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*Laboratorio di monitoraggio e modellistica ambientale per lo sviluppo sostenibile*  
(L.R. n. 39 del 17 luglio 2009)

## **DECRETO**

**n. 72 del 26.10.2021**

Approvazione schema accordo di collaborazione ai sensi dell'art. 15 della L. 241 del 1990 e dell'art. 5, comma 6, del D.Lgs. n. 50/2016 tra il Consorzio LaMMA e Scripps Institution of Oceanography at the University of California nell'ambito del progetto SICOMAR-PLUS CUP: J46C18000060007

## L'AMMINISTRATORE UNICO

- Vista la L.R. n. 35 del 23.02.2005 che ha disposto la costituzione del Consorzio LaMMA “Laboratorio di Monitoraggio e Modellistica ambientale per lo sviluppo sostenibile”, avente come soci fondatori la Regione Toscana, il Consiglio Nazionale delle Ricerche (C.N.R.) e la Fondazione per la Meteorologia Applicata (F.M.A.);
- Vista la L.R. n° . 39 del 17 luglio 2009 e s.m.i. recante la nuova disciplina del Consorzio LaMMA;
- Vista la Convenzione e lo Statuto del Consorzio LAMMA approvati con Delibera del Consiglio regionale n. 48/2018
- Visti il verbale dell’assemblea dei Soci del 4 marzo 2021 e il decreto del Presidente della Giunta Regionale della Toscana n. 42 del 19.02.2021 relativi alla nomina del dott. Bernardo Gozzini quale Amministratore Unico del Consorzio LAMMA;
- Vista la Legge 7 agosto 1990, n. 241 recante “Nuove norme sul procedimento amministrativo”, in particolare l’art. 15 che prevede la possibilità per le pubbliche amministrazioni di concludere accordi per disciplinare le modalità di collaborazione finalizzate allo svolgimento di attività di interesse comune;
- Visto l’art. 5, comma 6, del D. Lgs 50/2016 “Principi comuni in materia di esclusione di concessioni, appalti pubblici e accordi tra Enti e Amministrazioni Aggiudicatrici nell’ambito del settore pubblico”;
- Vista la documentazione del progetto SICOMAR-PLUS, co-finanziato dal programma transfrontaliero Italia-Francia “Marittimo” 2014-2020, nella quale è stata autorizzata la sottoscrizione di un accordo tra il LAMMA e Scripps Institution of Oceanography at the University of California per il quale sono individuate le necessarie risorse finanziarie;

Preso atto:

- che i principi giurisprudenziali comunitari e nazionali in materia di cooperazione orizzontale tra le pubbliche amministrazioni e le indicazioni fornite nel documento della Commissione Europea SEC (2011) n. 1169 del 04.10.2011, sono stati recentemente codificati dall’art. 12, par. 4 della direttiva 24/2014/UE e recepiti nell’art. 5, comma 6, del D.Lgs. n. 50/2016 (Attuazione delle direttive 2014/23/UE, 2014/24/UE e 2014/25/UE sull’aggiudicazione dei contratti di concessione, sugli appalti pubblici e sulle procedure d’appalto, nonché per il riordino della disciplina vigente in materia di contratti pubblici relativi a lavori, servizi e forniture) che dispone: “Un accordo concluso esclusivamente tra due o più amministrazioni aggiudicatrici non rientra nell’ambito di applicazione del presente codice, quando sono soddisfatte tutte le seguenti condizioni:
  - l’accordo stabilisce o realizza una cooperazione tra le amministrazioni aggiudicatrici o gli enti aggiudicatori partecipanti, finalizzata a garantire che i servizi pubblici che essi sono tenuti a svolgere siano prestati nell’ottica di conseguire gli obiettivi che essi hanno in comune;
  - l’attuazione di tale cooperazione è retta esclusivamente da considerazioni inerenti all’interesse pubblico;
  - le amministrazioni aggiudicatrici o gli enti aggiudicatori partecipanti svolgono sul mercato aperto meno del 20 per cento delle attività interessate dalla cooperazione”.
- che i presupposti richiesti ai fini della legittimità dell’impiego dello strumento dell’accordo sono stati individuati nei seguenti punti:

- l'accordo regola la realizzazione di un interesse pubblico, effettivamente comune ai partecipanti, che le Parti hanno l'obbligo di perseguire come compito principale, da valutarsi alla luce delle finalità istituzionali degli Enti coinvolti di cui alle premesse;
  - alla base dell'accordo vi è una reale divisione di compiti e responsabilità;
  - le Parti non hanno svolto sul mercato aperto le attività oggetto del presente accordo di cooperazione;
  - i movimenti finanziari tra i soggetti che sottoscrivono l'accordo devono configurarsi solo come ristoro delle spese sostenute, essendo escluso il pagamento di un vero e proprio corrispettivo, comprensivo di un margine di guadagno;
  - il ricorso all'accordo non può interferire con il perseguimento dell'interesse principale delle norme comunitarie in tema di appalti pubblici, ossia la libera circolazione dei servizi e l'apertura alla concorrenza non falsata negli Stati membri;
- che le parti intendono stipulare, ai sensi e per gli effetti dell'art. 15 della legge n. 241/1990 e s.m.i., dell'art. 12, comma 4, della Direttiva 24/2014/UE, dell'art. 5, comma 6 del D.Lgs. n. 50/2016 e della giurisprudenza comunitaria e nazionale in materia, un accordo di cooperazione finalizzato allo svolgimento di attività di interesse comune, coerente con le finalità istituzionali di entrambi e senza il pagamento di alcun corrispettivo, eccetto il rimborso dei costi e delle spese vive;
  - che le Parti, in ragione del presente accordo di cooperazione, intendono mettere a disposizione risorse umane e strutturali necessarie all'esecuzione dei progetti che saranno congiuntamente realizzati;

Appurato che LaMMA e Scripps Institution of Oceanography at the University of California condividono l'interesse ad aumentare la capacità, sia della comunità di ricerca sia delle autorità regionali, subregionali e locali del Mediterraneo, di valutare e affrontare congiuntamente i pericoli legati all'inquinamento e ai rischi ambientali nelle acque del Mediterraneo, di interesse transnazionale;

Rilevata la conseguente e comune volontà delle Parti, nel rispetto delle rispettive finalità e competenze, di sviluppare una specifica attività di collaborazione e cooperazione avente ad oggetto "Realization of a wave buoy field to validate wave action balances, processes and parameterizations in numerical wave models";

Visto lo schema di accordo di collaborazione;

### **DECRETA**

1. di approvare, per le ragioni espresse in narrativa che qui si intendono integralmente richiamate, lo schema di accordo di collaborazione da sottoscrivere con Scripps Institution of Oceanography at the University of California, allegato al presente decreto, avente ad oggetto lo sviluppo del Progetto "Realization of a wave buoy field to validate wave action balances, processes and parameterizations in numerical wave models";
2. di dare atto che la decorrenza dell'accordo di cui al punto 1) prende avvio alla sottoscrizione dello stesso e cessa il 30.04.2022;
3. di provvedere a tutti gli atti necessari e conseguenti al presente decreto.

L'Amministratore Unico  
Dott. Bernardo Gozzini

## ACCORDO DI COLLABORAZIONE

Art. 15 della Legge 241/90 e Art. 5 c. 6 del D.Lgs. 50/16

### RESEARCH AGREEMENT

This Agreement is made by and between LAMMA Consortium ("Sponsor") with offices at Sesto Fiorentino (Florence, Italy), via Madonna del Piano 10 c/o Area Ricerca CNR, and The Regents of the University of California, a California Corporation having its principal office at 1111 Franklin Street, 5th floor, Oakland, California 94607-5200, on behalf of Scripps Institution of Oceanography at the University of California, San Diego campus ("University") located at 9500 Gilman Drive, La Jolla, California 92093-0210.

WHEREAS, it is in the mutual interest of Sponsor and University that research be conducted on a project entitled "Realization of a wave buoy field to validate wave action balances, processes and parameterizations in numerical wave models" (Project);

WHEREAS, Sponsor desires to financially support said research at University;

WHEREAS, Sponsor finances this activities on the basis of funds from a European project namely SICOMAR-plus supported by the Cross-border Interreg Italia-Francia "Marittimo" program.

NOW, THEREFORE, the parties agree as follows:

1. **SCHEDULE** - The Project shall be conducted in accordance with the Research Proposal UCSD 2021-XXX (Exhibit A) attached hereto and incorporated into this Agreement by this reference solely for the purpose of describing the scope of work to be performed under this Agreement. The Project shall be carried out during the Project Period specified in the Research Proposal, namely from 01 November 2021 through 30 April 2022 unless sooner terminated as herein provided.
2. **BUDGET** - Sponsor shall support the Project by an award of 85,000 U.S. Dollars. The award amount shall cover all direct and indirect costs of the Project, as set forth in the Budget attached to the Research Proposal. If at any time University has reason to believe that the cost of the Project will be greater than the amount budgeted, University shall notify Sponsor in writing to that effect, giving a revised budget of the cost of completion of the Project. Sponsor shall not be obligated to reimburse University for the costs incurred in excess of the Budget unless and until Sponsor has notified University in writing that the revised budget is accepted. Upon expenditure of the accepted budget amount, University's obligation to continue performance of the Project shall cease.
3. **PAYMENT** - Upon execution of this Agreement, University will submit ~~an invoice~~ payment request to Sponsor in the amount of 50,000 U.S. dollars. 20,000 U.S. dollars will be transferred by and not later than 10 January 2022 and the remaining balance of 15,000 by and not later than 31 March 2022. The University shall mail payment requests to:

SPONSOR's ADDRESS: Consorzio LaMMA – Laboratorio di Monitoraggio e Modellistica Ambientale per lo sviluppo sostenibile; Area della Ricerca CNR – Edificio D - Via Madonna del Piano 10, 50019 Sesto Fiorentino FI

SPONSOR's EMAIL ADDRESS: amministrazione@lamma.toscana.it

Payment may be made by check, ACH or wire transfer. When payment is made an email notification shall be sent to [emfcashmgt@ucsd.edu](mailto:emfcashmgt@ucsd.edu).

Checks shall be made payable to "The Regents of the University of California" and sent to the following address:

The Regents of the University of California  
University of California-San Diego  
Cashier's Office, Mail Code 0009  
9500 Gilman Drive  
La Jolla, CA 92093-0009

Note that the Routing Number is different for ACHs and wire transfers.

Payment via ACH (preferred method) bank information:

- Receiving bank name: Bank of America, NA
- Receiving bank address:  
Bank of America, NA  
P.O. Box 37025  
San Francisco, CA 94137, USA
- Account number: 1233018188
- Routing (ABA) number: 121000358
- Account name: Regents of the University of California, San Diego
- ACH preferred format: CTX
- Type of Account: Checking

Payment via wire transfer bank information:

- Receiving bank name: Bank of America, NA
- Receiving bank address:  
Bank of America, NA  
100 West 33<sup>rd</sup> Street  
New York, NY 10001, USA
- Account number: 1233018188
- Routing (ABA) number: 0260-0959-3
- CHIPS address: 0959
- SWIFT address: BOFAUS3N
- Account name: Regents of the University of California, San Diego
- Type of Account: Checking

Each payment shall be identified by providing the following information:

- UCSD fund number or contract/ grant number

- AR ISIS account number and invoice number
- Principal investigator, department name, department contact name
- Any other information that will facilitate the identification of the payment (for payment by check, include a copy of the invoice)
- Exact amount of incoming funds

Sponsor requests that University provide a report of expenditures shown by major cost categories.

4. **PRINCIPAL INVESTIGATOR** - The research is to be conducted by University under the direction of Luca Centurioni ("Principal Investigator") who will be responsible for the direction of the Project, including all budgeting and revisions to the Budget, in accordance with applicable University policies. The research is in collaboration with LAMMA Consortium, in particular of the Division of Oceanography at LAMMA under the responsibility of Carlo Brandini ("Co-Principal Investigator").

5. **CONFIDENTIALITY** - Subject to Paragraph 9 of this Agreement, it is the intent of the parties that neither party shall furnish any information considered confidential and/or proprietary by it and/or one or more third parties to the other party in connection with this Agreement except as required by law.

Should Sponsor deem it necessary to disclose information considered confidential and/or proprietary by it to University, it will be clearly marked by Sponsor, in writing, as "Confidential Information." Proprietary/confidential information shall also include oral disclosures provided that the oral disclosure is reduced to writing in summary form, marked as "Confidential Information," and delivered to the Receiving Party within thirty (30) days of oral disclosure.

Except as required by law, University will use reasonable efforts not to disclose Confidential Information for a period of three (3) years from the end of this Agreement. This obligation does not apply to information that was known to University prior to its receipt from Sponsor, that is independently developed by the University, or becomes known at any time to third parties through no fault of University.

6. **RIGHTS IN DATA** - Subject to Paragraph 5 of this Agreement, University shall have the right to copyright, publish, disclose, disseminate and use, in whole and in part, any data and information received or developed under this Agreement. Subject to the terms of the Publication, and Disclosure and Invention Rights provisions of this agreement, Sponsor shall have the right to disclose, publish and use the technical reports, data and information delivered hereunder to Sponsor by University.

7. **USE OF NAME/PUBLICITY** - It is agreed by each Party that it will not under any circumstance use the name of the other Party or its employees in any advertisement, press release or publicity with reference to this Agreement, without prior, written approval of the other Party.

8. **PUBLICATION** - University shall have the right to publish the results of the work conducted by University under this Agreement to the extent such results do not contain Confidential Information of Sponsor. University shall, ~~upon request~~, provide Sponsor the opportunity to review any proposed manuscripts describing said work thirty (30) days prior to submission for publication for disclosure of Sponsor's Confidential Information or for potentially patentable inventions. If such submission would cause the loss of significant foreign patent rights, University will, at its option, either delete the enabling portion of the proposed publication, or withhold publication for sixty (60) days until U.S. patent filings are completed, but only to the extent that Sponsor agrees to reimburse University for costs associated with such patent applications and subsequent prosecutions.

As regards the data collected in the field activity, and the results of the scientific analyzes that may result from it, performed by LAMMA researchers the Sponsor has also the right to publish them in accordance with the University.

9. **DISCLOSURE AND PATENT RIGHTS** - Inventorship of inventions, developments or discoveries arising from research conducted under this Agreement shall be determined in

accordance with United States Patent Law, Title 35 United States Code.

a. Sponsor Inventions - All rights to inventions or discoveries, including software, made solely by Sponsor shall belong to Sponsor and shall be disposed of in accordance with Sponsor policy.

b. University Inventions - All rights to inventions or discoveries, including software, made solely by University shall belong to the University and shall be disposed of in accordance with University policy.

c. Joint Inventions - All rights to inventions or discoveries, including software, made jointly by University and Sponsor shall be jointly-owned.

10. **INDEMNIFICATION** - Sponsor agrees to defend, indemnify and hold University harmless from and against any and all claims, liability, loss, expense, reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Sponsor, its officers, agents or employees.

University agrees to defend, indemnify and hold Sponsor harmless from and against any and all claims, liability, loss, expense, reasonable attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of University, its officers, agents, or employees.

11. **SUPPLIES AND EQUIPMENT** - In the event that University purchases supplies and/or equipment hereunder, title to such supplies and/or equipment shall vest in University.

12. **EXCUSABLE DELAYS** - In the event of a delay caused by inclement weather, fire, flood, strike or other labor dispute, act of God, act of governmental officials or agencies, or any other cause beyond the control of University, University shall be excused from performance hereunder for the period of time attributable to such delay, which may extend beyond the time lost due to one or more of the causes mentioned above. In the event of any such delay, this Agreement may be revised by changing the Budget, performance period and other provisions, as appropriate, by mutual agreement of the parties.

13. **NOTICE** - Whenever any notice is to be given hereunder, it shall be in writing and sent to the following address:

University:

(U.S. Mail)                      Office of Contract and Grant Administration  
Scripps Institution of Oceanography  
University of California, San Diego  
La Jolla, California 92093-0210

for courier delivery:

Office of Contract and Grant Administration  
Scripps Institution of Oceanography  
116 Scripps Building  
8622 Charles F. Kennel Way (formerly Discovery Way)  
La Jolla, California 92037

Sponsor:

14. **TERMINATION** - This Agreement may be terminated by either party at any time upon the giving of thirty (30) days prior written notice to the other party. Written notice shall be directed to the appropriate individual named in Article 13 ("NOTICE") of this Agreement. Upon the giving of notice of termination by the Sponsor, the University shall exert its best efforts to limit or terminate any outstanding commitments. Sponsor shall reimburse University for all costs incurred by it for all work performed through the effective termination date, and for all outstanding obligations which cannot be canceled. Such obligations may include salary and fringe benefits (including vacation accrual) of personnel engaged on the project during their severance period; purchase orders and other agreements with outside vendors which cannot be canceled; inventory storage and disposition costs for items produced under this Agreement; and indirect costs associated with these obligations. In addition, University shall also be reimbursed for additional costs which may be incurred as a result of termination, including reasonable clerical and accounting costs. University shall furnish, within ninety (90) days of the effective date of termination, a final invoice for settlement of all costs to be reimbursed. Upon the giving of notice of termination by University, as of the effective termination date Sponsor shall have no additional liability for any costs or obligations. In addition, University shall furnish, within sixty (60) days of the effective date of termination, a final summary of all funds expended and shall reimburse Sponsor for any funds paid by Sponsor to University in excess of total funds expended by University.

THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA

Sole Director Consorzio LAMMA

By: \_\_\_\_\_  
(signature)

By: \_\_\_\_\_  
(signature)

Name:  
Title: XXX, Office of Contract and  
Grant Administration, SIO, UCSD

Name: \_\_\_Gozzini Bernardo\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# Budget

UCSD # 38688-2021

Realization of a wave buoy field to validate wave action balances, processes and parameterizations in numerical wave models

Year 1: 11/01/21 through 04/30/22

A. SALARIES	FY Rates Beginning	Monthly Direct Salary Rate	No. Months	% Salary or Effort	Person Mos.	Salary Subtotal	Fringe Benefits		TOTAL
							%	Amount	
Luca Centurioni	7/21	15.108	6,00	8,33%	0,50	7.551	43,00%	3.247	10.798
Researcher	7/22	15.712				0		0	0
Lancelot Braasch	7/21	11.107	6,00	9,39%	0,56	6.258	43,00%	2.691	8.949
Res/Dev Engineer	7/22	11.551				0		0	0

Total person months 1,06

**DIRECT SALARIES TOTAL** 13.809

**B. FRINGE BENEFITS**

**BENEFITS TOTAL** 5.938

**SALARIES AND BENEFITS TOTAL** 19.747

**D. EQUIPMENT (or equivalent and includes sales tax)**

10 DWSD drifters, mooring configuration, strobe light, battery cartridge with Iridium telemetry included (1 year), with 100 m mooring line, data relay to Lamma in real time

Total Equipment 44.000

**EQUIPMENT TOTAL** 44.000

**H. OTHER**

Project Specific Communications, Mailing/FedEx, and Network Costs  
Shipping of equipment, to Livorno

202

6.000

**OTHER EXPENSES TOTAL** 6.202

**I. TOTAL DIRECT COSTS**

69.949

**J. INDIRECT COSTS (less equipment, tuition remission, subcontract costs in excess of \$25K)**

Tuition:	0	Base	OH Rate	
Equipment:	44.000	25.949	58,0%	15.051
UC Campus:	0			
Excluded from Indirect:	44.000			

**TOTAL INDIRECT COST** 15.051

**K. TOTAL AMOUNT REQUESTED**

**85.000**