

Collaboration Agreement

THIS CONTRACT is dated

3rd April 2014

In this Agreement into which **Coventry University** (hereinafter called “Coventry University”) and **Universidad de las Fuerzas Armadas ESPE** enter, each a “Party” and together the “Parties”.

WHEREAS

- A. The Parties along with **Fundación para el Desarrollo de la Guadua - Fundeguadua** (“FG”) in Colombia have signed a Memorandum of Understanding for a project sponsored by the International Network for Bamboo and Rattan (INBAR), hereinafter referred to as “INBAR” for the “Development of non-destructive test methods to infer the mechanical properties of bamboo”, and hereinafter referred to as the “Project”.
- B. Coventry University has signed a contract with **INBAR** to coordinate and manage the collaboration with Universidad de las Fuerzas Armadas ESPE and FG to deliver the Project with David Trujillo of Coventry University (the “Principal Investigator” or “PI”) responsible for the overall coordination of the Project.
- C. The Project requires a large sample of destructive and non-destructive testing to *Dendrocalamus Asper*, therefore it is more efficient to conduct the testing in South America, rather than transporting large quantities of bamboo to the UK.
- D. Universidad de las Fuerzas Armadas ESPE would like to develop expertise in bamboo testing, the development of methods to infer mechanical properties of bamboo and data from previous experimentation to support and provide greater certainty in the results of the Project.
- E. FG and Coventry University have expertise in working with bamboo, and Universidad de las Fuerzas Armadas ESPE may benefit as a recipient of the technology transfer aspects of the Project.
- F. For the mutual benefit of the Parties, Coventry University will contract with Escuela Politécnica del Ejército to be the local implementation partner to the Project in Ecuador under the terms of this Agreement.

To this end, Coventry University and Universidad de las Fuerzas Armadas ESPE hereby agree to the following terms and conditions:

1. Terms of Reference and Responsibilities of the Parties

1.1. The specific responsibilities of the Parties working together on the Project are to:

- a. carry out their respective responsibilities in accordance with the provisions of this Agreement;
- b. keep each other informed of all relevant activities pertaining to this Agreement and shall hold consultations at any time any Party considers it appropriate; and
- c. refrain from any action that may adversely affect the interests of the other Party and fulfill their commitments with fullest regard to the terms and conditions of this Agreement.

1.2. The specific responsibilities of Coventry University for the Project are to:

- a. Supervise Universidad de las Fuerzas Armadas ESPE to ensure that Project funds are allocated in accordance with the attached Project proposal;
- b. Appoint a regional project manager (the "RPM") to work with Universidad de las Fuerzas Armadas ESPE on the Project;
- c. Act as the lead party and coordinator for the publication of the results of the Project in appropriate academic journals with INBAR, Universidad de las Fuerzas Armadas ESPE and the other parties to the MOU;
- d. In accordance with the attached Project proposal, Coventry University will lead the following research activities:
 - o Conducting a literature review and undertaking initial testing experiments to design the testing methodologies and plan implementation of testing to be completed by Universidad de las Fuerzas Armadas ESPE ;
 - o Through the Regional Project Manager (and with payment by INBAR) to ensure that *Dendrocalamus Asper* samples in Ecuador are harvested in controlled conditions in order to select a variety of ages ranging from 2 year to 5 years of age;
 - o Support the RPM to travel to Ecuador to explain work protocols and methodologies to Universidad de las Fuerzas Armadas ESPE as well as delivering any necessary testing equipment as identified during the literature review and consultation with INBAR and Universidad de las Fuerzas Armadas ESPE ;
 - o Maintaining regular communication with Universidad de las Fuerzas Armadas ESPE in relation to the Project;
 - o Jointly publish results in appropriate academic journals with INBAR, Universidad de las Fuerzas Armadas ESPE and FG;

1.3. The specific responsibilities of Universidad de las Fuerzas Armadas ESPE for the Project are to:

- a. Receive and facilitate the travel, excluding any associated expense, of the Regional Project Manager to Ecuador for the Project, as well as maintain regular communication with the Regional Project Manager based in Colombia;
- b. Work in collaboration with Coventry University, the PI, the Regional Project Manager in Colombia and FG;
- c. Use reasonable endeavours to work to the deadlines in the programme as specified in Annex 3 and Annex 5 particularly in relation to the supply of test data and the written reports;
- d. Record data in a clear format that facilitates correlation;
- e. Contribute to the writing of the final technical report for INBAR;
- f. Store and handle the *Dendrocalamus Asper* samples supplied by Coventry University in appropriate conditions;
- g. Conduct a series of mechanical tests on *Dendrocalamus Asper* samples that will be specified by Coventry University's principal investigator;
- h. Test the *Dendrocalamus Asper* samples as listed in Annex 4, and in accordance to the respective ISO standards, protocols provided by the PI, and any guidance provided by the PI or the RPM;
- i. Store and handle and use the Brookhuis MTG timber grader (or similar instrument, if used) and any other instruments provided by Coventry University according to the instructions and following the training provided by the PI; and
- j. Jointly publish results in appropriate academic journals with Universidad de las Fuerzas Armadas ESPE , FG, and Coventry University.

2. Employees, Subcontractors and Assignees

Universidad de las Fuerzas Armadas ESPE is prohibited from entering into any sub-contract, designating any successor or assigning any rights or obligations under this Agreement without the prior written consent of Coventry University.

3. Fees

Universidad de las Fuerzas Armadas ESPE will be paid a total US\$13,104 for its contribution to this Project. This can be partly paid in kind as equipment as set out in Clause 5 of this Agreement.

4. Reimbursable Travel Expenses

All travel under this contract will require the prior approval by travel confirmation letter of the INBAR Project Manager, Mr. Oliver Frith.

Universidad de las Fuerzas Armadas ESPE shall submit expense statements, where appropriate, and the original receipts for Universidad de las Fuerzas Armadas ESPE employees to Coventry University financial office for the reimbursement.

Universidad de las Fuerzas Armadas ESPE employees will arrange ticketing himself/herself and will provide the ticket and the invoice receipt from the agent to Coventry University financial office for reimbursement. Coventry University will reimburse the fees paid on behalf of it by Universidad de las Fuerzas Armadas ESPE according to the below standards:

- the fare shown on the ticket,
- the net fare paid by the traveller, as evidenced by a receipt, and
- the lowest fare that was available at the time of travel.

If there is overnight transit en route, which is not covered by the air carrier - the costs including accommodation, meals and local transportation, can be reimbursed by Coventry University within 20 days upon submission of original receipts; or Coventry University will pay a non-accountable allowance to cover these expenses.

Anything not stipulated hereof shall be specified in the Letter for Confirmation of the travel. Such a letter shall be an integral part of this Agreement, and has the same legal effect as this Agreement.

5. Payment

As it has been identified that Universidad de las Fuerzas Armadas ESPE lacks the required instruments, it is possible that part of the payment may be done in kind with instruments. The provided instruments will be agreed between Universidad de las Fuerzas Armadas ESPE and Coventry University. Coventry University will procure and arrange delivery of the instruments. INBAR Latin America will import these instruments and lend them to Universidad de las Fuerzas Armadas ESPE until the successful conclusion of the project, when the instruments will pass to be property of Universidad de las Fuerzas Armadas ESPE.

At the end of the Project, Universidad de las Fuerzas Armadas ESPE will invoice Coventry University for the payment due after discounting the value of the instruments and courier costs and taxes from the payment due to Universidad de las Fuerzas Armadas ESPE as further set out in Annex 3.

To facilitate electronic payment to Universidad de las Fuerzas Armadas ESPE's account, please fill in the Annex I – Banking Information Form and send back together with the signed Agreement to Coventry University.

Please note:

- i. It is Universidad de las Fuerzas Armadas ESPE's responsibility to declare and pay any taxes due on the payment of this Agreement.
- ii. Coventry University will not be responsible for any bank charges for the payment except the bank charge of Coventry University's banker.

6. Insurance

Universidad de las Fuerzas Armadas ESPE is responsible for taking out at its own expense any insurance (travel, hospitalisation, medical or other) deemed necessary while executing this Agreement.

Universidad de las Fuerzas Armadas ESPE has the exclusive responsibility for maintaining its personal safety and good health during the period of this Agreement. Coventry University also recommends that health and accident insurance, including coverage for emergency evacuation, be obtained.

7. Contribution

Not used.

8. Confidentiality

Universidad de las Fuerzas Armadas ESPE covenants and agrees with Coventry University that, unless specifically instructed to do so by Coventry University, it will not, during the term of this Agreement and thereafter directly or indirectly use, communicate, share, disclose or disseminate to any person or source any Confidential Information (as defined hereunder) concerning any or all of the activities of Coventry University or of any of its affiliates or subsidiaries which Universidad de las Fuerzas Armadas ESPE's employees may have acquired in the course of or as incidental to their association with Coventry University for this Project, and shall not appropriate Confidential Information to its own use. The Confidential Information shall remain at all times the property of Coventry University.

The term 'Confidential Information' includes all information in any form (whether proprietary or not) pertaining in any manner to the business of Coventry University, in relation to the Project or INBAR or Universidad de las Fuerzas Armadas ESPE or of any of Coventry University's subsidiaries, affiliates, branch offices, employees, clients, consultants or business associates and which:

- Relates to Coventry University's current or contemplated activities, or actual or anticipated Intellectual Property;
- Was produced at any time by any associate (employee) or consultant of Coventry University (or of any of its subsidiaries, affiliates or associates);
- Was otherwise produced or acquired by or on behalf of Coventry University or is otherwise owned by Coventry University;
- Consists of all knowledge, information, Intellectual Property, and other material developed by the consultant for Coventry University.
- Includes such information relating to past, present and future activities, technical information, strategies, business development, procurement specifications, cost and financial data, contracts, quotations, and names of actual and prospective business associates and all documents, drawings, reports, lists, and other physical and electronic embodiments of all such information.

—Provided that Confidential Information shall not include knowledge, information or material that is or becomes generally known or available to others in activities engaged in by Coventry University or to the public (other than through unauthorized disclosure).

The provisions of this clause shall survive the expiry or termination of this Agreement.

9. National Legislation

In performing services under this Agreement, Universidad de las Fuerzas Armadas ESPE , its employees, sub-contractors, successors and assignees shall be responsible for complying with all legislation of the country (countries) in which their work is carried out (including laws pertaining to immigration, taxation, customs, employment and foreign exchange control).

It is the individual's responsibility to comply with the visa regulations of any country visited.

The overhead (included in fees) and allowances paid under this Agreement include provision for complying with national legislation of the countries Universidad de las Fuerzas Armadas ESPE may visit (including China). Coventry University will not entertain any claim for work permits or any other costs relating to compliance with the national legislation of any country in the world.

10. Assignment of Copyright

Universidad de las Fuerzas Armadas ESPE hereby assigns the copyright and all other intellectual property rights in all results, test data and documents produced for this Project to Coventry University. Universidad de las Fuerzas Armadas ESPE and Coventry University have the right to publish and distribute in any form the results of the Project, or any other information prepared or produced as a result of the Project work, but Universidad de las Fuerzas Armadas ESPE agrees to obtain the consent of Coventry University before doing so. Universidad de las Fuerzas Armadas ESPE will recognize the support of INBAR for the Project by including in all publications related to the project the following acknowledgment:

"This work was carried out with the collaboration and assistance of the International Network for Bamboo and Rattan."

If Coventry University objects to the publication or distribution of the results or information referred to in the preceding paragraph or wishes to be a party to the publication, the contractor will give serious consideration to the reasons given for the objection in arriving at a final decision on the publication or distribution of the results or information.

Universidad de las Fuerzas Armadas ESPE shall provide Coventry University with five copies of any publication it has made of the results of the Project or of any other information prepared or produced as a result of the Project work, and one copy of any audio or visual material of such publication. In addition, when possible, a machine-readable copy on diskette, specifying the hardware and software(s) used will be provided to Coventry University by Universidad de las Fuerzas Armadas ESPE .

11. Commercial Exploitation

In the event that Universidad de las Fuerzas Armadas ESPE wishes to commercially exploit through sale or licensing any technology, including any patent, any computer program, its documentation and related material and other information, developed by Universidad de las Fuerzas Armadas ESPE as a result of its involvement in this Project, Universidad de las Fuerzas Armadas ESPE must obtain the consent of Coventry University for such commercial exploitation and Coventry University or INBAR may be included in such commercial exploitation.

The provisions of this clause shall survive the expiry or termination of this Agreement.

12. Address for Notice

For purposes of this Agreement, Coventry University will be represented by David Trujillo at +44 (0)797 498 4678, by e-mail at David.Trujillo@coventry.ac.uk and by mail at the address shown as below:

Department of Civil Engineering, Architecture and Building
Coventry University
Coventry, United Kingdom
CV1 5FB

Coventry University may contact Sara Graciela Duran Aguillon, Universidad de las Fuerzas Armadas ESPE by telephone at + (593) 02 3989471, by e-mail at [sgduran@espe.edu.ec] and by mail at the address shown as below:

Universidad de las Fuerzas Armadas ESPE
Avenida Gral. Rumiñahui s/n, Sangolquí
Ecuador

13. Termination of the Agreement

The Agreement will terminate once the term of this Agreement expired and the Project has completed.

The Agreement may be terminated by either Party giving other Party a written notice of thirty (30) days prior to its intention to terminate. In the event of termination, the Parties will take the appropriate steps to bring activities under this Agreement to a prompt and orderly conclusion. If either Party considers it necessary, an agreement or a schedule shall be concluded in writing to specify the steps that shall be taken to terminate this Agreement. The Party that decides to terminate this Agreement without any good reason shall compensate for other Party's expenditure relevant to the Project and losses caused by the termination, if any.

If this Agreement is terminated due to the *force majeure* as set out in Clause 16, neither Party shall be liable for any expenditure relevant to the Project and losses caused by the termination. Fires, floods, earthquakes, typhoons, wars, strikes, cut of power or transportation, modification of laws or any other contingency beyond the control of the Parties shall be deemed as *force majeure*.

The Agreement may be revoked by either Party pursuant to the provisions of Clause 14.

14. Revoking the Agreement

Coventry University may revoke this Agreement under any of the following circumstances:

- a. Universidad de las Fuerzas Armadas ESPE expresses explicitly or indicates through its acts, before the expiry of the term of this Agreement, that it will not perform the principal obligations;
- b. Universidad de las Fuerzas Armadas ESPE delays in performing the principal obligations and fails, after being urged by Coventry University in writing, to perform them within the period appointed by Coventry University, such period to not be shorter than the term of this Agreement; or
- c. Universidad de las Fuerzas Armadas ESPE commits other acts in breach of the Agreement so that the purpose of the Agreement is not able to be realized.

Universidad de las Fuerzas Armadas ESPE may revoke this Agreement under any of the following circumstances:

- d. Coventry University expresses explicitly or indicates through its acts, before the expiry of the term of this Agreement, that it will not perform the principal obligations;
- e. Coventry University fails to pay to Universidad de las Fuerzas Armadas ESPE a sum properly due and outstanding in favour of Universidad de las Fuerzas Armadas ESPE in accordance with this Agreement;
- f. Coventry University delays in performing the principal obligations, and, after notice to perform them within the period appointed by Universidad de las Fuerzas Armadas ESPE, in writing and acting reasonably, Coventry University fails to perform such obligations; or
- g. Coventry University commits other acts in breach of the Agreement so that the purpose of the Agreement is not able to be realized.

The Agreement shall be terminated upon the arrival of the notice revoking the Agreement to Universidad de las Fuerzas Armadas ESPE or Coventry University.

15. Compensation and Accidental Obligations

Where a Party to this Agreement fails to perform the contract obligations or its performance fails to satisfy the terms of the Agreement due to its own fault, the party shall bear such liabilities for breach of contract as to continue to perform its obligations, to take remedial measures, or to compensate for losses.

When the Agreement is terminated, the Parties shall, abiding by the principle of good faith, perform such obligations as making a notice, providing assistance and maintaining confidentiality according to the conventional practices.

16. Force Majeure

Fires, floods, earthquakes, typhoons, wars, strikes, cut of power or transportation, modification of laws, regulations and rules or any other contingency beyond the control of Coventry University or Universidad de las Fuerzas Armadas ESPE, will be sufficient excuse for any resulting delay or failure in the performance by either Party of its respective obligations under this Agreement, but such performance will be excused only as long as the *force majeure* continues. The Party affected by the *force majeure* shall notify the other Party as soon as possible and shall take all reasonable measures to prevent the loss from expansion. The affected Party shall continue to perform its obligations under this Agreement immediately after the *force majeure* disappears.

In the event that *force majeure* occurs for more than 90 days, the Agreement may be immediately terminated by written notice from either Party to the other Party.

17. Exempt from Action

In carrying out this Agreement, neither Universidad de las Fuerzas Armadas ESPE nor its representatives are empowered to commit Coventry University either expressly or otherwise to any course of action.

18. Dispute Resolution

Any dispute arising from or in connection with this Agreement shall be initially escalated with the Parties and resolved by discussion between the nominated persons to resolve such a dispute and the Parties shall use

their best efforts to settle amicably any dispute, controversy or claim arising out of this Agreement or the breach, termination or invalidity thereof.

In the event that the dispute is not resolved by discussion as set out in the paragraph above, the dispute shall be submitted to London Chamber of Commerce for arbitration, which shall be conducted in accordance with the Commission's arbitration rules in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties. The place of arbitration shall be London and the language used in arbitration shall be English.

19. Notice and Service

Any notice, document, or material relevant to the performance of this Agreement shall be sent to the addresses, fax and E-mail set forth herein. If there is any change to the address, fax, E-mail, or telephone number, the other party shall be notified in writing promptly. Delivery shall be deemed completed immediately when the service is made face-to-face; when delivery is by fax or email, the service shall be deemed done upon sending out the fax or email; when by mail, the service shall be deemed done upon the third day of sending the mail.

20. Entire Agreement

This Agreement and any documents referred to in it or annexed to it constitutes the whole agreement between the Parties and supersede[s] any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement

Each Party acknowledges that, in entering into this agreement and the documents referred to in it or annexed to it, it does not rely on any statement, representation, assurance or warranty (Representation) of any person (whether a party to this agreement or not) other than as expressly set out in this Agreement or those documents.

Each Party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract provided in this Agreement.

21. Law and Jurisdiction

In relation to any legal action or proceedings (a) arising out of or in connection with this Agreement or its implementation or effect or (b) relating to any non-contractual obligations arising out of or in connection with this Agreement, each of the parties irrevocably and expressly agrees, with the express waiver of any right of recourse to other jurisdictions that may otherwise apply to them, that all disputes arising out of or in connection with the present Agreement shall be finally settled by and under the rules of Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with the said Rules and authorized to award the prevailing party in any such arbitration its actual attorneys' fees, costs and expenses incurred therein. The award will be in writing and will be final and binding on the parties. The venue for arbitration shall be London, England, and the language of the arbitration shall be English.

Notwithstanding the foregoing, any legal action or proceeding, the subject matter of which primarily concerns a dispute over a party's right to or interest in Intellectual Property utilised or created in connection with the Project, shall be finally settled in and by the English Courts with venue in London.

Nothing in this Clause 21 shall prevent either party from applying to a court of competent jurisdiction for any injunction or other like remedy to restrain the other party from committing any breach or anticipated breach of this Agreement and for consequential relief. The parties hereby submit to the personal jurisdiction of the English Courts with venue in London and the Ecuador Courts, which shall both be available forums for seeking injunctions and other like remedies in connection with this Agreement.

In any arbitration under this clause 21, to the maximum extent permitted by law, any party to the arbitration may join any other party having any interest in the outcome of the arbitration, or against whom relief might be appropriate jointly with one or more other party in connection with claims or counterclaims in the

arbitration, or against whom any claim for contribution or indemnity might be appropriate in connection with any claim or counterclaims in the arbitration. When appropriate, joinder may be accomplished by the consolidation of two or more arbitration proceedings that have been separately initiated. Otherwise, joinder shall be accomplished by filing additional claims against the party or parties to be joined, which may be done by any party at any time prior to the appointment of arbitrator(s), or by any party with consent of the arbitrator(s) after appointment.

22. Limitation of Liability

Neither Party excludes or limits liability to the other Party for:

- a. fraud or fraudulent misrepresentation;
- b. death or personal injury caused by negligence; or
- c. any matter for which it would be unlawful for the parties to exclude liability.

The maximum aggregate liability of the either Party under this Agreement shall be equal to the amount that Universidad de las Fuerzas Armadas ESPE actually receives from the Coventry University for undertaking the Project.

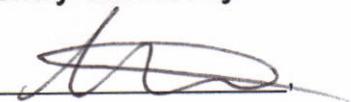
23. Effect of the Agreement

This Agreement shall become effective after being signed by both Parties. There shall be two copies of this Agreement, each Party shall keep one, and each one has the same legal effect.

24. Commencement of contract

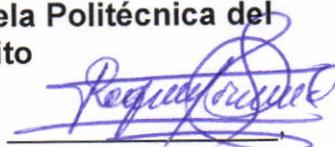
This Agreement shall enter in force when it is signed by the authorised parties, and shall be effective from the date of the last signature of the parties and will have validity until May 2015 or such later date as may be agreed by the parties in writing.

IN WITNESS WHEREOF, the undersigned, duly appointed representatives of Coventry University and Universidad de las Fuerzas Armadas ESPE have signed this Agreement in two originals in the place(s) and on the date(s) herein below indicated:

Coventry University
By: 
Name: Faye Grundy
Head of Group Legal Services

Coventry University
Priory Street
Coventry CV1 5FB
United Kingdom

Date: 3/6/2014

Escuela Politécnica del Ejército
By: 
Name: Ing. Roque Moreira Cedeño - General de Brigada

Address:

Universidad de las Fuerzas Armadas ESPE
Sangolquí, Ecuador

Date: _____

Annex 1: Bank Information

Any bank charges incurred by Coventry University due to errors in the following provided details, are to be borne by the payee. Therefore, please ensure that the bank account information is absolutely precise.

BANK INFORMATION FOR TELEGRAPHIC TRANSFER

Beneficiary's banker Name: Citibank N.Y.

**IBAN code (required for bank
in Europe)** -----

Swift code (optional): citius33

Address of the Banker: 111 Wall Street N.Y. 10043

City & State / Prov. New York

Country EEUU

Beneficiary's Account: 36018691

Beneficiary's Name: Banco General Rumiñahui

Beneficiary's Address: Av. República E6-573 y Eloy Alfaro

Currency of Account: USD

CORRESPONDET BANK (Optional)

Name: -----

Address -----

City & State / Prov. -----

Country -----

Beneficiary's banker's

Account No. in the -----

Name: _____

Signature: _____

Title: _____

Date: _____