

# Consortium Agreement



[PATAFEST]

Version [1] – [1/6/2023]

(Based on DESCA – Model Consortium Agreement for Horizon Europe, version 1, December 2021)

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## CONSORTIUM AGREEMENT

THIS CONSORTIUM AGREEMENT is based upon Regulation (EU) No 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), laying down its rules for participation and dissemination (hereinafter referred to as “Horizon Europe Regulation”), and on the European Commission’s General Model Grant Agreement and its Annexes, and is made on **June 1<sup>st</sup>, 2023** hereinafter referred to as the Effective Date

### BETWEEN:

1. **FUNDACIÓN TECNOLÓGICA ADVANTX [FUNDITEC]**, with legal address Paseo de la Castellana, nº 141, planta 18 Edificio Cuzco IV, Madrid (Spain), the Coordinator
2. **INSTITUTO VASCO DE INVESTIGACIÓN Y DESARROLLO AGRARIO [NEIK]** with legal address 48160 DERIO, C/ Berreaga 1, SPAIN
3. **INSTITUTO NACIONAL DE INVESTIGACIONES AGROPECUARIAS [INIAP]** with legal address
4. **IRIS TECHNOLOGY SOLUTIONS LS [IRIS]** with legal address at Carretera D’Esplugues 39 41, 08940, Cornellà de Llobregat, Spain
5. **KNEIA SL [KNEIA]** with legal address Carrer Aribau 168-170, 08036 BARCELONA, Spain
6. **UDAPA S. COOP. [UDAPA]** with legal address PADULETA 1, VITORIA-GASTEIZ Spain
7. **CHEMIA SPA [CHEM]** with legal address Via Statale, 327 - 44047 DOSSO - Terre del Reno - Ferrara – Italy.
8. **PALACKÝ UNIVERSITY OLOMUC [UPOL]** with legal address at Krizkovskeho 511/8, Olomouc, ZIP 779 00, the Czech Republic, represented by [REDACTED]
9. **TECHNION-ISRAEL INSTITUTE OF TECHNOLOGY [TECHN]** with legal address at SENATE BUILDING TECHNION CITY, HAIFA 32000, Israel,
10. **EUROPEAN POTATO TRADE ASSOCIATION [EUPAT]** with legal address Rue des Deux Eglises 26, 1000 Brussels (Belgium)
11. **ALMA MATER STUDIORUM UNIVERSITÀ DI BOLOGNA [UNIBO]** ] established in VIA ZAMBONI 33, BOLOGNA 40126, Italy, VAT number: IT01131710376
12. **KARTOFFEL-BOEHMER [BOEH]** H.W. Boehmer Verp. & Vertriebs GmbH & Co. KG, Marie Bernays Ring 39. 41199 , MONCHENGLADBACH Germany
13. **Verein der Europäischen Bürgerwissenschaften e.V. / European Citizen Science Association [ECSA]** c/o Museum für Naturkunde Berlin, Leibniz-Institut für Evolutions- und Biodiversitätsforschung Bereichsleitung Wissenschaftskommunikation und Wissensforschung, Invalidenstraße 43, D-10115 Berlin
14. **ANECOOP [ANEC]** with legal address CALLE MONFORTE 1, VALENCIA Spain

15. **TERREA** [TERREA] with legal address ANCIENNE VOIE AURELIA 13210 , SAINT-REMY-DE-PROVENCE France

16. **AINIA** [AINIA] PIC 999947781, established in CALLE BENJAMIN FRANKLIN 5-11 VALENCIA PARC TECNOLOGIC, PATERNA VALENCIA 46980, Spain

hereinafter , jointly or individually, referred to as “Beneficiaries” or “Beneficiary”

And the following Parties are identified as Associated Partners,

17 - **Albert Bartlett** [AB] with legal address 251 STIRLING ROAD, AIRDRIE United Kingdom, hereinafter, referred to as “Associated Partner”,

18 - **Cranfield University** [CRUN], with legal address Cranfield University, College Road, Cranfield, Bedfordshire, United Kingdom, hereinafter referred to as “Associated Partner”,

hereinafter, jointly or individually referred to as “Associated Partners” or “Associated Partner”.

hereinafter Beneficiaries and Associated Partners, jointly or individually, referred to as “Parties” or “Party”

relating to the Action entitled

**Potato crop effective management strategies to tackle future pest threats**

in short

**PATAFEST**

hereinafter referred to as “Project”

**WHEREAS:**

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the Granting Authority as part of Horizon Europe – the Framework Programme for Research and Innovation (2021-2027).

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the specific Grant Agreement to be signed by the Beneficiaries and the Granting Authority (hereinafter “Grant Agreement”).

The Parties are aware that this Consortium Agreement is based upon the DESCA model consortium agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

## **1 Definitions**

### **1.1 Definitions**

Words beginning with a capital letter shall have the meaning defined either herein or in the Horizon Europe Regulation or in the Grant Agreement including its Annexes.

## 1.2 Additional Definitions

### **“Access”**

Access means the rights granted to Parties to use Background and Results in connection with this Project as set out in clause 9 and Attachment 1, Grant Agreement and Rules for Participation.

### **“Consortium Body”**

Consortium Body means any management body described in Section 6 (Governance Structure) of this Consortium Agreement.

### **“Consortium Plan”**

Consortium Plan means the description of the Action and the related agreed budget as first defined in the Grant Agreement and which may be updated by the General Assembly.

### **“Associated Partner”**

Associated Partner shall have the meaning of article 9.1 stated in the Grant Agreement.

### **“Granting Authority”**

means the body awarding the grant for the Project.

### **“Defaulting Party”**

Defaulting Party means a Party which the General Assembly has identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Section 4.3 of this Consortium Agreement.

### **“Legitimate interest(s)”**

Legitimate interest includes but is not limited to academic or commercial interest or interest related to a Party's corporate image, which breach would result in such Party suffering great harm in the cases provided for in this Consortium Agreement.

### **“Needed”**

means:

*For the implementation of the Project:*

Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient Party would be technically or legally impossible, significantly delayed, or require significant additional financial or human resources.

*For Exploitation of own Results:*

Access Rights are Needed if, without the grant of such Access Rights, the Exploitation of own Results would be technically or legally impossible.

### **“Software”**

Software means sequences of instructions to carry out a process in, or convertible into, a form executable by a computer and fixed in any tangible medium of expression.

## **2 Purpose**

The purpose of this Consortium Agreement is to specify with respect to the Project the relationship among the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution.

## **3 Entry into force, duration and termination**

### **3.1 Entry into force**

An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by a duly authorised representative.

This Consortium Agreement shall have effect from the Effective Date identified at the beginning of this Consortium Agreement.

An entity becomes a new Party to the Consortium Agreement upon signature of the accession document (Attachment 2) by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.

### **3.2 Duration and termination**

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement.

However, this Consortium Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of this Consortium Agreement.

If

- the Grant Agreement is not signed by the Granting Authority or a Beneficiary, or
- the Grant Agreement is terminated, or
- a Beneficiary's participation in the Grant Agreement is terminated,

this Consortium Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Section 3.3 of this Consortium Agreement.

The Parties agree that if a Beneficiary requests to withdraw from this Consortium Agreement, this request will be considered as a request for termination in the Grant Agreement, according to article 32. The provisions of the Grant Agreement and of this Consortium Agreement regarding termination shall apply as hereafter complemented.

If a Party wishes to withdraw from this Consortium Agreement, it shall send a request in writing to the Coordinator. Such request shall fully set out the reasons for which such withdrawal is deemed necessary. The Coordinator submits the request to the competent Consortium body, who may require that certain conditions are fulfilled by the withdrawing Party, in the interest of the Project.

In case of one Beneficiary's withdrawal, the other Parties shall use reasonable endeavours to reach a timely agreement on how to reallocate the requesting Party's tasks under the Consortium Plan, and their related budget and EC contribution, for Beneficiaries, so that the overall objectives of the Project can still be met after the Party's withdrawal. Following the decisions above, the Coordinator shall promptly notify the Granting Authority, for its approval and any needed Grant Agreement amendment procedure.

### **3.3 Survival of rights and obligations**

The provisions relating to Access Rights, Dissemination and confidentiality, for the time period mentioned therein, as well as for liability, applicable law and settlement of disputes shall survive the expiration or termination of this Consortium Agreement.

Termination shall not affect any rights or obligations of a Party leaving the Project incurred prior to the date of termination, unless otherwise agreed between the General Assembly and the leaving Party. This includes the obligation to provide all necessary input, deliverables and documents for the period of its participation.

## **4 Responsibilities of Parties**

### **4.1 General principles**

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement. As may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.

Each Beneficiary undertakes to notify promptly and the other Parties, in accordance with the governance structure of the Project, of any significant information, fact, problem or delay likely to affect the Project as soon as it becomes aware of it.

Each Party shall promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks and shall responsibly manage the access of its employees to the EU Funding & Tenders Portal.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

Although under Annex 5 of the Grant Agreement the Associated Partners are not subject to the same provisions as the Beneficiaries concerning the protection and exploitation of results, it is hereby agreed that in the interest of the Project the aforementioned provisions shall also apply to the Associated Partners, provided that this does not put the Associated Partners in breach of their obligations to the UK Government (the „Funders Obligations“) as the funder of their participation in the Project. In the event there is a conflict between Annex 5 of the Grant Agreement and the Funders Obligations then the Funders Obligations shall prevail.

## **4.2 Specific responsibilities for Associated Partners.**

For the avoidance of doubt, the Associated Partners do not sign the Grant Agreement and do not receive funding from the Granting Authority and therefore do not have a right to charge costs or claim contributions from the Granting Authority. Associated Partners must ensure its/their own funding for the implementation of the Project. However, certain terms and conditions of the Grant Agreement and its Annexes are applicable to the Associated Partners. The Coordinator will share a copy of the signed Grant Agreement and information on any amendments with the Associated Partners).

The Associated Partners hereby commit to implement the Project tasks attributed to them in Annex 1 of the Grant Agreement.

In addition, the Associated Partners hereby commit especially to the following articles of the Grant Agreement and related regulations of Annex 5:

- Proper implementation of the action (Article 11)
- Conflicts of interest (Article 12)
- Confidentiality and security (Article 13)
- Ethics and values (Article 14)
- Visibility (Article 17.2)
- Specific rules for carrying out the action (Article 18)
- Information obligations (Article 19)
- Record-keeping (Article 20)

The Associated Partners support the Beneficiaries regarding their exploitation, dissemination and Open Science obligations and commit to contribute to the technical and continuous reporting during and after the implementation of the Project.

Furthermore, the Associated Partners hereby explicitly agree to cooperate with and grant access to bodies according to Article 25 of the Grant Agreement (the Granting Authority, the European Anti-Fraud Office (OLAF), the European Public Prosecutor's Office (EPPO), the European Court of Auditors (ECA)), so that these bodies can carry out checks, reviews, audits and investigations also towards the Associated Partners. Any Associated Partner from a non-EU-country undertakes to comply additionally with any other obligation arising from Art. 10.1 of the Grant Agreement.

In case of termination or being declared a Defaulting Party, an Associated Partner shall, within the limits specified in section 5.2 of this Consortium Agreement, bear any reasonable and justifiable costs occurring to the other Parties for performing this Associated Partners tasks and the costs for additional efforts necessary to implement the Project.

Subject always to the limitations set out in clause 5.2, in the event a claim is made by the Granting Authority against any Beneficiary due to the performance of an Associated Partner, an Associated Partner is obliged to indemnify the other Parties for any claim of the Granting Authority against them, caused by this Associated Partner's actions or omissions during Grant Agreement preparation, Project implementation or after Project end. Regarding such claims the Associated Partner's special liability is limited to once the amount of its total budget as indicated in Annex 2 of the Grant Agreement .

## **4.3 Breach**

In the event that the General Assembly identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement (e.g. improper implementation of the Project), the Coordinator or, if the Coordinator is in breach of its obligations, the Party appointed by the General



Assembly, will give formal notice to such Party requiring that such breach will be remedied within 30 calendar days from the date of receipt of the written notice by the Party.

If such breach is substantial and is not remedied within that period or is not capable of remedy, the General Assembly may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of its participation.

#### **4.4 Involvement of third parties**

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities or other Participants) in the Project remains responsible for carrying out its relevant part of the Project and for such third party's compliance with the provisions of this Consortium Agreement and of the Grant Agreement. Such Party has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties under this Consortium Agreement and the Grant Agreement.

#### **4.5 Specific responsibilities regarding data protection**

Where necessary, the Parties shall cooperate in order to enable one another to fulfil legal obligations arising under applicable data protection laws (the *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data* and relevant national data protection law applicable to said Party) within the scope of the performance and administration of the Project and of this Consortium Agreement.

In particular, the Parties shall, where necessary, conclude a separate data processing, data sharing and/or joint controller agreement before any data processing or data sharing takes place.

### **5 Liability towards each other**

#### **5.1 No warranties**

In respect of any information or materials (incl. Results and Background) supplied by one Party to another under the Project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials, and
- no Party granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Party (or its entities under the same control) exercising its Access Rights.

#### **5.2 Limitations of contractual liability**

No Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, except in case of breach of confidentiality.

A Party's aggregate liability towards the other Parties collectively shall be limited to once the Beneficiary's share of the total costs of the Project as identified in Annex 2 of the Grant Agreement. and in case of Associated Partners once the amount of their total budget as indicated in Annex 2 of the Grant Agreement.

A Party's liability shall not be limited under either of the two foregoing paragraphs to the extent such damage was caused by a willful act or gross negligence or to the extent that such limitation is not permitted by law.

### **5.3 Damage caused to third parties**

Each Party shall be solely liable for any loss, damage or injury to third parties (which includes in relation to the Beneficiaries the Government of the Associated Partners' country and in relation to the Associated Partners the Granting Authority) resulting from the performance of the said Party's obligations by it or on its behalf under this Consortium Agreement or from its use of Results or Background.

### **5.4 Force Majeure**

No Party shall be considered to be in breach of this Consortium Agreement if it is prevented from fulfilling its obligations under the Consortium Agreement by Force Majeure.

Each Party will notify the General Assembly of any Force Majeure without undue delay. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notice, the transfer of tasks - if any - shall be decided by the General Assembly.

### **5.5 Export control**

No Party shall be considered to be in breach of this Consortium Agreement if it is prevented from fulfilling its obligations under the Consortium Agreement due to a restriction resulting from import or export laws and regulations and/or any delay of the granting or extension of the import or export license or any other governmental authorisation, provided that the Party has used its reasonable efforts to fulfil its tasks and to apply for any necessary license or authorisation properly and in time.

Each Party will notify the General Assembly of any such restriction without undue delay. If the consequences of such restriction for the Project are not overcome within 6 weeks after such notice, the transfer of tasks - if any - shall be decided by the General Assembly.

## **6 Governance structure**

[Module GOV SP]

### **6.1 General structure**

The organisational structure of the consortium shall comprise the following Consortium Bodies:

The **General Assembly** is the decision-making body of the consortium.

The **Coordinator** is the legal entity acting as the intermediary between the Parties and the Granting Authority. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Grant Agreement and this Consortium Agreement.

## **6.2 Members**

The General Assembly shall consist of one representative of each Party (hereinafter referred to as "Member").

Each Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Section 6.3.7 of this Consortium Agreement.

The Coordinator shall chair all meetings of the General Assembly, unless decided otherwise by the General Assembly.

The Parties agree to abide by all decisions of the General Assembly.

This does not prevent the Parties from exercising their veto rights, according to Section 6.3.5, or from submitting a dispute for resolution in accordance with the provisions of settlement of disputes in Section 11.8 of this Consortium Agreement.

## **6.3 Operational procedures for the General Assembly:**

### **6.3.1 Representation in meetings**

Any Member:

- should be present or represented at any meeting;
- may appoint a substitute by presenting a proxy statement to the chairperson of the General Assembly to attend and vote at any meeting. Such substitute shall be bound by non-disclosure obligations not less restrictive than those described in Section 10 of this Consortium Agreement
- and shall participate in a cooperative manner in the meetings.

### **6.3.2 Preparation and organisation of meetings**

#### **6.3.2.1 Convening meetings:**

The chairperson shall convene ordinary meetings of the General Assembly at least once every six months and shall also convene extraordinary meetings at any time upon written request of 1/3 of the Members of the General Assembly.

#### **6.3.2.2 Notice of a meeting**

The chairperson shall give written notice of a meeting to each Member (via email is admitted, but with acknowledgment of receipt) as soon as possible and no later than 20 calendar days preceding an ordinary meeting and 7 calendar days preceding an extraordinary meeting.

#### **6.3.2.3 Sending the agenda:**

The chairperson shall prepare and send each Member an agenda no later than 14 calendar days preceding the meeting, or 7 calendar days before an extraordinary meeting.

#### **6.3.2.4 Adding agenda items:**

Any agenda item requiring a decision by the Members must be identified as such on the agenda.

Any Member may add an item to the original agenda by written notice to all of the other Members no later than 7 calendar days preceding the meeting and 2 days preceding an extraordinary meeting.

#### 6.3.2.5

During a meeting of the General Assembly the Members present or represented can unanimously agree to add a new item to the original agenda.

#### 6.3.2.6

Meetings of the General Assembly may also be held by tele- or videoconference or other telecommunication means.

#### 6.3.2.7

Decisions will only be binding once the relevant part of the minutes has been accepted according to Section 6.3.6.2.

### **6.3.3 Decisions without a meeting**

Any decision may also be taken without a meeting if

- a) the Coordinator circulates to all Members of the General Assembly a suggested decision with a deadline for responses of at least **10** calendar days after receipt by a Party and
- b) the decision is agreed by 51 % of all Parties.

The Coordinator shall inform all the Members of the outcome of the vote.

A veto according to Section 6.3.5 may be submitted up to **15** calendar days after receipt of this information.

The decision will be binding after the Coordinator sends a notification to all Members. The Coordinator will keep records of the votes and make them available to the Parties on request.

### **6.3.4 Voting rules and quorum**

#### 6.3.4.1

The General Assembly shall not deliberate and decide validly in meetings unless two-thirds (2/3) of its Members are present or represented (quorum).

If the quorum is not reached, the chairperson of the General Assembly shall convene another ordinary meeting within 15 calendar days. If in this meeting the quorum is not reached once more, the chairperson shall convene an extraordinary meeting which shall be entitled to decide even if less than the quorum of Members is present or represented.

#### 6.3.4.2

Each Member present or represented in the meeting shall have one vote.

The Associated Partner(s) is/are excluded from voting on and vetoing the following decisions of the General Assembly (6.3.7) and therefore are not counted towards any respective quorum:

- Financial changes to the Consortium Plan
- Distribution of EU contribution among the Beneficiaries

- Proposals for changes to Annex 2 of the Grant Agreement to be agreed by the Granting Authority
- Decisions related to Section 7.1.4 of this Consortium Agreement

#### 6.3.4.3

A Party may not vote on its identification by the General Assembly to be in breach and on its declaration to be a Defaulting Party nor shall their presence account for the necessary quorum. A Party which the General Assembly has declared according to Section 4.3 to be a Defaulting Party may not vote, nor shall their presence account for the necessary quorum.

The Coordinator may not vote on decisions regarding a proposal to the Granting Authority for a change of the Coordinator.

#### 6.3.4.4

Decisions shall be taken by a majority of two-thirds (2/3) of the votes cast.

### **6.3.5 Veto rights**

#### 6.3.5.1

A Party which can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of the General Assembly may exercise a veto with respect to the corresponding decision or relevant part of the decision.

The exercise of the veto shall be supported by a written justification by the Party exercising such veto. The written justification will be made available to all Parties.

#### 6.3.5.2

When the decision is foreseen on the original agenda, a Party may only veto such a decision during the meeting.

#### 6.3.5.3

When a decision has been taken on a new item added to the agenda before or during the meeting, a Party may veto such decision during the meeting or within 15 calendar days after receipt of the draft minutes of the meeting.

#### 6.3.5.4

When a decision has been taken without a meeting a Party may veto such decision within 15 calendar days after receipt of the written notice by the chairperson of the outcome of the vote.

#### 6.3.5.5

In case of exercise of veto, the Parties shall make every effort to resolve the matter which occasioned the veto to the general satisfaction of all Parties.

#### 6.3.5.6

A Party may neither veto decisions relating to its identification to be in breach of its obligations nor to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the consortium or the consequences of them.

#### 6.3.5.7

A Party requesting to leave the consortium may not veto decisions relating thereto.

### **6.3.6 Minutes of meetings**

#### 6.3.6.1

The chairperson shall produce minutes of each meeting which shall be the formal record of all decisions taken. He/she shall send draft minutes to all Members within 10 calendar days of the meeting.

#### 6.3.6.2

The minutes shall be considered as accepted if, within 15 calendar days from receipt, no Party has sent an objection to the chairperson with respect to the accuracy of the draft minutes by written notice.

#### 6.3.6.3

The chairperson shall send the accepted minutes to all the Members, and to the Coordinator, who shall retain copies of them.

### **6.3.7 Decisions of the General Assembly**

The General Assembly, shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein.

The following decisions shall be taken by the General Assembly:

Content, finances and intellectual property rights

- Proposals for changes to Annexes 1 and 2 of the Grant Agreement to be agreed by the Granting Authority
- Changes to the Consortium Plan
- Modifications or withdrawal of Background in Attachment 1 (Background Included)
- Additions to Attachment 3 (List of Third Parties for simplified transfer according to Section 8.3.2)
- Additions to Attachment 4 (Identified entities under the same control)

Evolution of the consortium

- Entry of a new Party to the Project and approval of the settlement on the conditions of the accession of such a new Party
- Withdrawal of a Party from the Project and the approval of the settlement on the conditions of the withdrawal
- Identification of a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement
- Declaration of a Party to be a Defaulting Party
- Remedies to be performed by a Defaulting Party

- Termination of a Defaulting Party's participation in the consortium and measures relating thereto
- Proposal to the Granting Authority for a change of the Coordinator
- Proposal to the Granting Authority for suspension of all or part of the Project
- Proposal to the Granting Authority for termination of the Project and the Consortium Agreement

## Appointments

On the basis of the Grant Agreement, the appointment, if necessary, of:

- External Expert Advisory Board Members

In the case of abolished tasks as a result of a decision of the General Assembly, Members shall rearrange the tasks of the Parties concerned. Such rearrangement shall take into consideration any prior legitimate commitments which cannot be cancelled.

## **6.4 Coordinator**

### **6.4.1**

The Coordinator shall be the intermediary between the Parties and the Granting Authority and shall perform all tasks assigned to it as described in the Grant Agreement and in this Consortium Agreement.

### **6.4.2**

In particular, the Coordinator shall be responsible for:

- monitoring compliance by the Parties with their obligations under this Consortium Agreement and the Grant Agreement
- keeping the address list of Members and other contact persons updated and available
- collecting, reviewing to verify consistency and submitting reports, other deliverables (including financial statements and related certification) and specific requested documents to the Granting Authority
- preparing the meetings, proposing decisions and preparing the agenda of General Assembly meetings, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings
- transmitting promptly documents and information connected with the Project to any other Party concerned
- administering the financial contribution of the Granting Authority and fulfilling the financial tasks described in Section 7.2
- providing a copy of the Grant Agreement and its Annexes to the Associated Partners
- providing, upon request, the Parties with official copies or originals of documents that are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims.

If one or more of the Parties is late in submission of any Project deliverable, the Coordinator may nevertheless submit the other Parties' Project deliverables and all other documents required by the Grant Agreement to the Granting Authority in time.

### **6.4.3**

If the Coordinator fails in its coordination tasks, the General Assembly may propose to the Granting Authority to change the Coordinator.

### **6.4.4**

The Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party or of the consortium, unless explicitly stated otherwise in the Grant Agreement or this Consortium Agreement.

### **6.4.5**

The Coordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the Grant Agreement.

## **6.5 [Optional, where foreseen in the Grant Agreement or otherwise decided by the consortium: External Expert Advisory Board (EEAB)]**

An External Expert Advisory Board (EEAB) will be appointed and steered by the General Assembly. The EEAB shall assist and facilitate the decisions made by the General Assembly.

By way of exception to Section 6.4.4 above, the Parties hereby mandate the Coordinator to execute, in their name and on their behalf, a non-disclosure agreement (hereafter "NDA") with each member of the EEAB, in order to protect Confidential Information disclosed by any of the Parties to any member of the EEAB. The NDA for the EEAB members is enclosed in Attachment 5. The mandate of the Coordinator comprises solely the execution of the NDA in Attachment 5.]

The Coordinator shall write the minutes of the EEAB meetings and submit them to the General Assembly. The EEAB members shall be allowed to participate in General Assembly meetings upon invitation but have not any voting rights.

## **7 Financial provisions**

This SECTION 7 applies only for the Beneficiary parties, not to Associated Partners.



## **7.1 General Principles**

### **7.1.1 Distribution of Financial Contribution**

The financial contribution of the Granting Authority to the Project shall be distributed by the Coordinator according to:

- the Consortium Plan
- the approval of reports by the Granting Authority, and
- the provisions of payment in Section 7.2.

A Beneficiary shall be funded only for its tasks carried out in accordance with the Consortium Plan.

### **7.1.2 Justifying Costs**

In accordance with its own usual accounting and management principles and practices, each Beneficiary shall be solely responsible for justifying its costs (and those of its Affiliated Entities, if any) with respect to the Project towards the Granting Authority. Neither the Coordinator nor any of the other Beneficiaries shall be in any way liable or responsible for such justification of costs towards the Granting Authority.

### **7.1.3 Funding Principles**

A Beneficiary that spends less than its allocated share of the budget as set out in the Consortium Plan or – in case of reimbursement via unit costs - implements less units than foreseen in the Consortium Plan will be funded in accordance with its units/actual duly justified eligible costs only.

A Beneficiary that spends more than its allocated share of the budget as set out in the Consortium Plan will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share.

### **7.1.4 Excess payments**

A Beneficiary has received excess payment

- a) if the payment received from the Coordinator exceeds the amount declared or
- b) if a Beneficiary has received payments but, within the last year of the Project, its real Project costs fall significantly behind the costs it would be entitled to according to the Consortium Plan.

In case a Beneficiary has received excess payment, the Beneficiary has to inform the Coordinator and return the relevant amount to the Coordinator without undue delay. In case no refund takes place within 15 calendar days upon request for return of excess payment from the Coordinator, the Party is in substantial breach of the Consortium Agreement.

Amounts which are not refunded by a breaching Beneficiary and which are not due to the Granting Authority, shall be apportioned by the Coordinator to the remaining Beneficiaries pro rata according to their share of total funding of the Project as identified in the Consortium Budget, until recovery from the breaching Beneficiary is possible.

### **7.1.5 Revenue**

In case a Beneficiary earns any revenue that is deductible from the total funding as set out in the Consortium Plan, the deduction is only directed toward the Beneficiary earning such revenue. The other

Beneficiaries' financial share of the budget shall not be affected by one Beneficiary's revenue. In case the relevant revenue is more than the allocated share of the Beneficiary as set out in the Consortium Plan, the Beneficiary shall reimburse the funding reduction suffered by other Beneficiaries.

### **7.1.6 Financial Consequences of the termination of the participation of a Party**

A Party leaving the consortium shall refund to the Coordinator any payments it has received that exceeded the amount of justified costs accepted by the Granting Authority.

In addition, a Defaulting Party shall, within the limits specified in Section 5.2 of this Consortium Agreement, bear any reasonable and justifiable additional costs occurring to the other Parties in order to perform the leaving Party's task and necessary additional efforts to fulfil them as a consequence of the Party leaving the consortium. The General Assembly should agree on a procedure regarding additional costs which are not covered by the Defaulting Party or the Mutual Insurance Mechanism.

## **7.2 Payments**

### **7.2.1 Payments to Beneficiaries are the exclusive task of the Coordinator.**

In particular, the Coordinator shall:

notify the Beneficiary concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references

perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts

undertake to keep the Granting Authority's financial contribution to the Project separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.

With reference to Article 22 of the Grant Agreement, no Beneficiary shall before the end of the Project receive more than its allocated share of the maximum grant amount less the amounts retained by the Granting Authority for the Mutual Insurance Mechanism and for the final payment.

### **7.2.2**

The transfer of the initial pre-financing, the additional pre-financings (if any) and interim payments to Beneficiaries will be handled in accordance with Article 22.1. and Article 7 of the Grant Agreement following this payment schedule:

Funding of costs included in the Consortium Plan will be paid by the Coordinator to the Beneficiaries after receipt of payments from the Granting Authority in separate instalments as agreed below:

Pre-financing instalment 1.

Each Beneficiary will receive a first pre-financing instalment at the beginning of the Project. The amount of pre-financing will be calculated as follows:

Pre-financing first instalment = (Amount of total pre-financing received by the Project Coordinator minus Guarantee Fund) × partner share of the total funding (%) × 50%.

Pre-financing instalment 2.

Each Beneficiary will receive a second pre-financing in month 13, after receipt by the Coordinator and the Work Package Leader of their respective technical and financial progress report. Those reports are due in months 12 (internal report).

The amount of pre-financing will be calculated as follows:

Pre-financing second instalment = (Amount of total pre-financing received by the Project Coordinator minus Guarantee Fund) × partner share of the total funding (%) × 50%.

#### Interim payments

Interim payments amounts will be distributed according to the costs reported and accepted by the Funding Authority and according to the total interim payment received by the Coordinator. Interim payments received from the Funding Authority will be paid in full to Beneficiaries according to the costs accepted by the Funding Authority for the relevant period.

The sum of Pre-financing instalments and Interim payments made to a Beneficiary will not exceed the 85% of their maximum grant amount stated in Annex 2 of the Grant Agreement, corresponding to a share of the 10% retention by the Funding Authority and the 5% Mutual Insurance Mechanism.

#### Final payment

A final payment will be issued to all Beneficiaries after the successful conclusion of the Project, calculated as the difference between the total eligible costs of the Beneficiary accepted by the Funding Authority and the amount already paid to the Beneficiary as pre-financing and interim payments. Only those eligible costs approved by the Funding Authority, and paid to the Project Coordinator, will be reimbursed. The final payment will also include the payment of the 10% retention and the Mutual Insurance Mechanism if applicable. In any case of a Beneficiary having received excess payments, the Beneficiary has to return the relevant amount to the Coordinator without undue delay.

The Coordinator is entitled to withhold any payments due to a Beneficiary identified by the General Assembly to be in breach of its obligations under this Consortium Agreement or the Grant Agreement or to a Beneficiary which has not yet signed this Consortium Agreement.

The Coordinator is entitled to recover any payments already paid to a Defaulting Party except the costs already claimed by the Defaulting Party and accepted by the Granting Authority. The Coordinator is equally entitled to withhold payments to a Beneficiary when this is suggested by or agreed with the Granting Authority.

## **8 Results**

### **8.1 Ownership of Results**

Results are owned by the Party that generates them.

### **8.2 Joint ownership**

Joint ownership is governed by Grant Agreement Article 16.4 and its Annex 5, Section Ownership of results, with the following additions:

In case of joint ownership of Results in this Project, co-owners' shares of ownership shall be proportional to the intellectual, material and financial contribution invested in generating that specific Result. The joint

owners shall agree on shares of ownership, all protection measures and on the division of related costs in a joint ownership agreement to be negotiated in advance.

Where no joint ownership agreement has yet been concluded or in absence of a joint ownership agreement, each of the joint owners shall be entitled to use the jointly owned Results as follows.

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research and teaching activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s).
- each of the joint owners shall be entitled to otherwise Exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given: (a) at least 45 calendar days advance notice; and (b) fair and reasonable compensation.

The joint owners shall agree on all protection measures and the division of related cost in advance.

Notwithstanding letter a), in case the non-exclusive licenses are granted to third parties for commercial purposes, the prior written consent of the joint owners shall be obtained.

## **8.3 Transfer of Results**

### **8.3.1**

Each Party may transfer ownership of its own Results, or, unless agreed otherwise in a joint ownership agreement, its share in jointly owned Results, following the procedures of the Grant Agreement Article 16.4 and its Annex 5, Section Transfer and licensing of results, sub-section “Transfer of ownership”.

### **8.3.2**

Each Party may identify specific third parties it intends to transfer the ownership of its Results to in Attachment (3) of this Consortium Agreement. The other Parties hereby waive their right to prior notice and their right to object to such a transfer to listed third parties according to the Grant Agreement Article 16.4 and its Annex 5, Section Transfer of licensing of results, sub-section “Transfer of ownership”, 3rd paragraph.

### **8.3.3**

The transferring Party shall, however, at the time of the transfer, inform the other Parties of such transfer (other than in event of transfer to a party identified in Attachment (3) and shall ensure that the rights of the other Parties under the Consortium Agreement and the Grant Agreement will not be affected by such transfer. Any addition to Attachment (3) after signature of this Consortium Agreement requires a decision of the General Assembly.

#### **8.3.4**

The Parties recognise that in the framework of a merger or an acquisition of an important part of its assets, it may be impossible under applicable EU and national laws on mergers and acquisitions for a Party to give at least 45 calendar days prior notice for the transfer as foreseen in the Grant Agreement.

In this case, notice of the transfer will be given as soon as possible and in any case not later than 30 (thirty) days after the transfer.

#### **8.3.5**

The obligations above apply only for as long as other Parties still have - or still may request - Access Rights to the Results.

### **8.4 Dissemination**

#### **8.4.1**

For the avoidance of doubt, the confidentiality obligations set out in Section 10 apply to all dissemination activities described in this Section 8.4 as far as Confidential Information is involved.

#### **8.4.2 Dissemination of own (including jointly owned) Results**

##### **8.4.2.1**

During the Project and for a period of 1 year after the end of the Project, the dissemination of own Results by one or several Parties including but not restricted to publications and presentations, shall be governed by the procedure of Article 17.4 of the Grant Agreement and its Annex 5, Section Dissemination, subject to the following provisions.

Prior notice of any planned publication, including a draft of the proposed publication shall be given to the other Parties at least **45** calendar days before the publication. Any objection to the planned publication shall be made in accordance with the Grant Agreement by written notice to the Coordinator and to the Party or Parties proposing the dissemination within **30** calendar days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted.

##### **8.4.2.2**

An objection is justified if

- a) the protection of the objecting Party's Results or Background would be adversely affected, or
- b) the objecting Party's Legitimate interests in relation to its Results or Background would be significantly harmed, or
- c) the proposed publication includes Confidential Information of the objecting Party.

The objection has to include a precise request for necessary modifications.

#### 8.4.2.3

If an objection has been raised the involved Parties shall discuss how to overcome the justified grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting information before publication) and the objecting Party shall not unreasonably continue the opposition if appropriate measures are taken following the discussion.

#### 8.4.2.4

The objecting Party can request a publication delay of not more than 90 calendar days from the time it raises such an objection. After 90 calendar days the publication is permitted, provided that the objections of the objecting Party have been addressed.

### **8.4.3 Dissemination of another Party's unpublished Results or Background**

A Party shall not include in any dissemination activity another Party's Results or Background without obtaining the owning Party's prior written approval, unless they are already published.

### **8.4.4 Cooperation obligations**

The Parties undertake to cooperate to allow the timely submission, examination, publication and defense of any dissertation or thesis for a degree that includes their Results or Background subject to the confidentiality and publication provisions agreed in this Consortium Agreement.

### **8.4.5 Use of names, logos or trademarks of the Parties**

Nothing in this Consortium Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the Parties or any of their logos or trademarks without their prior written approval.

### **8.4.6 Logo and trademark of the Project**

Each Party shall be entitled to use any logo or trademark of the Project royalty-free and on a non-exclusive basis for the execution of the Project only, even if such logo or trademark has been filed by a single Party only.

If needed, the Parties shall agree on specific rules for any other use of the logo and/or trademark of the Project and its possible protection measures in a specific agreement.

## **9 Access Rights**

### **9.1 Background included**

#### **9.1.1**

In Attachment 1, the Parties have identified and agreed on the Background for the Project and have also, where relevant, informed each other that Access to specific Background is subject to legal restrictions or limits.

Anything not identified in Attachment 1 shall not be the object of Access Right obligations regarding Background.

### **9.1.2**

Any Party may add additional Background to Attachment 1 during the Project provided they give written notice to the other Parties. However, approval of the General Assembly is needed should a Party wish to modify or withdraw its Background in Attachment 1.

## **9.2 General Principles**

### **9.2.1**

Each Party shall implement its tasks in accordance with the Consortium Plan and shall bear sole responsibility for ensuring that its acts within the Project do not knowingly infringe third party property rights.

### **9.2.2**

Any Access Rights granted exclude any rights to sublicense unless expressly agreed otherwise in writing by all the Parties concerned.

### **9.2.3**

Access Rights shall be free of any administrative costs.

### **9.2.4**

Access Rights are granted on a non-exclusive basis.

### **9.2.5**

Results and Background shall be used only for the purposes for which Access Rights to it have been granted.

### **9.2.6**

All requests for Access Rights shall be made in writing. The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose, only for so long as it is necessary for those purpose and that appropriate confidentiality obligations are in place.

### **9.2.7**

The requesting Party must show that the Access Rights are Needed

## **9.3 Access Rights for implementation**

Access Rights to Results and Background Needed for the performance of the own work of a Party under the Project shall be granted on a royalty-free basis, unless otherwise agreed for Background in Attachment 1.

## 9.4 Access Rights for Exploitation

### 9.4.1 Access Rights to Results

Access Rights to Results if Needed for Exploitation of a Party's own Results shall be granted on Fair and Reasonable conditions.

Access rights to Results for internal research and for teaching activities shall be granted on a royalty-free basis.

### 9.4.2

Access Rights to Background if Needed for Exploitation of a Party's own Results, shall be granted on Fair and Reasonable conditions.

### 9.4.3

A request for Access Rights may be made up to **twelve** months after the end of the Project or, in the case of Section 9.7.2.1.2, after the termination of the requesting Party's participation in the Project.

## 9.5 Access Rights for entities under the same control

Entities under the same control, where "control" means direct or indirect ownership of at least 50% of the voting stock or interest in a company or entity, or control of the composition of the board of directors, have Access Rights under the conditions of the Grant Agreement Article 16.4 and its Annex 5, Section "Access rights to results and background", sub-section "Access rights for entities under the same control" if they are identified in Attachment 4 (Identified entities under the same control) to this Consortium Agreement.

Such Access Rights must be requested by the entity under the same control from the Beneficiary that holds the Background or Results. Alternatively, the Beneficiary granting the Access Rights may individually agree with the Beneficiary requesting the Access Rights to have the Access Rights include the right to sublicense to the latter's entity under the same control listed **in Attachment 4**. Access Rights to an entity under the same control shall be granted on Fair and Reasonable compensation and upon written bilateral agreement.

Entities under the same control which obtain Access Rights in return fulfil all confidentiality obligations accepted by the Parties under the Grant Agreement or this Consortium Agreement as if such entities were Parties.

Access Rights may be refused to entities under the same control if such granting is contrary to the legitimate interests of the Party which owns the Background or the Results.

Access Rights granted to any entity under the same control are subject to the continuation of the Access Rights of the Party with whom it is under the same control, and shall automatically terminate upon termination of the Access Rights granted to such Party.

Upon cessation of the status as an entity under the same control, any Access Rights granted to such former entity under the same control shall lapse.

Further arrangements with entities under the same control may be negotiated in separate agreements.



## **9.6 Additional Access Rights**

For the avoidance of doubt any grant of Access Rights not covered by the Grant Agreement or this Consortium Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

## **9.7 Access Rights for Parties entering or leaving the consortium**

### **9.7.1 New Parties entering the consortium**

As regards Results developed before the accession of the new Party, the new Party will be granted Access Rights on the conditions applying for Access Rights to Background.

### **9.7.2 Parties leaving the consortium**

#### **9.7.2.1 Access Rights granted to a leaving Party**

##### **9.7.2.1.1 Defaulting Party**

Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the General Assembly to terminate its participation in the consortium.

##### **9.7.2.1.2 Non-defaulting Party**

A non-defaulting Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the Results developed until the date of the termination of its participation.

It may request Access Rights within the period of time specified in Section 9.4.3.

#### **9.7.2.2 Access Rights to be granted by any leaving Party**

Any Party leaving the Project shall continue to grant Access Rights pursuant to the Grant Agreement and this Consortium Agreement as if it had remained a Party for the whole duration of the Project.

## **9.8 Specific Provisions for Access Rights to Software**

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software.

Parties' Access Rights to Software do not include any right to receive source code or object code ported to a certain hardware platform or any right to receive respective Software documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

## **9.9 Specific Provisions for Material Transfer**

Parties agree that the transfer of material for the performance of the Project shall be implemented by a Material Transfer Agreement (MTA) as set out in Attachment 6 that may be amended to contain specific conditions regarding liabilities.

## **10 Non-disclosure of information**

### **10.1**

All information in whatever form or mode of communication, which is disclosed by a Party (the “Disclosing Party”) to any other Party (the “Recipient”) in connection with the Project during its implementation and which has been explicitly marked as “confidential” at the time of disclosure, or when disclosed orally has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 calendar days from oral disclosure at the latest as confidential information by the Disclosing Party, is “Confidential Information”.

### **10.2**

The Recipients hereby undertake in addition and without prejudice to any commitment on non-disclosure under the Grant Agreement, for a period of 5 years after the end of the Project:

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
- to return to the Disclosing Party, or destroy, on request all Confidential Information that has been disclosed to the Recipients including all copies thereof and to delete all information stored in a machine-readable form to the extent practically possible. The Recipients may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations provided that the Recipient complies with the confidentiality obligations herein contained with respect to such copy.

### **10.3**

The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees or third parties involved in the Project and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of the contractual relationship with the employee or third party.

### **10.4**

The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

- the Confidential Information has become or becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;
- the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality to the Disclosing Party;
- the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party;

- the Confidential Information was already known to the Recipient prior to disclosure, or
- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 10.7 hereunder.

## **10.5**

The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care

## **10.6**

Each Recipient shall promptly inform the relevant Disclosing Party by written notice of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

## **10.7**

If any Recipient becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure

- notify the Disclosing Party, and
- comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information.

# **11 Miscellaneous**

## **11.1 Attachments, inconsistencies and severability**

This Consortium Agreement consists of this core text and:

- Attachment 1 (Background included)
- Attachment 2 (Accession document)
- Attachment 3 (List of third parties for simplified transfer according to Section 8.3.2)
- Attachment 4 (Identified entities under the same control )
- Attachment 5 (Non-disclosure Agreement EEAB)
- Attachment 6 (Material Transfer Agreement)

In case the terms of this Consortium Agreement are in conflict with the terms of the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the attachments and the core text of this Consortium Agreement, the latter shall prevail.

Should any provision of this Consortium Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Consortium Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated that fulfils the purpose of the original provision.

## **11.2 No representation, partnership or agency**

Except as otherwise provided in Section 6.4.4, no Party shall be entitled to act or to make legally binding declarations on behalf of any other Party or of the consortium. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

## **11.3 Formal and written notices**

Any notice to be given under this Consortium Agreement shall be addressed to the recipients as listed in the most current address list kept by the Coordinator.

Any change of persons or contact details shall be immediately communicated to the Coordinator by written notice. The address list shall be accessible to all Parties.

Formal notices:

If it is required in this Consortium Agreement (Sections 4.3, 9.7.2.1.1, and 11.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party and shall either be served personally or sent by mail with recorded delivery with acknowledgement of receipt.

Other written notices:

Where other written notices are required by this Consortium Agreement, these are fulfilled also by other means of communication such as e-mail with acknowledgement of receipt.

## **11.4 Assignment and amendments**

Except as set out in Section 8.3, no rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval.

Amendments and modifications to the text of this Consortium Agreement not explicitly listed in 6.3.7 (SP)/ Section **Error! No se encuentra el origen de la referencia.** (LP) require a separate written agreement to be signed between all Parties.

## **11.5 Mandatory national law**

Nothing in this Consortium Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.

## **11.6 Language**

This Consortium Agreement is drawn up in English, which language shall govern all documents, notices, meetings, arbitral proceedings and processes relative thereto.

## **11.7 Applicable law**

This Consortium Agreement shall be construed in accordance with and governed by the laws of Belgium excluding its conflict of law provisions.

## **11.8 Settlement of disputes**

The Parties shall endeavour to settle amicably any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims.

If, and to the extent that, any such dispute, controversy or claim has not been settled amicably within 60 days, the courts of Brussels shall have exclusive jurisdiction.

Nothing in this Consortium Agreement shall limit the Parties' right to seek injunctive relief in any applicable competent court.

## **12 Signatures**

### **AS WITNESS:**

The signature of a Party by means of an electronic signature compliant with the Electronic Identification and Trust Services Regulation n. 910/2014 counts as an original signature with the same validity, enforceability and permissibility. Each Party shall electronically sign a separate signature page. The Coordinator gathers and delivers the whole package consisting of the text and all signature pages to all Parties. The transfer of this copy by e-mail will have the same legal force and legal effect as the transfer of the original copy of the Agreement.

The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in separate signature pages the day and year first above written.

FUNDACIÓN TECNOLÓGICA ADVANTX

Signature(s)

Date 19/01/2024

INSTITUTO VASCO DE INVESTIGACIÓN Y DESARROLLO AGRARIO [

Signature(s)

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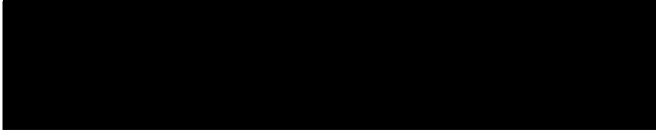
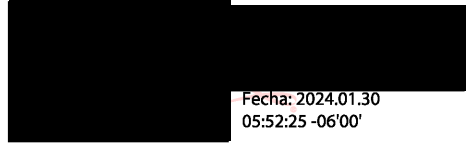
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**IRIS TECHNOLOGY SOLUTIONS LS**

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Date



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**KNEIA SL**

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**CHEMIA SPA**

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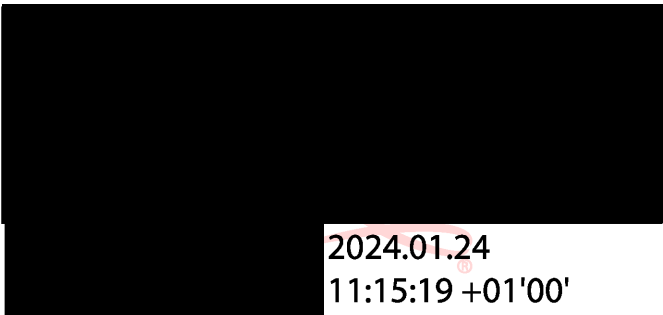
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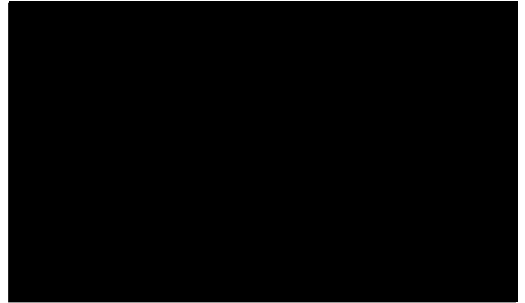
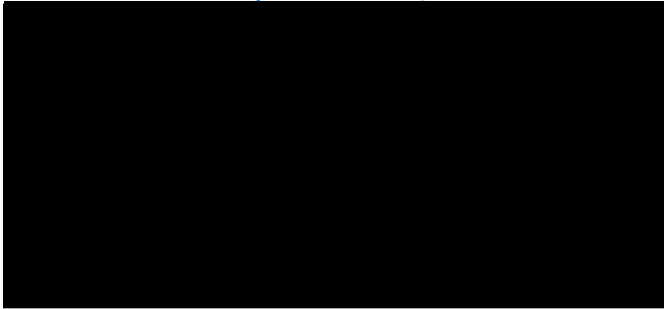
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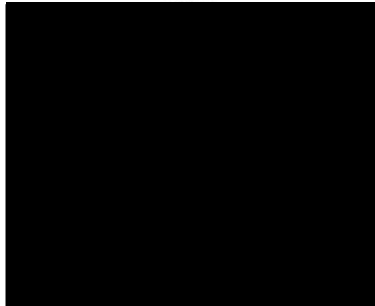
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Date 22 January 2023

**ALMA MATER STUDIORUM UNIVERSITÁ DI BOLOGNA**

Signature(s)



Date: 5-02-2024



**KARTOFFEL-BOEHMER**

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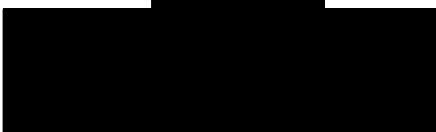
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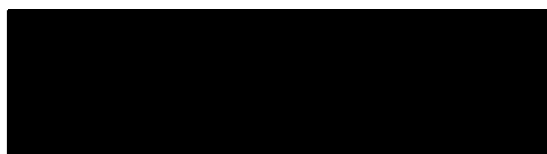
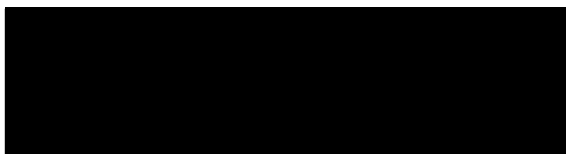
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Signature(s)



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Date

Albert Bartlett

Signature(s)

Date

3<sup>er</sup> April 2024.

**Cranfield University**

Signature(s)

A large black rectangular redaction box covering the signature area.

Date 28th February 2024

## Attachment 1: Background included

According to the Grant Agreement (Article 16.1) Background is defined as “data, know-how or information (...) that is (...) needed to implement the Action or exploit the results”. Because of this need, Access Rights have to be granted in principle, but Parties must identify and agree amongst them on the Background for the Project. This is the purpose of this attachment.

### Party 1

As to **FUNDACION PARA EL DESARROLLO Y LA INNOVACIÓN TECNOLÓGICA**, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of **FUNDACION PARA EL DESARROLLO Y LA INNOVACIÓN TECNOLÓGICA** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

This represents the status at the time of signature of this Consortium Agreement.

### Party 2

As to **INSTITUTO VASCO DE INVESTIGACIÓN Y DESARROLLO AGRARIO**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **INSTITUTO VASCO DE INVESTIGACIÓN Y DESARROLLO AGRARIO** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

### Party 3

As to **3. INSTITUTO NACIONAL DE INVESTIGACIONES AGROPECUARIAS**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **3. INSTITUTO NACIONAL DE INVESTIGACIONES AGROPECUARIAS** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

### Party 4



As to **IRIS TECHNOLOGY SOLUTIONS LS**, it is agreed between the Parties that, to the best of their knowledge, [Option 1].

The following Background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

<b>Describe Background</b>	<b>Specific restrictions and/or conditions for implementation (Article 16.4 Grant Agreement and its Annex 5, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the Action”)</b>	<b>Specific restrictions and/or conditions for Exploitation (Article 16.4 Grant Agreement and its Annex 5, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”)</b>
Knowledge in own software platform and data fusion.	IRIS TECHNOLOGY SOLUTIONS S.L. shall grant access to Background that is, or will be found to be, necessary for the implementation of the Project royalty free to the Party or Parties that Need access to implement their work in the Project.	IRIS TECHNOLOGY SOLUTIONS S.L. shall grant access to Background needed to use the Results of the Project under fair and reasonable conditions to be agreed with the Party or Parties that Need access to use the Results of the Project.

### Party 5

As to **KNEIA**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **KNEIA** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

### Party 6

As to **UDAPA**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **UDAPA** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

This represents the status at the time of signature of this Consortium Agreement

**Party 7**

As to As to **CHEMIA S.P.A.**, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of **CHEMIA S.P.A.** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

This represents the status at the time of signature of this Consortium Agreement.

**PARTY 8**

As to **PALACKÝ UNIVERSITY OLOMOUC** it is agreed between the Parties that, to the best of their knowledge, the following Background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

Describe Background	Specific restrictions and/or conditions for implementation (Article 16.4 Grant Agreement and its Annex 5, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the Action”)	Specific restrictions and/or conditions for Exploitation (Article 16.4 Grant Agreement and its Annex 5, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”)
<ol style="list-style-type: none"> <li>1. Within the Action/Project implementation, UPOL will use its own BACKGROUND IP “Vertical Phenotyper” under the status of classified know-how.</li> <li>2. The Know-how enables automatic acquisition of plant phenotypic parameters in high-throughput mode using image analysis.</li> <li>3. UPOL protects „Vertical Phenotyper“ Know-how in confidentiality mode and access to the Know-how cannot be granted under any circumstances.</li> <li>4. <b>No data, know-how or information of UPOL is Needed by another Consortium Member for implementation of the Action/Project.</b></li> </ol>	<p>Consortium Members are restricted from any access to UPOL’s BACKGROUND IP.</p>	<p>UPOL’s BACKGROUND IP can be exploited only as a part of novel/ innovative IP resulting from the Action/Project under an ad-hoc agreement amongst the Consortium Members for a fair and reasonable remuneration.</p>

## **PARTY 9**

As to **TECHNION - ISRAEL INSTITUTE OF TECHNOLOGY**, it is agreed between the Parties that, to the best of their knowledge [Option 2],

No data, know-how or information of **TECHNION - ISRAEL INSTITUTE OF TECHNOLOGY** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section "Access rights to results and background", sub-section "Access rights to background and results for implementing the action") or Exploitation of that other Party's Results (Article 16.1 and its Annex 5 Grant Agreement, Section "Access rights to results and background", sub-section "Access rights for exploiting the results"). Additionally, and without prejudice to the generality of the foregoing, Access Rights to the following IP is expressly excluded: **TRDF 1414 - US Patent Application No. 17/857,203, "Hydrophobic and oleophobic surfaces and uses thereof"**

**TRDF 2020023 - PCT/IL2022/050766, "Preparation of hydrophobic surfaces"**

**TRDF 1703 – US Patent 10,947,366,- "Hollow mineral tubes comprising essential oils and uses thereof"**

## **Party 10**

As to **EUROPEAN POTATO TRADE ASSOCIATION**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **EUROPEAN POTATO TRADE ASSOCIATION** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section "Access rights to results and background", sub-section "Access rights to background and results for implementing the action") or Exploitation of that other Party's Results (Article 16.1 and its Annex 5 Grant Agreement, Section "Access rights to results and background", sub-section "Access rights for exploiting the results").

## **Party 11**

As to **ALMA MATER STUDIORUM UNIVERSITÁ DI BOLOGNA [UNIBO]**, it is agreed between the Parties that, to the best of their knowledge,

no data, know-how or information of **ALMA MATER STUDIORUM UNIVERSITÁ DI BOLOGNA** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section "Access rights to results and background", sub-section "Access rights to background and results for implementing the action") or Exploitation of that other Party's Results (Article 16.1 and its Annex 5 Grant Agreement, Section "Access rights to results and background", sub-section "Access rights for exploiting the results").

## **Party 12**

As to **H.W. Boehmer Verp. & Vertriebs GmbH & Co. KG**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **H.W. Boehmer Verp. & Vertriebs GmbH & Co. KG** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

### **Party 13**

As to **ECSA**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **ECSA** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

### **Party 14**

As to **ANECOOP**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **ANECOOP** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

### **Party 15**

As to **TERREA**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **TERREA** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).

### **Party 16**

As to **AINIA**, it is agreed between the Parties that, to the best of their knowledge, [Option 2].

No data, know-how or information of **AINIA** is Needed by another Party for implementation of the Project (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the action”) or Exploitation of that other Party’s Results (Article 16.1 and its Annex 5 Grant Agreement, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”).



## **Attachment 2: Accession document**

ACCESSION

**of a new Party to**

**[Acronym of the Project] Consortium Agreement, version [..., YYYY-MM-DD]**

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE Grant Agreement]

hereby consents to become a Party to the Consortium Agreement identified above and accepts all the rights and obligations of a Party starting [date].

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE Grant Agreement]

hereby certifies that the consortium has accepted in the meeting held on [date] the accession of [the name of the new Party] to the consortium starting [date].

This Accession document has been done in 2 originals to be duly signed by the undersigned authorised representatives.

[Date and Place]

[INSERT NAME OF THE NEW PARTY]

Signature(s)

Name(s)

Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]

Signature(s)

Name(s)

Title(s)

### **Attachment 3: List of third parties for simplified transfer according to Section 8.3.2.**

As to Technion – Israel Institute of Technology: The Technion Research and Development Foundation Ltd

**[Option: Attachment 4: Identified entities under the same control according to Section 9.5]**

As to Technion – Israel Institute of Technology: The Technion Research and Development Foundation Ltd



## Option: Attachment 5: NDA for External Expert Advisory Board agreed under Section 6]

Between

1. **FUNDACIÓN TECNOLÓGICA ADVANTX** established in Madrid, Paseo de la Castellana, nº 141, planta 18 Edificio Cuzco IV, represented by [REDACTED] (hereinafter "XXXX" or "Coordinator").

and

2. XXX (XXX), established in XXXXXXXXXX, hereinafter referred to as "the Advisor or the Recipient".

### 1. Whereas:

- (a) XXXX, XXX, XXX, XXX, XXX, XXX, XXX, XXX, XXX, XXX, XXX, XXX, XXX, (hereinafter the "Project Partners") are the participants to the project called XXX. granted in the frame of the XXXX call, entitled "XXX" (hereinafter referred to as "Project"). More specifically, XXX is the Coordinator of the Project. . The Coordinator is signing this NDA on behalf and for the benefit of all Project Partners.
- (b)
- (c) The Project Partners have the necessity to constitute an Advisory Board and for this purpose have taken contact with the Advisor for the advice and assessment in the Project;
- (d) In order to attend the above said Advisory Board, the Advisor will have access to Confidential Information (as defined at Section 1 below) and that the Advisor should keep as confidential.

Now, therefore, it is hereby agreed as follows:

1.- For the purpose of this agreement the following definitions will apply:

Recipient: means the Advisor

Disclosing Party: means the Project Partners

Confidential Information: means all information in whatever form or mode of communication, which is disclosed by the Disclosing Party to the Recipient or to which the Recipient has access in any way in connection with the Project.

2.- The Recipient hereby undertake during and after the implementation of the Project:

and for a period of five (5) years after the end of the Project:

- to keep in strict confidence Confidential Information;
- not to use Confidential Information otherwise than for the purpose of the advice and assessment in the Project;
- not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient to its employees shall take place on a strict need-to-know basis and only to such employees who agree to be bound to the terms of this Agreement;
- not analyze, reverse-engineer, disassemble, decompose or re-formulate any Confidential Information, including any Samples; and

- to return to the Disclosing Party, or destroy, on demand all Confidential Information which has been supplied to or acquired by the Recipient including all copies thereof and to delete all information stored in a machine readable form. The Recipient may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations, provided such Confidential Information are not accessible and shall not be used to restore these received Confidential Information for any purpose whatsoever except the purpose of this Agreement, or by legal requirement, even after expiration of the confidentiality obligations hereunder.

3.- Nothing in this Agreement shall be construed as compelling a Party to disclose any Confidential Information to the other, or to enter into any further contractual relationship with the other Party.

4.- Nothing contained in this Agreement shall be construed as granting or conferring upon the Recipient, whether expressly or impliedly, any right by license or otherwise under any proprietary or statutory right of the Disclosing Party existing prior to or coming into existence after the effective date of the Project.

The Confidential Information is provided "as is". The Recipient is aware and agrees that the Disclosing Party makes no warranty, express or implied, regarding the quality, accuracy, fitness for the purpose, non-infringement of third party rights, correctness or completeness of the Confidential Information.

5.- The Agreement is personal to the Parties (« intuitu personae ») and the Recipient undertakes not to assign nor transfer its rights or obligations under the agreement to any third party without the Disclosing Party's prior written approval. Each Project Partner shall be considered a Disclosing Party under this Agreement and each Project Partner shall have the right to pursue any claim or legal actions or remedies available under this Agreement and under law in case of a breach of this Agreement.

6.- The Recipient shall be responsible for the fulfilment of the above obligations on the part of their employees.

7.- The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

- the Confidential Information becomes publicly available by means other than a breach of the Recipient's confidentiality obligations; or
- the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential; or
- the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidence to the Disclosing Party; or
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or
- the Confidential Information was already known to the Recipient prior to disclosure; or
- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a final court or administrative order, subject to the provision Section 9 hereunder.

Specific items of Confidential Information shall not fall within any exception merely because they are embraced by more general information falling within any exception. Likewise, any combination of specific items of Confidential Information shall not fall within any exception merely because the specific items themselves fall within any exception, but only if the combination itself, and its principles of operation, fall within any exception.

8.- Recipient shall promptly advise the Disclosing Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

9.- If the Recipient becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure

- notify the Disclosing Party,
- comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information, and
- make such disclosure only to the extent it is required.

10.- Recipient represent and warrant that neither the execution of this Agreement nor any performance of the advice and assessment in the Project or other duties hereunder conflicts with any contractual or other commitment on part of Recipient to any third party, including without limitations its employer, or violates or interferes with any rights of any third party.

In particular, however, without limiting the generality of the foregoing, Recipient represents and warrants that Recipient is not bound to any third party by any obligation of secrecy and/or non-use with respect to any information or advice provided to the Project Partners hereunder. The Project Partners are under no obligations of confidentiality and/or non-use regarding such information.

11.- Upon execution by the Parties this Agreement shall become effective as of \*\*.202\* and shall remain in force the duration of the Project. Expiration or termination of this Agreement shall not affect any continuing rights and obligations pursuant to Articles 2, 3, 4, 5, 6, 8, 9, 10, 12, and 13 herein, as may apply.

12.- This Agreement shall be construed and interpreted in accordance with the laws of Belgium without giving effect to its conflict of laws rules.

13.- The Parties shall endeavour to settle amicably any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims.

If, and to the extent that, any such dispute, controversy or claim has not been settled amicably within 30 days, the courts of Brussels shall have exclusive jurisdiction.

The Project Parties acknowledge and agree that in the event of a substantial breach of this Agreement, the recovery of monetary damages may be an insufficient and inadequate remedy and a Project Partners may, notwithstanding the foregoing and without waiving any other rights or remedies, apply to any court of competent jurisdiction for an injunction or other equitable relief in the event it becomes aware of a potential substantial breach of this Agreement or in the event of a substantial breach of this Agreement in order to protect its Confidential Information, and to prevent or restrain the breach of this Agreement. The courts of Brussels will have exclusive competence to settle any question related to this agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in two counterparts. Once it has been executed and each Party has executed at least one counterpart, each counterpart will constitute a duplicate original copy of this Agreement. All the counterparts together will constitute a single agreement. The transmission of an executed counterpart of this Agreement (but not just a signature page) by e-mail (such as in PDF or JPEG) will take effect as the delivery of an executed original counterpart of this Agreement.

XXXXX

Name(s):

Title(s):

Date

Signature

XXXXXXXXXXXXXXXXXXXX

Name(s)

Title(s)

Date

Signature:

## [Attachment 6: Material Transfer Agreement - draft]

### Simple Letter Agreement for the Transfer of Materials

<b>Parties:</b>	[●], a company incorporated in [●], with its registered office located at [●],	[●], a company incorporated in [●], with its registered office located at [●],
	hereinafter referred as "Provider"	hereinafter referred as "Recipient"
<b>Recitals:</b>	<p>The parties are partners in the project called **** funded under the Grant Agreement n° (the Project)</p> <p>PROVIDER wishes to supply to RECIPIENT certain materials to fulfill the Purpose (as hereinafter defined).</p>	
<b>Definitions:</b>		
"MATERIAL"	means [●]	
"Purpose"	means the implementation by RECIPIENT of activities [●] of the Project.	
"Effective Date"	means [●] 20[●]	
"Results"	means [●]	

In response to the RECIPIENT's request for the MATERIAL the PROVIDER asks that the RECIPIENT and the RECIPIENT SCIENTIST agree to the following before the RECIPIENT receives the MATERIAL:

The above MATERIAL is the property of the PROVIDER and is made available in the frame of the Project.

THIS MATERIAL IS NOT FOR USE IN HUMAN SUBJECTS.

The MATERIAL will be used for the Purpose.

The MATERIAL will not be further distributed to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the MATERIAL to the PROVIDER. To the extent supplies are available, the PROVIDER or the PROVIDER SCIENTIST agree to make the MATERIAL available, under a separate Simple Letter Agreement to other scientists for the Purpose .

The RECIPIENT agrees to acknowledge the source of the MATERIAL in any publications reporting use of it.

Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Unless prohibited by law, RECIPIENT assumes all liability for claims for damage against it by third parties which may arise from the use, storage or disposal of the MATERIAL except that, to the extent permitted by law, the PROVIDER shall be liable to the RECIPIENT when the damage is caused by the gross negligence or wilful misconduct of the PROVIDER.

The RECIPIENT agrees to use the MATERIAL in compliance with all applicable statutes and regulations.

If the MATERIAL may contain genetic resources subject to the Convention on Biological Diversity and the Nagoya Protocol, the Parties agree to seek legal and regulatory advice on the matter and set further additional terms to this Agreement.

The MATERIAL is provided at no cost.

The PROVIDER, RECIPIENT and RECIPIENT SCIENTIST must sign both copies of this letter and return one signed copy to the PROVIDER. The PROVIDER will then send the MATERIAL.

**PROVIDER INFORMATION and AUTHORISED SIGNATURE**

Provider Scientist: .....

Provider Organisation: .....

Address: .....

Name of Authorised Official: .....

Title of Authorised Official: .....

Certification of Authorised Official: This Simple Letter Agreement \_\_has / \_\_has not [check one] been modified. If modified, the modifications are attached.

Signature of Authorised Official ..... and Date ...

**RECIPIENT INFORMATION and AUTHORISED SIGNATURE**

