended by the unenforceable provision.

- (3) Shipments and services (the fulfilment of agreement) shall be under the proviso that fulfilment is not being restricted by any national or international regulations, particularly export control regulations and embargoes or any other restrictions. The Parties shall obligate themselves to provide all information and documentation needed for the export/ domestic shipment/ import. Delays caused by export checks or licensing procedures shall override any lead times or deadlines stipulated. If any required licenses for certain items cannot be obtained, the agreement shall be considered as not concluded regarding the items in question; because of this and of above-mentioned transgression of deadlines, any claims for damages shall be excluded.
- (4) Karpenko shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Clause that fall under the scope of Article 12 g of Council Regulation (EU) No 833/2014.
- (5) Karpenko shall undertake its best efforts to ensure that the purpose of Clause (4) of this Clause is not frustrated by any third parties further down the commercial chain, including by possible resellers.
- (6) Karpenko shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including possible resellers, that would frustrate the purpose of Clause (4) of this Clause.
- (7) Any violation of the duties of Karpenko according to Clause (4), (5), or (6) of this clause shall constitute a material breach of an essential element

of this Clause. Hereon shall be entitled to seek appropriate remedies, including, but not limited to (i) termination of the Agreement and (ii) a penalty of 10% of the total net value of the Agreement or the price of the goods exported, whichever is higher, whereby possible claims for damages of Hereon shall be deducted from such penalty.

- (8) Karpenko shall immediately inform Hereon about any problems applying Clause (4), (5) or (6) of this Clause, including any relevant activities by third parties that could frustrate the purpose of clause (4). Karpenko shall make available to Hereon the information concerning compliance with the obligations under clause (4), (5) and (6) of this clause within two weeks of the simple request of such information.
- (9) If any dispute arises between the Parties in connection with this Agreement or the interpretation hereof, the Parties shall discuss such dispute in an attempt to resolve such dispute amicably. In case the dispute cannot be resolved within 45 days of the commencement of such discussion, any disputes regarding this Agreement and or performance hereunder shall be subject to the jurisdiction of the district court of Hamburg, Germany. This agreement is subject exclusively to the law of the Federal Republic of Germany excluding the conflict of laws provisions of private international law.

In Witness hereof, the parties hereto have executed this Agreement.

Geesthacht, Germany -----

Helmholtz-Zentrum hereon GmbH

Prof. Dr. Regine Willumeit -Römer

Scientific Director

Elisabeth Gerndt

Administrative Director

Lviv, Ukraine -----

Karpenko Physico-Mechanical Institute of the National Academy of Sciences of
Ukraine

Prof., D.Sc. Zinoviy Nazarchuk

Academician of the NAS of Ukraine

Director of the Institute