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Inspiralia's internal reference: 20Q900156



## Services Agreement

Issue Date: 11/05/2020

### The Parties:

<u>Inspiralia's Legal Data:</u>	<u>Client's Legal Data:</u>
Tecnologías Avanzadas Inspiralia, S.L.	Company name: Faculty of Information Technology, Brno University of Technology
VAT:ES B84293521	VAT: CZ00216305
C/ Manuel Tovar 49	Address: Božetěchova 2,
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### 1. Object of this Agreement

The object of this agreement (hereinafter, the "Agreement") is the provision by Tecnologías Avanzadas Inspiralia, S.L. (hereinafter, "INSPIRALIA") of consultancy services in connection with an initial concept referred to in Annex 1 (the "Initial Idea"). Such Initial Idea will serve as the basis for the preparation of a funding proposal by INSPIRALIA (the "Proposal") and the subsequent development of the research project by INSPIRALIA (the "Research Project" or the "Project") as described in Clause 2 below, both on behalf of the Client.

### 2. Services

To achieve the object of this Agreement, INSPIRALIA shall carry out the following actions, as described hereafter:

#### **Step 1: Drafting the Proposal to obtain funding for carrying out the European Research Project:**

INSPIRALIA shall draw up a European Research Project Proposal for an estimated investment the average amount of which is Three Million Five Hundred Thousand Euros (€ 3,500,000). The Proposal shall be drafted for submission to the European Commission (the "EC") under the relevant call in full compliance with all the requirements of the EC.

During the development and submission of the Proposal, Client shall participate and contribute actively and consciously in the abovementioned process, ensuring that all resources required for the successful development of its services will be available.

This particularly applies to any technical or financial information that may be relevant to the Client's participation as a partner in the Proposal's consortium (the "Consortium") for the definition of its role, activities and budget, such as human specific technical skills, and material and human resources and rates of personnel.

### **Step 2: Client's role description and budget calculation**

During the writing stage of the Proposal, INSPIRALIA shall help the Client to identify its best role within the Project and calculate its budget based on the effort estimation and the financial data provided by the Client. Throughout the entire process, INSPIRALIA shall provide the Client with the necessary *ad hoc* advice to enable an appropriate exchange of information and a full comprehension of the H2020 Programme to which the Proposal is aimed to be submitted.

Client shall be properly identified in all the documentation drawn up and sent to the EC, as one of the Project Proposal participants.

### **Step 3: Support in the grant contract negotiation enabling rapid Project start**

Once approval for funding by the EC agency has been gained, INSPIRALIA shall facilitate the process towards the access to the grant contract ("Grant Agreement") and shall provide Client with the necessary information and advice to comply with the requirements of the EC. In return, Client commits to strictly comply with such requirements.

INSPIRALIA's Services shall be considered fully rendered only once the EC proceeds to make the pre-financing payment in accordance with the provisions of clause 21.1 of the Multi Beneficiary General Model Grant Agreement or the Mono Beneficiary General Model Grant Agreement as the case may be (jointly "MGA").

For the purposes of this Agreement, the term "Funding" shall mean the non-refundable economic resources granted by the EC under the framework of H2020.

In any and all cases the Parties agree that the tasks provided for in Article 41 of the MGA as well as any other which the EC may consider from time to time to be non-delegable under the H2020 framework shall be performed exclusively by Client without them being the subject matter of this Agreement.

## **3. Price and payment terms**

The Price and payment terms for the provision of the Services herein agreed are described in Annex 2.

## **4. Specific conditions for the provision of Services by INSPIRALIA**

- 4.1.** Client shall be responsible for gathering and submitting all necessary documentation to apply for any financial aid other than the Funding under H2020 whether national or international. Unless otherwise agreed between the Parties, the securing of such additional financial help, if applicable, shall not in any case condition any payments to INSPIRALIA herein agreed.
- 4.2.** INSPIRALIA cannot guarantee success in securing the Funding. Should the Proposal not obtain Funding after its submission INSPIRALIA can only offer further resubmissions to the extent the Coordinator and the rest of the Consortium members authorize it and provided there are sufficient applicable calls. Thus the present Agreement does not commit the Parties hereto to a new resubmission.
- 4.3.** INSPIRALIA does not guarantee the accomplishment of a valid proof of concept coming from the Research Project.

- 4.4.** For the avoidance of doubt only by paying the fees accrued by INSPIRALIA under this Agreement and upon complete execution of same in accordance with the provisions of Clause 4.2 above will Client acquire full ownership of the documents generated by INSPIRALIA deriving directly from consultancy provided hereto and in any case in accordance with Clause 3 of the General Terms and Conditions set out below.
- 4.5.** Payment of the amounts charged by INSPIRALIA shall never be made through a deduction of the Funding to which the Client would be entitled if the Proposal is retained by the EC or any other domestic or international financial aid. Such costs shall under no circumstance be deemed as a reduction of the budget for carrying out the assigned activities in the future Research Project, nor should they impact in any way the performance of the Client, the scope or quality of its delivery. Due to the nature of the Services and to the rules of participation of the EC, these payments cannot be considered eligible costs for the future Research Project.
- 4.6.** Client acknowledges that INSPIRALIA, at its sole discretion, may conclude service agreements with any and all partners and subcontractors that make up the Consortium for their participation in the Research Project Proposal whether they have been brought to the Project by the Client or through INSPIRALIA's intermediation. For the avoidance of doubts, INSPIRALIA shall not include in the Consortium any partners or subcontractors which are not previously approved by Client as Coordinator of the Project.
- 4.7.** In connection with the Proposal Client hereby declares:
- That Client is fully eligible in accordance with the criteria set out in the specific Funding call of H2020 and that they have financial and operational capacity to carry out the proposed action.
  - That Client shall respect the EU Regulation 1290/2013 of the Parliament and of the Council of 11 December 2013 laying down the rules for participation and dissemination in Horizon 2020 - the "Framework Programme for Research and Innovation (2014-2020)" and repealing Regulation (EC) n° 1906/2006 ("Rules of Participation") and specifically sections 35, 36, 38 and 46 of the MGA or any or any replacing or complementing regulation thereof.
  - That the Client hereby consents that INSPIRALIA submits the Funding Proposals on its behalf to the EC.

## **5. Execution of Agreement**

The Parties accept that a signature collected in pdf-format or through other electronic means when so executed and delivered shall have the same legal force and effect as the exchange of official signatures and be sufficient to render the Agreement legally binding on the Parties. Such exchanged counterparts in pdf or any other suitable format shall be deemed to be an original and taken together shall constitute but one and same Agreement which upon request of a Party shall be followed by original hardcopies sent by regular mail.

In any proceeding arising under or relating to this Agreement, each Party hereby waives any right to raise any defense or waiver based upon execution of this Agreement by means of such electronic signatures or maintenance of the executed agreement electronically.

## **6. Corporate Authority**

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

## GENERAL TERMS AND CONDITIONS

### 1.- Duration and non-compliance

1.1 This Agreement shall take effect from the date of signature by the Client and shall remain valid during the stages described in the aforementioned Project. For the avoidance of doubt should the resubmissions agreed in Clause 4.2 above be completed without the Parties having reached an agreement on new ones then this Agreement shall be automatically terminated.

1.2 However, it may be terminated by written notice before its anticipated end for the following reasons:

- A. At the request of INSPIRALIA, without prejudice to compensation for damages that apply to it and any penalties that may be specified in this Agreement, for the following:
- Repeated non-compliance by the Client with the instructions given by INSPIRALIA for appropriate Project Management;
  - Non-payment of sums indicated as costs;
  - Non-compliance by the Client with the obligations set out by the bodies providing the financing necessary for the Project;
- B. At the request of the Client, without prejudice to compensation for damages that apply to him, for the following reasons:
- Repeated non-compliance by INSPIRALIA with its obligations as set out in this Agreement;
  - Technical deficiencies by INSPIRALIA in carrying out work for which it has been commissioned with regard to the Project Proposal or in meeting delivery deadlines, excluding *Force Majeure*

#### C. Termination for convenience.

Client, without prejudice to compensation for damages that apply to it and any penalties that may be specified in this Agreement, may terminate this Agreement at its own convenience. All terminations that do not supply an explicit and proved cause will be considered to be for convenience.

All sums owed at termination, whichever the reason, shall be immediately due and payable.

### 2.- Confidentiality

For the purposes of the provisions of this Clause, the term "Disclosing Party" refers to the party (Inspiralia or Client) that discloses information to the other party and the term "Receiving Party" means the party (Inspiralia or Client) that receives information from the Disclosing Party.

To protect the interests of the Parties, the Receiving Party shall make every reasonable effort to maintain the confidentiality of all information supplied by the Disclosing Party which is expressly designated in writing as being confidential at the time when the abovementioned information has been disclosed. Receiving Party shall only grant access to confidential information to its officers, employees and consultants on a "need to know basis" and it shall be used only for the purposes of this Agreement. Under no circumstances whatsoever shall Receiving Party disclose confidential information to third parties without prior written authorization by the Disclosing Party.

The confidentiality obligation shall not apply to (i) any information that is already known by Receiving Party before its disclosure by the Disclosing Party; (ii) information that has been received by a third party without breaching any confidentiality obligation; (iii) information that is already in the public domain on the date of disclosure by Disclosing Party or (iv) information that must by law be disclosed.

The abovementioned obligations shall remain in force for a period of five (5) years after the date of disclosure of the confidential information.

Without prejudice to the abovementioned, except for the Business Plan deliverable, the documents and consultancy given by INSPIRALIA are confidential and solely meant for the Object of this Agreement. No part of these documents shall be reproduced or disclosed to third parties without INSPIRALIA's prior written consent. INSPIRALIA shall not be liable to the Client if the Client is sued by a third party to whom the Client has sent a report or given advice.

### 3.- Industrial Property

Client is the sole owner of all its industrial and/or intellectual property rights, including know-how and/or industrial secrets, patents and copyrights created by Client.

Since it is not an Intellectual or Industrial Property Agent, INSPIRALIA cannot guarantee the non-infringement of third-parties rights and thus it will not accept responsibility for any loss or claim caused by Client to third parties rights.

Client authorizes INSPIRALIA to use its logo for promotional purposes as a success case and for INSPIRALIA's website with a link to Client's website

### 4.- Offer duration

This Agreement constitutes a formal offer valid for Client's signature for one month from the date of issue reflected on the first page.

### 5.- Limits of liability

All conclusions, recommendations and forecasts made by INSPIRALIA, as well as any future reports, letters or written communications are made in good faith by INSPIRALIA and are based on information provided either by Client, or third parties or information which is already in the public

domain. Changes in Proposals against INSPIRALIA's recommendations shall remain Client's exclusive responsibility.

INSPIRALIA shall not be held responsible for any direct or indirect loss (including, but not limited to, loss of income or anticipated profits, purely economic losses and loss of business), sustained by Client during the development of the products arising from the Services provided through this Agreement. Except in the event of fraud or intentional fault or gross negligence by INSPIRALIA, INSPIRALIA's liability is limited to the amounts received by INSPIRALIA from Client.

### 6.- Restrictions pertaining to the hiring of workers or employees

Parties shall not hire or employ, directly or indirectly, on a full or part time basis, any person employed by the other, or work with them to provide services or establish any relationship with them during the period of validity this Agreement or for a year thereafter. In the event of non-compliance with this Clause, the non-compliant Party shall pay compensation to the other, amounting to twice the annual gross salary of the worker or employee.

### 7.- Assignment of the Agreement

Parties may not assign the rights or obligations under this Agreement without the prior written consent of the other Party.

Notwithstanding the above the Parties acknowledge that the Services may be partly rendered by any of INSPIRALIA's affiliates and/or subcontractors without it having the consideration of an assignment.

### 8.- Notifications

Any notice, requirement or communication linked to this Agreement shall be made in writing or by any other valid means, and be delivered by hand, post, fax or email to the address of the recipient specified in the Agreement or any other address (including fax number or email address) given to the other party in writing for this purpose.

### 9.- Partial Validity of the Agreement

If a Court or any other competent authority deems that a Clause or provision in this Agreement is invalid or unenforceable the Parties will agree on a valid Clause that confirms to a maximum extent their original intent. The rest of the contractual Clauses shall remain in force.

If any of the Parties renounces any right under this Agreement or any breach of the other Party, such waiver shall not constitute a waiver of any other right under the Agreement or for any other future non-compliance or lack of compliance by the other Party and shall not in any way affect the other general conditions linked to it.

### 10.- Integrity of the Agreement

This Agreement includes all the covenants and commitments between the Parties in connection with the Services, and replaces any prior agreement, NDA, statement or commitment, written or verbal, made by the Parties in relation to Services. For the avoidance of doubts, any future document containing general conditions shall be deemed inapplicable unless it is an amendment to this Agreement, in accordance with the Clause set out below.

No amendment to this Agreement shall take effect unless it has been agreed in writing by the duly authorised representatives of the Parties.

### 11.- Force Majeure

Except for the provisions of Annex 2 hereto and to the extent permitted by law, the Parties shall not be held responsible for any delay or lack of compliance with any of their obligations set out in the Agreement if such non-compliance is caused by an event beyond its reasonable control ("*Force Majeure*"). Without prejudice to the above Parties will take every reasonable step to pursue their compliance with their obligations during the period of aforementioned *force majeure*.

### 12.- Independence of the Parties

Neither the content of these conditions nor the actions of the Parties shall be construed as forming a company or any kind of entrepreneur-agent, or employer-employee relationship. The Parties shall not be or shall not act as if they are authorised to act or assume any kind of commitment in their individual names.

### 13.- Data protection

Data protection shall be governed by the provisions of Annex 3 below.

### 14.- Legal jurisdiction




This Agreement shall be governed in all its aspects by Spanish law and the Parties shall submit exclusively to the jurisdiction of the judges and courts in the city of Madrid.

### 15.- Consent

By virtue of this clause, the Client consents and authorizes INSPIRALIA to share with other external consultants, information relating to the Proposal. In all events, INSPIRALIA shall ensure that any such disclosures are based on a need to know for the purposes of executing this Agreement and that either of them are bound by written binders of confidentiality and non-use no less restrictive than those set out herein.

**ACCEPTANCE FORM**

In witness thereof, the Parties hereto have signed this Agreement on the date provided below.

<p><b>Tecnologías Avanzadas Inspiralia, S.L.</b></p>  <p>Signature: .....</p> <p>Name: Andrés Vallés Director of Innovation Strategy</p> <p>Date: 11/05/2020</p>	<p><b>Faculty of Information Technology, Brno University of Technology</b></p>   <p>Signature: .....</p> <p>Name: Pavel Zemčík, dean Faculty of Information Technology, Brno University of Technology</p> <p>Date: <b>11 -05- 2020</b></p>
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**ANNEX 1 –IDENTIFICATION OF THE INITIAL IDEA**

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## **ANNEX 2 – PRICE FOR THE PROVISION OF SERVICES**

For the Services described in Clause 2 of this Agreement, INSPIRALIA shall charge the Client the following sums:

If the Research Project is granted with Funding, INSPIRALIA shall charge the Client an amount equivalent to seven per cent (7%), VAT excluded, of the Funding granted to Client as a Success Fee. This amount shall be invoiced on the date of signature of the Grant Agreement by the EC and shall be paid within sixty (60) days from the issue date.

### ANNEX 3 – DATA PROTECTION

1. In conformity with the EU General Data Protection Regulation, INSPIRALIA will process Client's personal data for the correct management of the contractual relationship, send commercial/promotional communications based on Client's commercial profile on products and/or services related to those effectively contracted as well as with respect to financial investment services, technical and business-related advisory services, services of intermediation and commercial development, development of products and technological applications and advisory services and intermediation in the search for funding. Said processing is legitimated on the basis of the execution of this Agreement and the legal obligations of INSPIRALIA. The data will be kept for as long as these purposes last.

In addition the data of all and any signatories to this Agreement and belonging to Client (the "Signatories") may be communicated to other entities of the INSPIRALIA Group to which INSPIRALIA belongs, such as Toro Ventures Financial and Management Services SL, Future Sense SL, Inspiralia Vertical Green SL, M27 Finance GmbH, Fen Technology Ltd, Fen Technology USA LLC, and Inspiralia USA Inc. (which, in the three latter cases, would represent an international transfer of his data outside the EU). The purposes, legitimation and terms of the processing of the data by these companies are the same as those indicated for INSPIRALIA. Signatories may exercise their rights of access, rectification, erasure, objection, restriction and portability of his data at any moment, requesting this in writing by mail to [info@inspiralia.com](mailto:info@inspiralia.com). Client has the right to present a claim before the Spanish Data Protection Agency.

2. In the same manner, during the performance of the Services, the Parties may have access to personal data for which the Client is responsible. In this regard, for the purposes of compliance with personal data protection regulations, INSPIRALIA will be considered the Data Processor, for which it undertakes to fulfil Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter, GDPR), guaranteeing that they undertake the following:

a) To process the personal data exclusively for the purposes of fulfilling the rendering of the Services contracted and adjusting to Client's instructions.

b) To maintain the duty of secrecy in respect of any personal data that he has access to, with this obligation to persist even following the termination of the contractual relationship, whatever the cause of this may be, as well as to guarantee that any persons who render services for INSPIRALIA have undertaken them to fulfil said obligation.

c) To guarantee a level of security appropriate to the risk taking into account the state of the art and its nature, the scope and context, and the purposes of the processing, as well as any risks of likelihood and seriousness for the rights and freedoms of data subjects, for which they must apply suitable technical and organizational measures. On assessing the suitability of the level of security, INSPIRALIA shall take into account the ability to ensure the continued confidentiality, integrity, availability and resilience of processing systems and services; in particular as a consequence of the accidental or unlawful destruction, loss or alteration of personal data transmitted, stored or otherwise processed, or the unauthorised disclosure of or access to such data.



d) Not to communicate personal data to any third parties, even for the divulgation thereof, and not to divulge them or communicate them to any persons foreign to INSPIRALIA, except with prior written authorization. In any cases in which INSPIRALIA may need to contract another service provider with access to data (sub-processor), INSPIRALIA must identify the third party in advance (name, address, Tax Identification Number), with it being possible for this to take place exclusively with Client's express prior authorization in writing.

e) To remove and return to Client, at its choice all personal data to which INSPIRALIA may have had access in order to render the Service or fulfil its obligations under this Contract. In addition, INSPIRALIA undertakes to destroy any copies existing, except in those cases in which a rule may exist that obliges them to be stored or whenever they may prove to be necessary for the accreditation of his responsibilities, with them having to be stored, in this latter case, in a duly-limited manner.

f) To notify the Data Controller, without any undue delay, of any security breaches of the personal data that he may become aware of, providing support to the Data Controller in the notification to the Spanish Data Protection Agency or any other competent Supervisory Authority, and, as may be appropriate, to the data subjects, of any security breaches that may arise, as well as give support to the former, whenever this may be necessary, in the drafting of assessments on impact on privacy, and in the preliminary consultation with the Spanish Data Protection Agency, whenever this may be appropriate, and assist the Data Controller in order for the latter to be able to comply with the obligation to provide a reply to requests for the exercising of rights.

g) To keep a written record of all of the categories of activities performed on behalf of the Data Controller.

h) To cooperate with the Spanish Data Protection Agency or any other competent Supervisory Authority, at their request, in the fulfilment of his attributions.

i) To provide the Data Controller with all information necessary to demonstrate fulfilment of the obligations established in this Contract and to allow, and contribute towards, the carrying-out of audits, including inspections, by the Data Controller or any third-party authorized by the latter. Lack of accreditation that the Data Processor is correctly fulfilling the obligations assumed in this Contract shall be a cause for the termination of the same.

j) To guarantee that the data will only be transferred outside the European Economic Area with the prior authorization of the Parties and in strict compliance with any legal requirements that may prove to be applicable at any given moment, in conformity with that provided for in the GDPR, applicable national legislation, case-law, and the criteria of supervisory authorities.

INSPIRALIA may be deemed Responsible for Processing while determining responsibilities in the event of non-compliance with enforceable data protection regulations if treats or uses such personal data for any other purposes than those agreed upon and accepted herein, as well as in the case that data processing fails to comply with any of the stipulations set out in this Contract.