
CONSORTIUM AGREEMENT

**“Minimally Invasive Neuromodulation Implant and implantation procedure
based on ground-breaking GRAPHene technology for treating brain
disorders”**

ENTERED INTO AMONG

**FUNDACIÓ INSTITUT CATALÀ DE NANOCIÈNCIA I NANOTECNOLOGIA (ICN2)
(AS “COORDINATOR”)**

AND

INBRAIN NEUROELECTRONICS, S.L.

INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM VZW

**FRAUNHOFER GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN
FORSCHUNG E.V.**

EIDGENÖSSISCHE TECHNISCHE HOCHSCHULE ZÜRICH

ACADEMISCH ZIEKENHUIS LEIDEN

NANOFLEX ROBOTICS A.G.

UNIVERZITA PALACKEHO V OLOMOUCI

Contents

1. Definitions.....	6
2. Purpose.....	8
3. Entry into force, duration and termination.....	8
3.1 Entry into force.....	8
3.2 Duration and termination.....	8
3.3 Survival of rights and obligations	9
4. Responsibilities of Parties.....	9
4.1 General principles	9
4.2 Breach	9
4.3 Involvement of third parties.....	9
4.4 Specific responsibilities regarding data protection.....	10
5. Liability towards each other	10
5.1 No warranties.....	10
5.2 Limitations of contractual liability	10
5.3 Damage caused to third parties	11
5.4 Force Majeure.....	11
5.5 Export control.....	11
6. Governance structure.....	11
6.1 General structure.....	11
6.2 General operational procedures for all Consortium Bodies.....	12
6.2.1 Representation in meetings.....	12
6.2.2 Preparation and organisation of meetings.....	12
6.2.2.1 Convening meetings:.....	12
6.2.3 Voting rules and quorum.....	13
7. Financial provisions.....	19
7.1 General Principles	19
7.1.1 Distribution of Financial Contribution.....	19
7.1.2 Justifying Costs.....	19
7.1.3 Funding Principles	20
7.1.4 Excess payments	20
7.1.5 Revenue	20
7.1.6 Financial Consequences of the termination of the participation of a Party	20
7.2 Budgeting	21
7.3 Payments	21
7.3.1 Payments to Parties are the exclusive task of the Coordinator.	21
7.3.2	21
8. Results	22
8.1 Ownership of Results.....	22
8.2 Joint ownership.....	22
8.3 Transfer of Results.....	22
8.4 Dissemination.....	23
8.4.1	23
8.4.2 Dissemination of own (including jointly owned) Results	23

8.4.3 Dissemination of another Party's unpublished Results or Background	24
8.4.4 Cooperation obligations	24
8.4.5 Use of names, logos or trademarks	24
8.4.6 Acknowledgement of funding of Associated Partners	24
9. Access Rights	25
9.1 Background included	25
9.1.1	25
9.1.2	25
9.2 General Principles	25
9.2.1	25
9.2.2	25
9.2.3	25
9.2.4	25
9.2.5	25
9.2.6	26
9.2.7	26
9.3 Access Rights for implementation	26
9.4 Access Rights for Exploitation	26
9.4.1 Access Rights to Results	26
9.4.2	26
9.4.3	26
9.5 Access Rights for entities under the same control	26
9.6 Additional Access Rights	27
9.7 Access Rights for Parties entering or leaving the consortium	27
9.7.1 New Parties entering the consortium	27
9.7.2 Parties leaving the consortium	27
9.7.2.1 Access Rights granted to a leaving Party	27
9.7.2.1.1 Defaulting Party	27
9.7.2.1.2 Non-defaulting Party	27
9.7.2.2 Access Rights to be granted by any leaving Party	27
9.8 Specific Provisions for Access Rights to Software	28
10. Non-disclosure of information	28
10.1	28
10.2	28
10.3	29
10.4	29
10.5	29
10.6	29
10.7	29
11. Gender equality	30
12. Miscellaneous	30
12.1 Attachments, inconsistencies and severability	30
12.2 No representation, partnership or agency	30
12.3 Formal and written notices	30
12.4 Assignment and amendments	31

12.5	Mandatory national law	31
12.6	Language	31
12.7	Applicable law	31
12.8	Settlement of disputes	31
13.	Signatures	32
Attachment 1:	Background included	41
Attachment 2:	Accession document	44
Attachment 3:	List of third parties for simplified transfer according to Section 8.3.2.	45
Attachment 4:	Identified entities under the same control according to Section 9.5	46
Attachment 5:	NDA for Clinical Advisory Board.....	47
Attachment 6:	Budget Associated Partners.....	50

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 effective as from 1st October 2022, hereinafter referred to as the Effective Date

BETWEEN

FUNDACIÓ INSTITUT CATALÀ DE NANOCIÈNCIA I NANOTECNOLOGIA (ICN2) with its principal address at Edifici ICN2, Campus de Bellaterra de la UAB, 08193 Cerdanyola del Vallés (Barcelona), Spain, represented by [REDACTED] (the "**Coordinator**").

As Beneficiaries,

INBRAIN NEUROELECTRONICS, S.L. with its principal address at C/ Baldiri Reixac, 4-8, Clúster II 3rd Floor, Offices D8, 08028 Barcelona, Spain, represented by [REDACTED]

INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM vzw, with its registered office at Kapeldreef 75, 3001 Leuven, Belgium, represented by [REDACTED]

FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V. with its principal address at Hansastraße 27c, 80686 München, Germany, acting as legal entity for and on behalf of its Fraunhofer institute IZM, represented by [REDACTED]

ACADEMISCH ZIEKENHUIS LEIDEN with its principal address at (2333 ZA) Albinusdreef 2, Leiden, The Netherlands, represented by [REDACTED]

UNIVERZITA PALACKEHO V OLOMOUCI (CATRIN) with its principal address at Krizkovskeho 8, 77900 Olomouc, Czechia, represented by [REDACTED]

And, as Associated Partners,

EIDGENÖSSISCHE TECHNISCHE HOCHSCHULE ZÜRICH with its principal address at Rämistrasse 101, 8092 Zürich, Switzerland, represented by [REDACTED]

NANOFLEX ROBOTICS A.G. with its principal address at Sägereistrasse 21, 8152 Glattbrugg, Switzerland, represented by [REDACTED]

hereinafter,, individually or severally be referred to as a "**Party**" and jointly as the "**Parties**".

relating to the Action entitled

Minimally Invasive Neuromodulation Implant and implantation procedure based on ground-breaking GRAPHene technology for treating brain disorders

in short

MINIGRAPH

hereinafter referred to as "**Project**".

WHEREAS

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

It is expressly stated that, although the Associated Partners do not sign the Grant Agreement, they expressly agree to the specific terms and conditions of the Grant Agreement which are included in this Consortium Agreement.

- III. 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 herein and when not defined herein in the Grant Agreement including its Annexes and finally in the Horizon Europe Regulation.

1.2 Additional Definitions

"Access Rights"

Access Rights means rights to use Results or Background under the terms and conditions laid down in Section 9 of this Consortium Agreement.

"Associated Partners"

Associated Partners are the entities which participate in the Action, but without the right to charge costs or claim contributions. Associated Partners do not accede to the Grant Agreement, but will be a party to the Consortium Agreement and have to

comply with the contractual provisions in the same way as other Parties (except the financial provisions Section 7).

"Background"

Background means any data, know-how or information - whatever its form or nature (tangible or intangible), including any rights such as intellectual property rights - that: (a) is held by the Parties before they acceded to the Consortium Agreement, and (b) is needed to implement the Action or exploit the Results.

"Beneficiary"

Beneficiary means a Party that is also a signatory of the Grant Agreement (either directly or through an accession form).

"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 defined in the Grant Agreement and which may be updated by the General Assembly.

"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 4.2 of this Consortium Agreement.

"Granting Authority"

Granting Authority means the body awarding the grant for the Project.

"Needed"

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.

"Results"

Results means any (tangible or intangible) output of the Project such as data, knowledge or information — whatever its form or nature, whether it can be protected

or not, as well as any rights attached to it, including any intellectual property rights (IPR) derived from them.

"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

A legal 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.

Any legal entity becomes a new Party to the Consortium Agreement upon signature of the accession document in Attachment 2 by the new entity legal entity 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 (i) terminated in accordance with this Section 3.2 or (ii) complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement, whichever is the earlier.

However, this Consortium Agreement or the participation of one or more Parties may be automatically 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 Party'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. Whenever possible and subject to the terms and conditions of the Grant Agreement, the Parties shall, in the event of termination of the Consortium Agreement, honour all commitments, including financial commitments, made to the researchers already accrued.

3.3 Survival of rights and obligations

The provisions relating to ownership (Section 8), Access Rights (Section 9), Dissemination (Section 8.4) 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 Party undertakes to notify promptly the Granting Authority and the other Parties, in accordance with the governance structure of the Project and in accordance with the applicable provisions in the Grant Agreement, of any significant information, fact, problem or delay likely to affect the Project.

Each Party shall take, in good faith, all reasonable, necessary and appropriate efforts to promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks. The Beneficiaries 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 however without prejudice to Section 5.1.

4.2 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.

4.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Entities under the same control 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.

If a Party enters into a subcontract or otherwise involves third parties to fulfil a task or part of a task, this Party must notify such involvement to the other Parties. The notification shall contain at least the name, the address and the activity of the subcontractor or third party.

4.4 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.

It is expressly stated that each Party shall promptly inform the other Parties of any claims of third parties relating to such other Parties Background and Results that come to its knowledge related to the Project.

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.

A Party's aggregate liability towards the other Parties collectively shall be limited to once the Party's share of the total costs of the Project as identified in Annex 2 (Beneficiaries) of the Grant Agreement and for the Associated Partners of this Consortium Agreement defined in Section 1.2) (the budget for Associated Partners is specified in Attachment 6 of this Consortium 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 wilful misconduct or gross negligence or to the extent that such limitation is not permitted by law.

The terms of this Consortium Agreement shall not be construed to amend or limit any Party's statutory liability.

5.3 Damage caused to third parties

Each Party shall be solely liable for any loss, damage or injury to third parties 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 relying on Force Majeure shall promptly notify the General Assembly of any Force Majeure without undue delay and shall use its best endeavours to remedy any default or delay occasioned thereby forthwith upon such event ceasing to apply. 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.

It shall also be considered as a cause of Force Majeure the declaration of a pandemic situation by the relevant public authorities similar to COVID-19 as well as any consequences derived from an arm conflict situation. Likewise, Force Majeure circumstances are considered to be natural phenomena such as earthquakes, tornadoes, changes in weather conditions, extreme weather, natural disasters, etc.

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 shall use take, in good faith, all reasonable, necessary and appropriate efforts to promptly notify the Coordinator who shall inform the General Assembly of any such restriction without undue delay and shall use its reasonable endeavours to remedy any default or delay occasioned thereby forthwith upon such restriction ceasing to apply. 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

6.1 General structure

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

- The **General Assembly** as the ultimate decision-making body of the consortium.
- The **Executive Board** as the supervisory body for the execution of the Project, which shall report to and be accountable to the General Assembly.
- The **Coordinator** as 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 General operational procedures for all Consortium Bodies

6.2.1 Representation in meetings

Any Party which is appointed to take part in a Consortium Body shall designate one representative (hereinafter referred to as "**Member**").

Any Member:

- should be present or represented at any meeting;
- may appoint a substitute or a proxy to attend and vote at any meeting; and
- shall participate in a cooperative manner in the meetings.

6.2.2 Preparation and organisation of meetings

6.2.2.1 Convening meetings:

The chairperson of a Consortium Body shall convene meetings by videoconference or in person of that Consortium Body.

	Ordinary meeting	Extraordinary meeting
General Assembly	At least once a year	At any time upon request of the Executive Board or 1/3 of the Members of the General Assembly
Executive Board	At least quarterly	At any time upon request of any Member of the Executive Board

6.2.2.2 Notice of a meeting

The chairperson of a Consortium Body shall give written notice of a meeting to each Member of that Consortium Body as soon as possible and no later than the minimum number of days preceding the meeting as indicated below.

	Ordinary meeting	Extraordinary meeting
General Assembly	45 calendar days	15 calendar days
Executive Board	14 calendar days	7 calendar days

6.2.2.3 Sending the agenda

The chairperson of a Consortium Body shall prepare and send each Member of that Consortium Body an agenda no later than the minimum number of days preceding the meeting as indicated below.

General Assembly	21 calendar days, 10 calendar days for an extraordinary meeting
Executive Board	7 calendar days

6.2.2.4 Adding agenda items

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

Any Member of a Consortium Body may add an item to the original agenda by written notice to all of the other Members of that Consortium Body up to the minimum number of days preceding the meeting as indicated below.

General Assembly	14 calendar days, 7 calendar days for an extraordinary meeting
Executive Board	2 calendar days

6.2.2.5

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

6.2.2.6

Meetings of each Consortium Body may also be held by tele- or videoconference, or other telecommunication or electronic means, including a hybrid format where Members are physically present while some Members attend via tele- or videoconference.

6.2.2.7

Decisions will only be binding once the relevant part of the minutes has been accepted according to Section 6.2.5.2.

6.2.2.8

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 Parties of the outcome of the vote and send them the corresponding draft minutes.

A veto according to Section 6.2.5 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.

6.2.3 Voting rules and quorum

6.2.3.1

Each Consortium Body shall not deliberate and decide validly in meetings unless the share two-thirds (2/3) of its Members, indicated below, is present or represented (quorum).

If the quorum is not reached, the chairperson of the Consortium Body 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.

6.2.3.2

Each Member of a Consortium Body present or represented in the meeting shall have one (1) vote.

6.2.3.3

A Party which the General Assembly has declared according to Section 4.2 to be a Defaulting Party may not vote on any decision.

6.2.3.4

Decisions shall be taken by a majority of two-thirds (2/3) of the votes cast unless otherwise expressly provided in this Consortium Agreement.

6.2.4 Veto rights

6.2.4.1

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 a Consortium Body may exercise a veto with respect to the corresponding decision or relevant part of the decision.

6.2.4.2

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

6.2.4.3

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.

A Party that is not appointed to participate to a particular Consortium Body may veto a decision within the same number of calendar days after receipt of the draft minutes of the meeting.

6.2.4.4

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

6.2.4.5

In case of exercise of any veto right, the Members of the related Consortium Body shall make every effort to resolve the matter which occasioned the veto to the general satisfaction of all the Parties.

6.2.4.6

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.

6.2.4.7

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

6.2.5 Minutes of meetings

6.2.5.1

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

6.2.5.2

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

6.2.5.3

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

6.3 Specific operational procedures for the Consortium Bodies

6.3.1 General Assembly

In addition to the rules described in Section 6.2, the following rules apply:

6.3.1.1 Members

6.3.1.1.1

The General Assembly shall consist of one representative of each Party (hereinafter the "**General Assembly Member**").

6.3.1.1.2

Each General Assembly Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Section 6.3.1.2. of this Consortium Agreement.

6.3.1.1.3

The Coordinator shall chair all meetings of the General Assembly, unless decided otherwise in a meeting of the General Assembly. It is expressly stated that the Coordinator shall have a casting vote in case of any tie on a decision.

6.3.1.1.4

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 6.2.4.1, or from submitting a dispute to resolution in accordance with the provisions of Settlement of disputes in Section 13.8.

6.3.1.2 Decisions

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.

In addition, all proposals made by the Executive Board shall also be considered and decided upon by the General Assembly.

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), according to Section 9.1.2. below
- 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 entity to the Project and approval of the settlement on the conditions of the accession of such a new entity
- 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 Project 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:

- Executive Board Members
- Clinical 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.

6.3.2 Executive Board

In addition to the rules in Section 6.2, the following rules shall apply:

6.3.2.1 Members

The Executive Board shall consist of the Coordinator and the Work Package Leaders. Every Party having the responsibility for a Work Package shall appoint one Work Package Leader and one substitute. Each Work Package Leader will be responsible for monitoring the effective implementation of the Work Package and Tasks under his/her responsibility, in accordance with the Consortium Plan, and to report to the Executive Board.

The Coordinator shall chair all meetings of the Executive Board, unless decided otherwise by a majority of two-thirds.

6.3.2.2 Minutes of meetings

Minutes of Executive Board meetings, once accepted, shall be sent by the Coordinator to the General Assembly Members for information.

6.3.2.3 Tasks

6.3.2.3.1

The Executive Board shall prepare the meetings, propose decisions and prepare the agenda of the General Assembly according to Section 6.3.1.2.

6.3.2.3.2

The Executive Board shall seek a consensus among its Members.

6.3.2.3.3

The Executive Board shall be responsible for the proper execution and implementation of the decisions of the General Assembly.

6.3.2.3.4

The Executive Board shall monitor the effective and efficient implementation of the Project and shall make proposals to the General Assembly on resolution of conflicts and disagreements between the Parties regarding the proper execution and implementation of the Project, and on corrective actions in the case of improper implementation of the Project by one of more Parties.

6.3.2.3.5

In addition, the Executive Board shall collect information at least every 6 months on the progress of the Project, examine that information to assess the compliance of the Project with the Consortium Plan and, if necessary, propose modifications of the Consortium Plan to the General Assembly.

6.3.2.3.6

The Executive Board shall:

- support the Coordinator in preparing meetings with the Granting Authority and in preparing related data and deliverables, and
- prepare the content and timing of press releases and joint publications by the consortium or proposed by the Granting Authority in respect of the procedures of the Grant Agreement Article 17 and Annex 5 Section "*Communication, Dissemination, Open Science and Visibility*" and of Section 8 of this Consortium Agreement.

6.3.2.3.7

In the case of abolished tasks as a result of a decision of the General Assembly, the Executive Board shall advise the General Assembly on ways to rearrange tasks and budgets 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 certifications) and specific requested documents to the Granting Authority
- transmitting documents and information connected with the Project to any other Parties concerned
- administering the financial contribution of the Granting Authority and fulfilling the financial tasks described in Section 7.2
- promptly 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 or for other justified reasons (e.g. audits).

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 Clinical Advisory Board (CAB)

A Clinical Advisory Board (CAB) will be appointed by the General Assembly and steered by the Executive Board. The CAB shall assist and facilitate the decisions made by the General Assembly, with a particular focus on the relevance of the Project for supporting the exploitation of the Results generated and achieve close interaction with key actors.

The Coordinator will ensure that a non-disclosure agreement is executed between all Parties and each CAB member prior to disclosure of any information to such CAB member.

By way of exception to Section 6.4.4 above, the Parties mandate the Coordinator to execute, in their name and on their behalf, the non-disclosure agreement (hereinafter "**NDA**") with each member of the CAB, in order to protect Sensitive Information disclosed by any of the Parties to any member of the CAB, either directly or through the Coordinator in the case where the concerned Party gave to the Coordinator its prior written approval for such disclosure. The NDA for the CAB members is enclosed in Attachment 5. The mandate of the Coordinator comprises solely the execution of the NDA in Attachment 5.

Its terms shall be not less stringent than those stipulated in this Consortium Agreement, and it shall be concluded no later than 30 calendar days after their nomination or before any Sensitive Information will be exchanged/disclosed, whichever date is earlier. The CAB members shall participate in General Assembly meetings upon invitation but have not any voting rights.

7. Financial provisions

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 Party 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 Party 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 Parties shall be in any way liable or responsible for such justification of costs towards the Granting Authority.

7.1.3 Funding Principles

A Party 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 Party 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 Party has received excess payment

- a) if the payment received from the Coordinator exceeds the amount declared or
- b) if a Party has received payments but, at the end 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 Party has received excess payment, the Party has to inform the Coordinator and return the relevant amount to the Coordinator without undue delay. In case no refund takes place within 30 calendar days upon request for return of excess payment from the Coordinator, the Party is in substantial breach of the Consortium Agreement if and when so decided by the General Assembly in accordance with the procedure provided in this Consortium Agreement.

The excess payments which are not refunded by a breaching Party and which are not due to the Granting Authority, shall be apportioned by the Coordinator to the remaining Parties pro rata according to their share of total costs of the Project as identified in the Consortium Budget, only after the Coordinator demonstrated to the remaining Parties that the Coordinator has taken all necessary measures for the effective recovery of the excess payments in question from the breaching Party. In the event the remaining Parties have paid their share and the Coordinator receives the excess payment (in whole or in part) from the breaching Party, these excess payment amounts shall be apportioned by the Coordinator to the remaining Parties pro rata according to their share of total costs of the Project as identified in the Consortium Budget. For the avoidance of doubt, this does not apply to liability claims for damages of a Party towards the breaching Party.

7.1.5 Revenue

In case a Party earns any revenue that is deductible from the total funding as set out in the Consortium Plan, the deduction is only directed toward the Party earning such revenue. The other Parties' financial share of the budget shall not be affected by one Party's revenue. In case the relevant revenue is more than the allocated share of the Party as set out in the Consortium Plan, the Party shall reimburse the funding reduction suffered by other Parties.

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 except the amount of contribution accepted by the Granting Authority or another contributor.

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 propose on a procedure regarding additional costs which are not covered by the Defaulting Party or the Mutual Insurance Mechanism in writing, which subsequently is to be agreed by the authorized representative(s) of each Party before its application.

7.2 Budgeting

The budget set out in the Consortium Plan shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties.

7.3 Payments

7.3.1 Payments to Parties are the exclusive task of the Coordinator.

In particular, the Coordinator shall:

- notify the Party 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 Party 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.

7.3.2

The transfer of the initial pre-financing, the additional pre-financings (if any) and interim payments to Parties 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 Parties after receipt of payments from the Granting Authority without undue delay and in conformity with the provisions of the Grant Agreement. Costs accepted by the Granting Authority will be paid to the Party concerned.

The Coordinator is entitled to withhold any payments due to a Party 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 Party when this is required by or agreed with the Granting Authority in accordance with the terms and conditions of the Grant Agreement.

8. Results

8.1 Ownership of Results

Results are fully owned by the Party that generates them.

8.2 Joint ownership.

Two or more Parties own results jointly (i) if they have jointly generated them and (ii) when it is not possible to establish the respective contribution of each Party, or to separate them for the purpose of applying for, obtaining or maintaining their protection.

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

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results for research and educational activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s).
- unless otherwise agreed between the joint owners, each of the joint owners shall be entitled to otherwise exploit the jointly owned Results as it sees fit, 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 informing of the main details of the non-exclusive license to be granted to the relevant third party; and (b) fair and reasonable compensation based on any Net-Monetary Income.

For the purposes of the foregoing “Net-Monetary Income” means direct licensing income resulting from a licensing agreement between the Party involved and the third party, minus all costs incurred for generating this license income.

Considering the foregoing, if, in the course of carrying out work on the Project, employees and/or subcontractors of more than one Party jointly make an invention, design or work, and if the features of such joint invention, design or work are such that it is not possible to separate them for the purpose of applying for or obtaining the relevant patent protection or other intellectual property rights, the Parties concerned may jointly apply, as joint owners, for the relevant patent or other intellectual property rights subject to the provisions of this Article 8.2.

The arrangements for applying for and maintaining such patent or other intellectual property rights shall be agreed between the joint owners on a case-by-case basis. So long as any such patent or other intellectual property rights is in force, the joint owners shall be entitled to use such patent or intellectual property right for research and educational activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s).

8.3 Transfer of Results

8.3.1

Each Party may transfer ownership of its own Results, including 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 and if not allowed by law, as soon as possible, inform the other Parties of such transfer and shall certify in written 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.

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 Sensitive 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 one (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. Authors shall have the right to be fully acknowledged for their authorship in such Dissemination in accordance with applicable copyright laws.

Prior notice of any planned Dissemination shall be given to the other Parties at least 45 calendar days before the Dissemination. Any objection to the planned Dissemination 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 21 calendar days after receipt of the notice. If no objection is made within the time limit stated above, the Dissemination is permitted.

8.4.2.2

An objection is, in addition to the grounds provided in Annex 5 of the Grant Agreement, 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 Dissemination includes Sensitive 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 Dissemination and/or by protecting information before Dissemination) 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 Dissemination delay of not more than 90 calendar days from the time it raises such an objection. After 90 calendar the Dissemination is permitted provided that the objections are addressed and solved.

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 by the owning Party or with the owning Party's approval. The mere absence of an objection is not considered as an approval.

8.4.4 Cooperation obligations

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

8.4.5 Use of names, logos or trademarks

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 distinctive signs as logos or trademarks without their prior written approval.

8.4.6 Acknowledgement of funding of Associated Partners

Communication activities of the Associated Partners related to the action (including media relations, conferences, seminars, information material, such as brochures, leaflets, posters, presentations, etc., in electronic form, via traditional or social media, etc.), dissemination activities and any infrastructure, equipment, vehicles, supplies or major result funded or co-funded by the Swiss State Secretariat for Education, Research and Innovation SERI shall acknowledge SERI support and funding/co-funding statement (translated into local languages, where appropriate).

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 stated otherwise in this Consortium Agreement or otherwise agreed between the Parties.

9.2.3

Access Rights shall be free of any administrative transfer costs and expenses.

9.2.4

Access Rights are granted on a non-exclusive basis.

9.2.5

Results and Background shall be used only for the specific 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 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 by a separate written agreement to be executed between the relevant Parties.

Access rights to Results for internal research and for non-economic 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 by a separate written agreement to be executed between the relevant Parties.

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 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 Party that holds the Background or Results. Alternatively, the Party granting the Access Rights may individually agree with the Party 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 conditions and upon written bilateral agreement.

Entities under the same control which obtain Access Rights in return will commit in writing to 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 entity, 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 (voluntarily or not) 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 and respecting its owner's Intellectual Property rights over such Software.

The Parties are aware that where open-source software is used for the implementation of the Project, the resulting software may be subject to open-source licenses.

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**", "**sensitive**" or the like at the time of disclosure, or when disclosed orally or other intangible form has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 30 calendar days from oral or intangible disclosure at the latest as Sensitive Information by the Disclosing Party, is "**Sensitive Information**". For the avoidance of doubt, the indication of the dissemination level "**SEN**" provided for the deliverables detailed in the List of Deliverables provided for in the Description of Action is sufficient for fulfilling the marking obligation as detailed here-above and considering these deliverables as Sensitive Information.

10.2

The Recipients hereby undertake in addition and without prejudice to any commitment on non-disclosure under the Grant Agreement, during and following the termination of this Consortium Agreement up to a period of 5 years after final payment of the balance:

not to use Sensitive Information otherwise than for the purpose for which it was disclosed; not to disclose Sensitive Information to any third party other than Entities under the same control without the prior written consent by the Disclosing Party;

For the avoidance of doubt, the Parties are entitled to discuss the Sensitive Information of the other Party(ies) amongst the Parties during the implementation of the Project and this subject to the confidentiality terms detailed in this Consortium Agreement except for the limited information that the Recipient and Disclosure agree in writing not to be disclosed to the other Parties.

to ensure that internal distribution of Sensitive 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 Sensitive 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 Sensitive 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 for as long as the copy is retained.

10.3

The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees, other members of its personnel 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 each of them.

10.4

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

- the Sensitive 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 Sensitive Information is no longer confidential;
- the Sensitive 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 Sensitive Information is foreseen by provisions of the Grant Agreement;
- the Sensitive Information, at any time, was or is subsequently developed by the Recipient completely independently of any such disclosure by the Disclosing Party;
- the Sensitive Information was already known to the Recipient prior to disclosure, or
- the Recipient is required to disclose the Sensitive 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 Sensitive 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. The burden of proof is upon the Recipient that such case is used.

10.6

Each Recipient shall promptly inform the relevant Disclosing Party by written notice of any unauthorised disclosure, misappropriation or misuse of Sensitive 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 Sensitive 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. Gender equality

Each Party must take all measures to promote equal opportunities between genders in the implementation of the Project in accordance with applicable policies with such Party.

The Parties commit to consider the gender balance aims when nominating representatives in all governing, executive, operational bodies and advisory boards.

The Parties within the Project shall support initiatives that help raise awareness among staff members and users of the relevance of integrating gender analysis in their research and its potential impact on society.

12. Miscellaneous

12.1 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 (NDA for Exploitation Advisory Board)
- Attachment 6 (Budget Associated Partners (liability))

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.

12.2 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.

12.3 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 4.2, 9.7.2.1.1, and 13.4) 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.

Written notice:

Where written notice is required by this Consortium Agreement, this is fulfilled also by other means of communication such as e-mail.

12.4 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 Section 6.3.1.2 require a separate written agreement to be signed between all Parties.

12.5 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.

12.6 Language

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

12.7 Applicable law

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

12.8 Settlement of disputes

The Parties shall endeavour to settle their disputes amicably.

Any dispute, controversy or claim arising under, out of or relating to this Consortium Agreement and any subsequent amendments of this Consortium Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, may if so decided by the Parties concerned be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Brussels unless otherwise agreed upon. The language to be used in the mediation shall be English unless otherwise agreed upon.

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation or amicably, it shall, upon the filing of a Request for Arbitration by either Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 60 calendar days, either Party fails to participate or to continue to participate in the mediation (if applicable), the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be Brussels unless otherwise agreed upon. The language to be used in the arbitral proceedings shall be English unless otherwise agreed upon.

The award of the arbitration will be final and binding upon the Parties.

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

13. Signatures

AS WITNESS:

The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in separate signature pages. The signature of a Party via an electronic signature (e.g. via DocuSign), shall have the same force and effect as an original handwritten signature for the purposes of validity, enforceability and admissibility. Each Party receives a fully executed copy of the Consortium Agreement. Delivery of the fully executed copy via e-mail or via an electronic signature system shall have the same force and effect as delivery of an original hard copy.

**FUNDACIÓ INSTITUT CATALÀ DE NANOCIÈNCIA I NANOTECNOLOGÍA
(ICN2)**

Signature(s)

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INBRAIN NEUROELECTRONICS, S.L.

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INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM vzw

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Date: 28 November 2024

**FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN
FORSCHUNG E.V.**

Signature(s)

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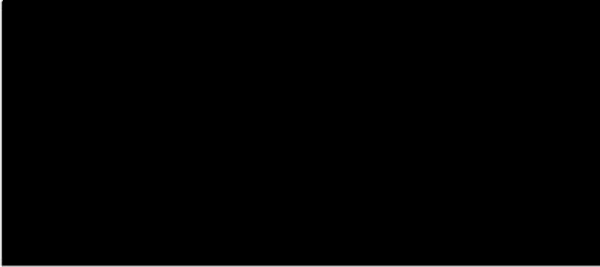
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Name(s)
Title(s)

Date:

ACADEMISCH ZIEKENHUIS LEIDEN

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Date: 11-12-2024

EIDGENÖSSISCHE TECHNISCHE HOCHSCHULE ZÜRICH

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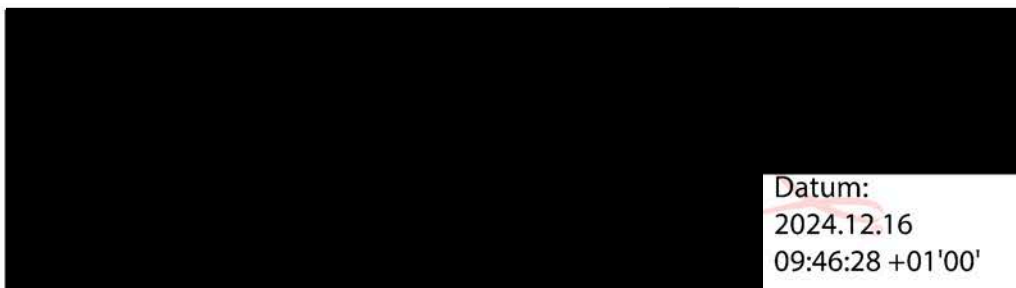
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Date: 13 Dec 2024

UNIVERZITA PALACKÉHO V OLOMOUCI
Signature(s)

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Datum:
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09:46:28 +01'00'

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.

FUNDACIÓ INSTITUT CATALÀ DE NANOCIÈNCIA I NANOTECNOLOGÍA (ICN2):

As to FUNDACIÓ INSTITUT CATALÀ DE NANOCIÈNCIA I NANOTECNOLOGÍA (ICN2), it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of FUNDACIÓ INSTITUT CATALÀ DE NANOCIÈNCIA I NANOTECNOLOGÍA 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.

INBRAIN NEUROELECTRONICS, S.L.:

As to INBRAIN NEUROELECTRONICS, S.L. it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of INBRAIN NEUROELECTRONICS, S.L. 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 but, in any case, INBRAIN does not assume any obligation to add any Background to this Attachment 1 during the Project.

INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM VZW:

As to INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM VZW, it is agreed between the Parties that, to the best of their knowledge, Specific limitations and/or conditions, shall be as mentioned hereunder:

No data, know-how or information of IMEC 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.

FRAUNHOFER GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V.:

As to FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V., acting as legal entity for and on behalf of its Fraunhofer institute IZM, it is agreed between the Parties that, to the best of their knowledge, no data, know-how or information of Fraunhofer 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.

ACADEMISCH ZIEKENHUIS LEIDEN:

As to ACADEMISCH ZIEKENHUIS LEIDEN, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of ACADEMISCH ZIEKENHUIS LEIDEN 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.

EIDGENÖSSISCHE TECHNISCHE HOCHSCHULE ZÜRICH:

As to EIDGENÖSSISCHE TECHNISCHE HOCHSCHULE ZÜRICH, it is agreed between the Parties that, to the best of their knowledge,

As to EIDGENÖSSISCHE TECHNISCHE HOCHSCHULE ZÜRICH, it is agreed between the Parties that, to the best of their knowledge,
No data, know-how or information of EIDGENÖSSISCHE TECHNISCHE HOCHSCHULE ZÜRICH] 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.

NANOFLEX ROBOTICS A.G.:

As to NANOFLEX ROBOTICS AG, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of NANOFLEX ROBOTICS AG 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.

UNIVERZITA PALACKEHO V OLOMOUCI:

As to UNIVERZITA PALACKEHO V OLOMOUCI, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of UNIVERZITA PALACKEHO V OLOMOUCI 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.

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.**

For INBRAIN NEUROELECTRONICS, S.L: INBRAIN and its affiliates

For INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM VZW: Entities under the
same control

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

For INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM VZW (IMEC):

- IMEC International
- Stichting IMEC Nederland
- IMEC Taiwan Co.
- IMEC India Private Ltd.
- IMEC Microelectronics (Shanghai) Co. Ltd
- IMEC Inc.
- IMEC USA Nanoelectronics Design Center, Inc.
- Any other company or legal entity pertaining to IMEC group (i.e. having IMEC International as parent company)

Attachment 5: NDA for Clinical Advisory Board

Non-Disclosure Agreement

BETWEEN

[Details of the party]

hereinafter referred to as "**Member of the CAB**"

and

The Partners of the MINIGRAPH Consortium.

hereinafter referred to as the "**Consortium Partners**"

The Member of the CAB and the Consortium Partners shall individually be referred to as a "**Party**" and collectively referred to as the "**Parties**".

WHEREAS

- I. The Consortium Partners have been awarded a Grant Agreement by European Commission in a Horizon Europe project with the Acronym MINIGRAPH, which starts on and ends on (the "Project").
- II. The Member of the CAB and the Consortium Partners intend to collaborate in the field of the establishment of an Clinical Advisory Board, which the Member of the CAB wishes to become a member of.
- III. In performing the work as member of this Clinical Advisory Board (hereinafter, the "**Purpose**") it is anticipated that the Consortium Partners may disclose to the Member of the CAB technical and/or commercial information of a confidential nature presently in their possession and wish to ensure that the same remain confidential. This Non-Disclosure Agreement covers all the activities concerning the Purpose in accordance with this CAB and the terms and conditions on which the Consortium Partners will disclose Sensitive Information to the Member of the CAB.

Now, therefore, it is hereby agreed as follows:

1. For the purposes of this Non-Disclosure Agreement the term "Sensitive Information" means all information in whatever form or mode of transmission, in particular but not limited technical and business information disclosed by the Consortium Partners to any CAB member in connection with the Purpose, whether disclosed prior to the date of this Non-Disclosure Agreement or thereafter, whether in tangible or intangible form, whenever and however disclosed, either oral or in written, graphic or electronic format, or when disclosed orally, that has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within fifteen (15) days from oral disclosure at the latest as confidential information by the disclosing party as well as the feedback provided by the CAB member during the performance of the Purpose.

Sensitive Information includes but is not limited to trade secrets, know-how, formulations, techniques, methodology, equipment, data reports, computer software, and information regarding sources of supply, intellectual property rights or information, and the existence, scope and activities of any research,

development, manufacturing, marketing or other projects of the Consortium Partners or any other proprietary information that should reasonably be recognized as Sensitive Information. Sensitive Information needs not to be novel, unique, patentable, copyrightable or constitute a trade secret in order to be designated as Sensitive Information and therefore be protected.

2. The Member of the CAB undertakes to treat as confidential all and any Sensitive Information and agrees not to disclose it to any third party except with the prior express written consent of the disclosing Consortium Partners. The Member of the CAB shall use Sensitive Information only for the Purpose and shall not use or exploit Sensitive Information for any other purposes or for its own benefit or for the benefit of another party without the prior express written consent of the disclosing Consortium Partners.
3. The Member of the CAB shall hold the Sensitive Information in strict confidence and shall not disclose, communicate or in any way divulge, directly or indirectly, to any other person or entity other than to those of the other Parties who need to know for the Purpose any Sensitive Information any Sensitive Information received or accessed under this Non-Disclosure Agreement. The Member of the CAB is only entitled to disclose Sensitive Information to those of its employees or Affiliates who need to know for the Purpose. The Member of the CAB shall secure that such employees or Affiliates comply with the terms and conditions of this Non-Disclosure Agreement. The Member of the CAB shall be responsible for the observance and proper performance by all of its employees of the terms and conditions of this Non-Disclosure Agreement.

The Member of the CAB shall establish and maintain adequate security measures to safeguard the Sensitive Information from unauthorized access or use. The Member of the CAB shall be liable to the Consortium Partners for the actions or omissions of its affiliates, directors, officers or employees to whom it discloses Sensitive Information in relation to the Sensitive Information as if they were the actions or omissions of the Member of the CAB.

4. The restrictions on the use and disclosure of Sensitive Information shall not apply to any information which is:
 - a) proven to have been known to the receiving party prior to the time of its receipt pursuant to this Non-Disclosure Agreement; or
 - b) in the public domain at the time of disclosure to the receiving party or thereafter enters the public domain without breach of the terms of this Non-Disclosure Agreement; or
 - c) lawfully acquired by the receiving party from an independent source having a bona fide right to disclose the same; or
 - d) independently developed by an employee of the receiving party who has not had access to any of the Sensitive Information of the other party.
5. Unless it is necessary for the Purpose, the Member of the CAB shall not, without the prior express written consent of the disclosing party, copy or reproduce any document provided to him/her containing in whole or in part Sensitive Information and shall return or destroy the same and any copies thereof on the disclosing Consortium Partner's request but the latest until termination of this Non-Disclosure Agreement. This shall not apply to copies of the electronically exchanged Sensitive Information made as a matter of routine information technology back-up and to Sensitive Information or copies thereof which must be stored by the receiving party according to mandatory law.

6. The Member of the CAB receiving sample or material shall not analyze, chemically or otherwise, the sample or material to determine the identity and/or properties of components used to prepare the sample or material.
7. All Sensitive Information supplied pursuant to this Non-Disclosure Agreement shall remain the property of the relevant Consortium Partner disclosing or supplying the same and no rights, including but not limited to the right to apply for industrial property rights, are granted in the same. In this sense, neither this Non-Disclosure Agreement nor any disclosure of Sensitive Information made under this Non-Disclosure Agreement grants the Member of the CAB any rights or licenses under any trademark, copyright, or patent, trade secret or any other proprietary right now or subsequently owned or controlled by the Consortium Partners. The Consortium Partners may at any time decline to give Sensitive Information to the Member of the CAB without stating a specific reason.
8. The Sensitive Information is provided "as is". The Member of the CAB is aware and agrees that the Consortium Partners disclosing make no warranty or representations, express or implied, regarding the quality, accuracy, fitness for the purpose, non-infringement of third-party rights, correctness or completeness of the Sensitive Information.
9. The Member of the CAB shall return to the Consortium Partners or destroy all Sensitive Information disclosed or communicated to them and all copies, samples, devices, drawings, data and other materials and submit unrequested to the Consortium Partners, a proper written evidence of destruction signed by a duly authorized representative, within fourteen (14) calendar days of being requested by the Consortium Partners to do so. Upon the expiration or termination of this Non-Disclosure Agreement the Member of the CAB shall return to the Consortium Partners or destroy all Sensitive Information disclosed or communicated to it and all copies, samples, devices, drawings, data and other materials and submit unrequested to the Consortium Partners) a proper written evidence of destruction signed by a duly authorized representative, within fourteen (14) calendar days of being requested by the Consortium Partners to do so, and erase all Sensitive Information from its computer systems or which is stored in electronic form.
10. In each case of a violation of this Non-Disclosure Agreement the Member of the CAB agrees to indemnify the Consortium Partners for any damage, loss, cost or liability (including legal and/or other costs) that may arise as a result of the breach of this Non-Disclosure Agreement and any of its confidentiality clauses and/or dissemination of Sensitive Information provided that such breach is due to events or causes directly attributable to the Member of the CAB, without prejudice to any other rights and remedies they may have in law, equity or otherwise.
11. This Non-Disclosure Agreement shall come into force upon the date of its signature by the Parties and shall thereafter be valid as long as CAB member is participating in the Purpose. The obligation of confidentiality hereunder shall continue to be valid during the term of the Project and for a period of 6 years after the end of the Project.
12. Any and all disputes that will arise in connection to this Non-Disclosure Agreement will be governed by the laws of France excluding its choices of law

rules. Any dispute, controversy or claim arising under, out of or relating to this Non-Disclosure Agreement and any subsequent amendments of this Non-Disclosure Agreement, shall be settled amicably or, if no agreement is reached, be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Brussels unless otherwise agreed upon. The language to be used in the mediation shall be English unless otherwise agreed upon.

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 calendar days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 60 calendar days, either Party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be Brussels unless otherwise agreed upon. The language to be used in the arbitral proceedings shall be English unless otherwise agreed upon.

The award of the arbitration will be final and binding upon the Parties.

13. If any provision of this Non-Disclosure Agreement is determined to be illegal or in conflict with the applicable law, the validity of the remaining provisions shall not be affected. The ineffective provision shall be replaced by an effective provision which is economically equivalent. The same shall apply in case of a gap.

IN WITNESS THEREOF, the Parties sign this Non-Disclosure Agreement in duplicate form and to one effect in the place and on the date indicated below. A copy of the fully signed Non-Disclosure Agreement will be provided by ICN2 to the Consortium Partners. The signature of a Party via a scanned or digitized image of a handwritten signature (e.g. scan in PDF format) or an electronic signature (e.g. via DocuSign), shall have the same force and effect as an original handwritten signature for the purposes of validity, enforceability and admissibility. Delivery of the fully executed copy via e-mail or via an electronic signature system shall have the same force and effect as delivery of an original hard copy.

Signed for and on behalf of
the Member of the CAB

Signed for and on behalf of the
Consortium Partners

Place, Date

Place, Date

Signature

Signature

Attachment 6: Budget Associated Partners

Eidgenoessische Technische Hochschule Zuerich: 685,862.00 CHF

Nanoflex Robotics: 693,865.00 CHF

Signature Certificate

Reference number: UKWYK-SSRMK-HMGU6-EK856

Signer	Timestamp	Signature
<div><div></div><div>Email: <div></div></div><div>Sent: 22 Nov 2024 08:05:16 UTC</div><div>Viewed: 22 Nov 2024 14:19:58 UTC</div><div>Signed: 22 Nov 2024 14:20:17 UTC</div></div>		<div></div>
<div><div>Recipient Verification:</div><div>✓ Email verified</div></div>	22 Nov 2024 14:19:58 UTC	

Document completed by all parties on:
22 Nov 2024 14:20:17 UTC



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