REMARKS

BAK-AG Recht adapted this Consortium Agreement model for MSCA Doctoral Networks and MSCA Staff Exchanges which will be governed by a Horizon Europe model Grant Agreement and based on the DESCA Consortium Agreement.

A use for other types of project will likely require adaptions.

Also, please always adapt this Consortium Agreement to your Project’s needs. First of all this Consortium Agreement intends to regulate the interactions amongst the Parties. For the purpose of this Agreement, the signature of Associated Parties (Art. 9.1. HEU Model Grant Agreement) is not required. However we do recommend to include such Associated Party(ies) who are implementing such a big part of the Project, that e.g. Access Rights for Implementation need to be granted, confidential information needs to be sheared and financial contributions to the institutionalunit costs might be made. In short, if Associated Partner(s) take indeed the role of a beneficiary (without funding), then there is good reason to make such AP a Party to the Consortium Agreement. The most typical example are universities from Non-Associated Countries which do employ doctoral candidates or staff but without the right to claim costs from the EU Funding authority. We orientated our suggestion to differentiate such Associated Partners with a beneficiary-like role from other Associated Partners with minor implementation tasks by introducing the wording of **‘Employing Associated Partners’**.

For such Associated Partners with a minor role, e.g. which will be Hosting Party to a seconded doctoral candidate or staff, or which might only be a partner for a work shop, we added models for external Parties (Attachment 4c – Secondment Agreement, Attachment 4b- Partnership Agreement).

The MSCA work programme as well as the Grant Agreement could be understood in a way that under Horizon Europe only Associated Partners may be involved in implementing the action, e.g. by hosting seconded Doctoral Candidates or Staff. However, practice of EU-Beneficiaries as well as the European Union seem to suggest that external partners (former Partner Organisations under Horizon 2020) are still allowed to take part in the Project. Thus as we understood that those external partners as well as Associated Partners with a minor role in implementing the Project have a quite similar role to Partner organisations under H2020 we referred to them individually and jointly to ‘**Partner Organisations’**.

Please also check the original DESCA model consortium agreement including its elucidation notes made in this model; those remarks are relevant for this model as well. Please keep in mind that any changes in the core text of this consortium agreement can lead to necessity of changing the wording in the attachments.

This template is based on the DESCA – Model Consortium Agreement for Horizon Europe, AP Version 1, July 2022. Changes and further amendments / options to this version are highlighted in yellow. The template can be used freely but as any model agreement it needs to be adapted to the needs of the project and the project partners in each single case.

Consortium Agreement

[ACRONYM OF PROJECT]

Version [X] – [DATE]

Based on DESCA – Model Consortium Agreement for Horizon Europe

AP Version 1, July 2022

MSCA (Doctoral Networks and Staff Exchange) Version 1

June 2023

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**Change Records**

|  |  |  |
| --- | --- | --- |
| Version | Date | Changes |
| AP Version 1 | July 2022 | For Horizon Europe projects in which Associated Partners are included as Parties of the Consortium Agreement |
| MSCA Version 1 | June 2023 | For Horizon Europe MSCA project, mainly for Doctoral Networks |

**CONSORTIUM AGREEMENT**

THIS CONSORTIUM AGREEMENT is based upon Regulation (EU) No 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), laying down its rules for participation and dissemination (hereinafter referred to as “Horizon Europe Regulation”), and on the European Commission’s General Model Grant Agreement and its Annexes, and is made on [Project start date // other agreed date], hereinafter referred to as the Effective Date

**BETWEEN:**

**[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE GRANT AGREEMENT]**, [Coordinator short name with legal address …], the Coordinator

[**OFFICIAL NAME OF THE BENEFICIARY AS IDENTIFIED IN THE GRANT AGREEMENT** [Party short name], with legal address …],

[**OFFICIAL NAME OF THE BENEFICIARY AS IDENTIFIED IN THE GRANT AGREEMENT** [Party short name], with legal address …],

[Insert identification of other Beneficiaries …]

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

[**OFFICIAL NAME OF THE EMPLOYING ASSOCIATED PARTNER AS IDENTIFIED IN THE GRANT AGREEMENT** [Party short name], with legal address …],

[Insert identification of other Employing Associated Partners …]

hereinafter [, jointly or individually,] referred to as [“Employing Associated Partners” or “Employing Associated Partner”],

hereinafter Beneficiary(ies) and Employing Associated Partner(s), jointly or individually, referred to as “Parties” or ”Party”

relating to the Action entitled

**[NAME OF PROJECT]**

in short

[**Insert: acronym**]

hereinafter referred to as “Project”

**WHEREAS:**

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

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

The Parties are aware that this Consortium Agreement is based upon the [DESCA model consortium agreement](http://www.desca-agreement.eu).

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

# Definitions

## Definitions

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

## Additional Definitions

**‘Employing Associated Partner or Employing Associated Partners (EAP)’** means any legal entities listed as Associated Partner in Art. 9.1 of the Grant Agreement which participate in the action, but without the right to charge costs or claim contributions from the Granting Authority. EAPs may receive funding from their relevant national funding agencies. EAPs have to comply with the contractual provisions of this Consortium Agreement in the same way as the Beneficiaries unless stated otherwise in this Consortium Agreement. EAP do employ Fellows in the Project**.**

**“Career Development Plan”**

Career Development Plan means a plan established by each recruited MSCA Fellow with his/her personal supervisor(s) comprising his/ her research objectives, the Fellow's training and career needs, including training on transferable skills, teaching, planning for publications and participation in conferences and events aiming at opening science and research to citizens. The plan, established at the beginning of the recruitment, should be revised (and updated where needed) within 18 months after beginning of the employment.

**“Consortium Body”**

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

**“Consortium Plan”**

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

**“Defaulting Party”**

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

**“Doctoral Candidate”**

Doctoral Candidate (“DC”) means a researcher that at the date of the recruitment is not already in possession of a doctoral degree or who has not yet defended his/her doctoral thesis.

**“Granting Authority”**

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

“**Marie Skłodowska-Curie Fellow”** or “**Fellow”**

Marie Skłodowska-Curie Fellow or Fellow means a recruited [Doctoral Candidate/ Staff] funded within the scheme of this [MSCA Doctoral Networks (DN)/ MSCA Staff Exchanges (SE).]

**“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.

**“Partner Organisation”** or “**Partner Organisations”**

Partner Organisation or Partner Organisations means Entities which participate in the action, but without the right to charge costs or claim contributions from the Granting under this Grant Agreement and which do not sign the Consortium Agreement. Partner Organisations do not employ any Fellows within the Project. A Partner Organisation can provide additional training and may host Fellows during Secondments. The Partner Organisations are [either] listed as Associated Partner (s) in Art. 9.1 Grant Agreement [or Annex I to the Grant Agreement or Annex x of this consortium agreement] and shall enter into a separate agreement with the Coordinator or the Party employing the Fellow.

**“Secondment”**

Secondment means a period during which a Fellow is hosted by a Party or a Partner Organisation other than his/her employing entity.

**“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.

**“Staff”**

Staff means any employee from one of the Parties.

# 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.

# Entry into force, duration and termination

## Entry into force

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

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

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

## Duration and termination

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

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

If

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

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

If an Associated Partner´s participation in the Project is terminated, its participation in this Consortium Agreement may be terminated subject to the provisions surviving the expiration or termination under this Consortium Agreement (Section 4.2 and Section 3.3).

## Survival of rights and obligations

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

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

# Responsibilities of Parties

## 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, of any significant information, fact, problem or delay likely to affect the Project.

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

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

## Specific responsibilities for Employing Associated Partner(s)

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

The Employing Associated Partner(s) hereby commit(s) to implement the Project tasks attributed to it/them in Annex 1 of the Grant Agreement.

In addition, the Employing Associated Partner(s) hereby commit(s) especially to the following articles of the Grant Agreement and related regulations of Annex 5:

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

The Employing Associated Partner(s) collaborate(s) with the Beneficiaries regarding their exploitation, dissemination and Open Science obligations and commit(s) to contribute to the technical and continuous reporting during and after the implementation of the Project.

Furthermore, the Employing Associated Partner(s) hereby explicitly agree to cooperate with and grant access to bodies according to Article 25 of the Grant Agreement (the Granting Authority, the European Anti-Fraud Office (OLAF), the European Public Prosecutor’s Office (EPPO), the European Court of Auditors (ECA)), so that these bodies can carry out checks, reviews, audits and investigations also towards the Employing Associated Partner(s).

Any Employing Associated Partner from a non EU-country undertakes to comply additionally with any other obligation arising from Art. 10.1 of the Grant Agreement.

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

[Moreover, an Employing Associated Partner is liable to the other Parties for any claim of the Granting Authority against them, which has led to a loss, caused by this Employing Associated Partner´s actions or omissions during Grant Agreement preparation, Project implementation or after Project end. Regarding such claims the Employing Associated Partner´s special liability is limited to [Insert: once or twice] the [Insert: amount of its total budget as indicated in Annex 1 of the Grant Agreement / amount X € for AP1, amount Y € for AP2 (…), mutatis mutandis as if the Employing Associated Partner were a Beneficiary to the Grant Agreement. ]

Should the Employing Associated Partner(s) be obliged to sign a separate agreement concerning its/their funding for the Project, it is the responsibility of the Employing Associated Partner to ensure such agreement is not in conflict with this Consortium Agreement.

**4.3 Specific obligations with regard to the Fellow (s)**

Each Party that selects and recruits a Fellowto participate in the Project must respect the recruitment and working conditions for Fellows in particular the rules in the Specific Rules for Carrying out the Action in Annex 5 of the Grant Agreement.

**[Not applicable for Staff Exchange:]** A personalized Career Development Plan (Attachment 3 Template of a Career Development Plan) must be established and updated in view of the needs for the research jointly by the supervisor and each recruited Doctoral Candidate. In case of joint supervision, such a plan should be established involving all supervisors.

**4.4 Obligations during Secondments**

During any period of Secondment to a Party or a Partner Organisation, the seconded Fellow shall remain employed by the Party by which he/she was recruited.

Except as otherwise set out in this Section 4.4, the Party employing the Fellow shall be solely responsible for the fulfillment towards its Fellow of the obligations of Parties set out in in Annex 5 of the Grant Agreement, including the distribution to the Fellow of the monthly support in accordance with the Party’s own usual accounting and management principles and practices.

Except as otherwise set out in this Section 4.4, the Party or Partner Organisation hosting the Fellow shall have no obligation or liability to the employing Party or to the Fellow for any of the conditions set out in in Annex 5 of the Grant Agreement, including but not limited to liability to the Employing Party or to the Fellow for any salary or other compensation or other benefits of employment, such as any medical or other insurance coverage.

The Party hosting the Fellow shall communicate to and instruct the Fellow in any applicable local procedures regarding, but not limited to, health and safety and proper scientific conduct to ensure that the seconded Fellow enjoys at the place of Secondment at least the same standards and working conditions as those applicable to local persons holding a similar position.

Any travel expenses of the Fellow to seminars, workshops and other events attended by the Fellow for training purposes are borne by the Party employing the Doctoral Candidate/ Staff/Fellow.

**[Only for Doctoral Candidates:]**The Partiesconcerned, i.e. the Party employing a Doctoral Candidate and the Party collaborating with regards to the Action, may enter into individual agreements with regards to the Secondments (“Secondment Agreement”) within the Action based upon the Career Development Plan and the Doctoral Candidate’s dissertation project (the Dissertation’s Project Description), in particular with regards to

* Access Rights with regards to Background needed during the Secondment
* Specific provisions for Access Rights to Software.

Secondment Agreements may not contradict the Grant Agreement and this Consortium Agreement. A possible template between Beneficiaries and between Beneficiaries and Employing Associated Partners which can be adapted by the Parties is attached to this Consortium Agreement in Attachment 4a.

Subject to Section 4.7 the Beneficiary collaborating with a Partner Organisation shall

* Ensure to have the Partner Organisation’s written commitment in place,
* enter into an Agreement with the Partner Organisation with respect to any Secondment before the Secondment takes place (possible template provided as Attachment 4c.
* Inform the Coordinator about any Partnership Agreement agreed upon.

If a Partner Organisation is involved in the Project through more than one Party (for example the organisation of training activities), the Coordinator will ensure that a Partnership Agreement is executed between all Parties and each Partner Organisation/ between the Party the Associated Partner is associated to and the associated Partner Organisation. [Option: The Coordinator shall be hereby appointed by each of the Parties to negotiate and execute, on behalf of each of the Parties, Partnership Agreements substantially in the format as attached in Attachment 4b (Partnership Agreement with the Partner Organisation)]

**4.5. Fellow (Recruitment and Secondment) notifications**

In order to facilitate the monitoring activity of the Coordinator, the Parties commit to notify the Coordinator via e-mail, without unnecessary delay,

* about any progress or change in their Fellow recruitment process. In particular, the Coordinator shall always be notified about the official start date of the recruitment and the submission of the researcher declaration through the European Commission Participant Portal as well as any circumstances possibly leading to an amendment suspending (part of the) grant or prolonging the duration of the Action;
* about any major change of the planned Secondment(s).

## 4.6 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.

## 4.7 Involvement of third parties

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

## 4.8 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.

# Liability towards each other

## 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.

## Limitations of contractual liability

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

A Party’s general aggregate liability towards the other Parties collectively shall be limited to [Insert: once or twice] the Beneficiary’s share of the total costs of the Project as identified in Annex 2 of the Grant Agreement and in case of Associated Partners to [Insert: once or twice] the [Insert: amount of its total budget as indicated in Annex 1 of the Grant Agreement / amount X € for AP 1, amount Y € AP 2 (.…)]

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 act or gross negligence or to the extent that such limitation is not permitted by law.

## 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.

## Force Majeure

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

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

## [OPTION : 5.5 Export control

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

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

# Governance structure

[Module GOV SP]

## General structure

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

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

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

## Members

[Please check whether representatives of the Doctoral Candidates or any other groups shall be represented in Consortium Bodies with or without voting rights and adapt Section 6 accordingly.]

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

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

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

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

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

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

* Financial changes to the Consortium Plan
* Distribution of EU contribution among the Beneficiaries
* Proposals for changes to Annex 2 of the Grant Agreement to be agreed by the Granting Authority
* Decisions related to Section 7.1.4 of this Consortium Agreement
* [Insert further decisions in bullet points]

Regarding unanimity or majority decisions, only Members with voting rights regarding the item are taken into account (e.g. Section 6.3.2.5).

## Operational procedures for the General Assembly:

### Representation in meetings

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.

### Preparation and organisation of meetings

#### Convening meetings:

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

#### Notice of a meeting

The chairperson shall give written notice of a meeting to each Member as soon as possible and no later than 14 calendar days preceding an ordinary meeting and 7 calendar days preceding an extraordinary meeting.

#### Sending the agenda:

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

#### Adding agenda items:

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

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

#### 

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

#### 

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

#### 

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

### Decisions without a meeting

Any decision may also be taken without a meeting if

1. 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
2. the decision is agreed by 51 % of all Parties.

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

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

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

### Voting rules and quorum

#### 

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

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

#### 

Each Member present or represented in the meeting shall have one vote. Employing Associated Partners are excluded from certain decisions of the General Assembly according to Section 6.2.

A Party which the General Assembly has declared according to Section 4.3 to be a Defaulting Party may not vote.

#### 

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

### Veto rights

#### 

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

#### 

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

#### 

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.

#### 

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

#### 

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

#### 

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.

#### 

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

### Minutes of meetings

#### 

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

#### 

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

#### 

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

### Decisions of the General Assembly

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

The following decisions shall be taken by the General Assembly:

Content, finances and intellectual property rights

* Proposals for changes to Annexes 1 and 2 of the Grant Agreement to be agreed by the Granting Authority
* Changes to the Consortium Plan
* Modifications or withdrawal of Background in Attachment 1 (Background Included)
* Additions to Attachment 7 (List of Third Parties for simplified transfer according to Section 8.3.2)
* Additions to Attachment 8 (Identified entities under the same control)

Evolution of the consortium

* Entry of a new Party to the Project and approval of the settlement on the conditions of the accession of such a new Party
* Withdrawal of a Party from the Project and the approval of the settlement on the conditions of the withdrawal
* 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

Breach, defaulting party status and litigation

* Identification of a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement
* Declaration of a Party to be a Defaulting Party
* Remedies to be performed by a Defaulting Party
* Termination of a Defaulting Party’s participation in the consortium and measures relating thereto
* Steps to be taken for litigation purposes and the coverage of litigation costs in case of joint claims of the parties of the consortium against a Party (Section 4.2, Section 7.1.4)

Appointments

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

* External Expert Advisory Board Members

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

## Coordinator

### 

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.

### 

In particular, the Coordinator shall be responsible for:

* monitoring compliance by the Parties with their obligations under this Consortium Agreement and the Grant Agreement
* keeping the address list of Members and other contact persons updated and available
* collecting, reviewing to verify consistency and submitting reports, other deliverables (including financial statements and related certification) and specific requested documents to the Granting Authority
* preparing the meetings, proposing decisions and preparing the agenda of General Assembly meetings, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings
* transmitting promptly documents and information connected with the Project to any other Party concerned
* administering the financial contribution of the Granting Authority and fulfilling the financial tasks described in Section 7.2
* providing, 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,
* communicating any major change with regard to Secondments, e.g. omission of a Secondment; such changes must be pre-approved by the European Research Executive Agency (REA).
* providing a copy of the Grant Agreement and its Annexes (and any subsequent amendments to the Grant Agreement) to the Employing Associated Partners.

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.

### 

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

### 

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.

### 

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

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

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

The Coordinator will ensure that a non-disclosure agreement is executed between all Parties and each EEAB member.

Its terms shall be not less stringent than those stipulated in this Consortium Agreement, and it shall be concluded no later than 30 days after their nomination or before any confidential information will be exchanged/disclosed, whichever date is earlier.

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

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

## [Optional, where foreseen in the Grant Agreement or otherwise decided by the consortium: Agreement with Partner Organisation(s)

[Optional: By way of exception to Section 6.4.4 below, the Parties hereby mandate the Coordinator to execute, in their name and on their behalf, a Partnership Agreement (hereafter “PA”) with each Partner Organisation, in order to protect Confidential Information disclosed by any of the Parties to any Partner Organisation and to fulfil the Beneficiaries under Art. 9.1 and 10.1 Grant Agreement. The PA for Partner Organisations is enclosed in Attachment 4b. The mandate of the Coordinator comprises solely the execution of the PA in Attachment 4b.]

# Financial provisions

Section 7 of the Consortium Agreement does not apply to Employing Associated Partners, except for Section 7.3.

## General Principles

### Distribution of Financial Contribution

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

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

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

### Justifying Costs

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

### Funding Principles

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

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

### Excess payments

A Beneficiary has received excess payment

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

In case a Beneficiary has received excess payment, the Beneficiary has to inform the Coordinator and return the relevant amount to the Coordinator without undue delay. In case no refund takes place within 30 days upon request for return of excess payment from the Coordinator, the Beneficiary is in substantial breach of the Consortium Agreement.

Amounts which are not refunded by a breaching Beneficiary and which are not due to the Granting Authority, shall be apportioned by the Coordinator to the remaining Beneficiaries pro rata according to their share of total costs of the Project as identified in the Consortium Budget, until recovery from the breaching Beneficiary is possible. The General Assembly decides on any legal actions to be taken against the breaching Beneficiary according to Section [Module GOV SP 6.3.7 / Module GOV LP 6.3.1.2].

### Revenue

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

### Financial Consequences of the termination of the participation of a Beneficiary

A Beneficiary 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 Beneficiary declared to be 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 Beneficiaries in order to perform the leaving Beneficiary’s task and necessary additional efforts to fulfil them as a consequence of the Beneficiary leaving the consortium. The General Assembly should agree on a procedure regarding additional costs which are not covered by the Defaulting Party or the Mutual Insurance Mechanism.

## Payments

### Payments to Beneficiaries are the exclusive task of the Coordinator

In particular, the Coordinator shall:

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

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

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

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

### 

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

[Option 1:]

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

|  |  |
| --- | --- |
| Xx % | on receipt of Pre-financing |
| Xx %.. | … |

Funding for costs accepted by the Granting Authority will be paid by the Coordinator to the Beneficiary concerned.

[end of option 1]

[Option 2:]

Funding of costs included in the Consortium Plan will be paid by the Coordinator to the Beneficiaries after receipt of payments from the Granting Authority without undue delay and in conformity with the provisions of the Grant Agreement. Costs accepted by the Granting Authority will be paid to the Beneficiary concerned.

[end of option 2]

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

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

**7.3 Allocation of Institutional unit costs [relevant for DN and Staff Exchange]**

[Please check the applicable VAT regulations before selecting the adequate option and before any transfer of payments.]

[OPTION 1:]

The research, training and networking budget is established at the Coordinator to cover the costs of the network-wide training events and workshops, the annual network meetings, the dissemination and communication activities, and other network-wide training and networking costs of the Project, and it is quantified in EURO XXXXXX.

The Parties agree to contribute according to their Number of person month implemented, as indicated in the following table:

|  |  |
| --- | --- |
| **Party’s Name** | **Party’s contribution (Anzahl PMS x ABC€)** |
| Beneficiary 1 | N° PM x ABC€ = XYZ € |
| Beneficiary 2 | N° PM x ABC€ = XYZ € |
| Employing Associated Partner 1 | N° PM x ABC€ = XYZ € |
| Emplyoing Associated Partner 2 | N° PM x ABC€ = XYZ € |

For the avoidance of doubt, the Parties hereby agree that, if necessary, their contribution indicated in the table above can be reviewed.

When transferring the contribution received by the Funding Authority to the Parties, the Coordinator will withhold a percentage of each Beneficiary’s total contribution to the Research, Training and Networking  budget:

* x % of the pre-financing transfer – month 1 of the Project,
* x % of the interim payment transfer – month X of the Project,
* x % of the final payment transfer – month Y of the Project.

(Swiss and UK Employing Associated Partners contribution shall be transferred to the Coordinator as soon as these Associated Partners have received their national funding. The distribution shall be arranged according to the table below.)

(The Swiss Employing Associated Partner contribution to the Project shall be transferred in two instalments to the Coordinator:

* First payment 50% - month 2 of the Project,
* Final payment 50% - month 13 of the Project.)

The contribution due will be reduced pro rata, if not all doctoral candidate (DC) months can be implemented.

The expenses for central research, training and networking activities made by the Coordinator will be referred to the Supervisory Board yearly and expenditure information made available to the Parties for onward transmission to their respective Granting Authority or national funding agency (as the case may be). Notwithstanding the foregoing, a Party in receipt of redistributed funding shall act in good faith to respond to ad-hoc requests for expenditure information as may be reasonably requested in writing to a Party from its Granting Authority or national funding agency.

[END OF OPTION 1]

[OPTION 2:]

The Parties agree that the estimated budget for the Project as indicated in Annex 2 does not apply. Instead, the Coordinator will retain 50% (…%/ € … per eligible person month) of the other Parties’ Total amount of category B.2, Management and indirect costs in order to cover the cost of the Management Support Team. The estimated budget for the Project as indicated in Attachment 6 shall apply.

Employing Associated Partners contribution shall be transferred to the Coordinator only as soon as these Employing Associated Partners have received their national funding if any.

(The Swiss Employing Associated Partner contribution to the Project shall be transferred in two instalments to the Coordinator:

- First payment 50% - month X of the Project,

- Final payment 50% - month X of the Project,]

[END OF OPTION 2]

[OPTION 3:]

- The Parties agree to contribute according to their budget share, as indicated in the table in Attachment 6:

[END OF OPTION 3]

[OPTION 4:]

The Parties agree that the estimated budget for the Project as indicated in Annex 2 of the Grant Agreement does not apply. Instead, the Coordinator will retain XXX Euro altogether (Joint Training Budget). This meets XX Euro per Fellow per eligible person month from B.1 Research, Training and Networking budget as listed in Annex 2 of the Grant Agreement at the time of signature. In addition, a sum of XXX Euro (Joint Management Budget) will be retained from the B.2 Management and Indirect Contribution budget of each Party. This corresponds to XX,- Euro per Fellow per eligible person month from as listed in Annex 2 of the Grant Agreement at the time of signature. Coordinator will inform the consortium during board meetings regarding the expenses paid from the allocated joint budgets**.**

[END OF OPTION 4]

# Results

## Ownership of Results

Results are owned by the Party that generates them.

## Joint ownership

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

[Option 1:]

Unless otherwise agreed:

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

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

[end of option 1]

[Option 2:]

In case of joint ownership, each of the joint owners shall be entitled to Exploit the joint Results as it sees fit, and to grant non-exclusive licenses, without obtaining any consent from, paying compensation to, or otherwise accounting to any other joint owner, unless otherwise agreed between the joint owners.

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

[End of Option 2]

## Transfer of Results

### 

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”.

### 

Each Party may identify specific third parties it intends to transfer the ownership of its Results to in Attachment (7) 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.

### 

The transferring Party shall, however, at the time of the transfer, inform the other Parties of such transfer and shall ensure that the rights of the other Parties under the Consortium Agreement and the Grant Agreement will not be affected by such transfer. Any addition to Attachment (7) after signature of this Consortium Agreement requires a decision of the General Assembly.

### 

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.

### 

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

## Dissemination

### 

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

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

#### 

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

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

#### 

An objection is justified if

1. the protection of the objecting Party's Results or Background would be adversely affected, or
2. the objecting Party's legitimate interests in relation to its Results or Background would be significantly harmed, or
3. the proposed publication includes Confidential Information of the objecting Party.

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

#### 

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

#### 

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

### 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.

### Cooperation obligations

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

### 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 logos or trademarks without their prior written approval.

# Access Rights

## Background included

### 

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.

### 

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.

## General Principles

### 

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.

### 

Any Access Rights granted exclude any rights to sublicense unless expressly stated otherwise.

### 

Access Rights shall be free of any administrative transfer costs.

### 

Access Rights are granted on a non-exclusive basis.

### 

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

### 

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.

### 

The requesting Party must show that the Access Rights are Needed.

## 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.

## Access Rights for Exploitation

### Access Rights to Results

[Option 1:]

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

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

[end of option 1]

[Option 2:]

Access Rights to Results if Needed for Exploitation of a Party's own Results shall be granted on a royalty-free basis.

[end of option 2]

### 

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

### 

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.

## 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” [Optional:, if they are identified in [Attachment 8 (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 [Beneficiary / 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 8]. 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 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 [Beneficiary / Party] with whom it is under the same control, and shall automatically terminate upon termination of the Access Rights granted to such [Beneficiary / 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.

## Additional Access Rights

[Option 1:]

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.

[Option 2:]

The Parties agree to negotiate in good faith any additional Access Rights to Results as might be asked for by any Party, upon adequate financial conditions to be agreed.

## Access Rights for Parties entering or leaving the consortium

### New Parties entering the consortium

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

### Parties leaving the consortium

#### Access Rights granted to a leaving Party

##### 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.

##### 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.

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

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

## 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.

# Non-disclosure of information

## 

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

## 

The Recipient hereby undertakes in addition and without prejudice to any commitment on non-disclosure under the Grant Agreement, for a period of 5 years after the final payment of the Granting Authority (the Coordinator notifies the Employing Associated Partner(s) about the date of the final payment):

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

## 

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

## 

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

* the Confidential Information has become or becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;
* the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
* the Confidential Information is communicated to the Recipient without any obligation of confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality to the Disclosing Party;
* the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
* the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party;
* the Confidential Information was already known to the Recipient prior to disclosure, or
* the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 10.7 hereunder.

## 

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

## 

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

## 

If any Recipient becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order or - in the case of an Employing Associated Partner - with a reporting requirement from its national funding authority, 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.

# Miscellaneous

## Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and:

* Attachment 1 (Background included)
* Attachment 2 (Accession document)
* Attachment 3 (Template for Career Development Plan) under Section 4.3
* Attachment 4a (Secondment Agreement [between Beneficiaries and/or Employing Associated Partners)
* Attachment 4b (Partnership Agreement according to Section 4.4 / Coordinator or Beneficiaries/Employing Associated Partners with Partner Organisations – scope might be training activities but no Secondment)Attachment 4c (Secondment Agreement [between Beneficiaries and Partner Organisation(s))
* Attachment 5 (NDA for External Expert Advisory Board agreed under Section 6)
* [Attachment 6 (Consortium Plan Budget and Coordination costs)]
* [Attachment 7 (List of third parties for simplified transfer according to Section 8.3.2.)]
* Attachment 8 (Identified entities under the same control)

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.

## 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.

## Formal and written notices

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

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

Formal notices:

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

Written notice:

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

## Assignment and amendments

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

Amendments and modifications to the text of this Consortium Agreement not explicitly listed in 6.3.7 (SP)/ 6.3.1.2 (LP) require a separate written agreement to be signed between all Parties.

## 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.

## Language

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

## Applicable law

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

## Settlement of disputes

The Parties shall endeavour to settle their disputes amicably.

[Please choose an appropriate method of dispute resolution, possibly one of the options 1 (WIPO), 2 (ICC), 3 (Courts). Within option 1, please further choose, between 1.1. and 1.2]

[Option 1: WIPO Mediation Followed, in the Absence of a Settlement, by WIPO Expedited Arbitration or by Court Litigation]

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

[Please choose one of the following options.]

[Option 1.1. WIPO Mediation Followed, in the Absence of a Settlement, by WIPO Expedited Arbitration]

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.

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

[Option 1.2. WIPO Mediation Followed, in the Absence of a Settlement, by Court Litigation]

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, the courts of Brussels shall have exclusive jurisdiction.

[Option 2: ICC Arbitration]

All disputes arising out of or in connection with this Consortium Agreement, which cannot be solved amicably, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

The place of arbitration shall be Brussels if not otherwise agreed by the conflicting Parties.

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.

[Option 3: Settlement by Court Litigation]

All disputes arising out of or in connection with this Consortium Agreement, which cannot be solved amicably, shall be finally settled by the courts of Brussels.

# Signatures

**AS WITNESS:**

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

[INSERT NAME OF PARTY]

Signature(s)

Name(s)

Title(s)

Date

[It is recommended to insert a new page for each signature.]

[INSERT NAME OF PARTY]

Signature(s)

Name(s)

Title(s)

Date

[INSERT NAME OF PARTY]

Signature(s)

Name(s)

Title(s)

Date

Attachment 1: Background included

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

PARTY 1

As to [NAME OF THE PARTY], it is agreed between the Parties that, to the best of their knowledge, [insert the relevant option here].

[Option 1 start]

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

|  |  |  |
| --- | --- | --- |
| **Describe Background** | **Specific restrictions and/or conditions for implementation (Article 16.4 Grant Agreement and its Annex 5, Section “Access rights to results and background”, sub-section “Access rights to background and results for implementing the Action”)** | **Specific restrictions and/or conditions for Exploitation (Article 16.4 Grant Agreement and its Annex 5, Section “Access rights to results and background”, sub-section “Access rights for exploiting the results”)** |
|  |  |  |
|  |  |  |

[Option 1 end]

[Option 2 start]

Option 2: No data, know-how or information of [NAME OF THE PARTY] 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”).

[Option 2 end]

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

[Same for PARTY 2, PARTY 3, etc]

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 (Template for Career Development Plan) under Section 4.3

[To be updated in view of the needs of the researchers in accordance with the Grant Agreement, Annex 5, Art. 18]

Name of Doctoral Candidate:

Department:

Name of Supervisor:

Date:

**Brief overview of research project and major accomplishments expected (half page should be sufficient):**

**Long-term career objectives (over 5 years):**

1. Goals:
2. What further research activity or other training is needed to attain these goals?

**Short-term objectives (1-2 years):13**

1. Research results
   * Anticipated publications:
   * Anticipated conference, workshop attendance, courses, and /or seminar presentations:
2. Research Skills and techniques:
   * Training in specific new areas, or technical expertise etc:
3. Research management:
   * Fellowship or other funding applications planned (indicate name of award if known; include fellowships with entire funding periods, grants written/applied for/received, professional society presentation awards or travel awards, etc.)
4. Communication skills:
5. Other professional training (course work, teaching activity):
6. Anticipated networking opportunities
7. Other activities (community, etc) with professional relevance:

Date & Signature of Doctoral Candidate: Date & Signature of supervisor

**Career Development Plan**

**Guidance on some of the competencies expected**

The following points are a non-exhaustive series of aspects that could be covered by the career development plan, and it is relevant to the short-term objectives that will be set by the researcher and the reviewer at the beginning of the fellowship period. The objectives should be set with respect to the skills and experience that each researcher should acquire at a given time of his/her career. These objectives should be revised at the end of the fellowship and should be used as a pro-active monitoring of progress in the researcher’s career.

1. **Research results.**

These should give an overview of the main direct results obtained as a consequence of the research carried out during the training period. It may include publications, conference, workshop attendance, courses, and /or seminar presentations, patents etc. This will vary according to the area of research and the type of results most common to each field. The information at this level should be relatively general since the career development plan does not strictly constitute a report on the scientific results achieved.

1. **Research Skills and techniques acquired.**

Competence in experimental design, quantitative and qualitative methods, relevant research methodologies, data capture, statistics, analytical skills.

Original, independent and critical thinking.

Critical analysis and evaluation of one’s findings and those of others

Acquisition of new expertise in areas and techniques related to the researcher’s field and adequate understanding their appropriate application

Foresight and technology transfer, grasp of ethics and appreciation of IPPR.

1. **Research management.**

Ability to successfully identify and secure possible sources of funding for personal and team research as appropriate.

Project management skills relating to proposals and tenders work programming, supervision, deadlines and delivery, negotiation with funders, financial planning, and resource management.

Skills appropriate to working with others and in teams and in teambuilding.

1. **Communication skills.**

Personal presentation skills, poster presentations, skills in report writing and preparing academic papers and books.

To be able to defend research outcomes at seminars, conferences, etc.

Contribute to promote public understanding of one’s own field

1. **Other professional training (course work, teaching activity):**

Involvement in teaching, supervision or mentoring

1. **Anticipated networking opportunities.**

Develop/maintain co-operative networks and working relationships as appropriate with supervisor/peers/colleagues within the institution and the wider research community

1. **Other activities (community, etc) with professional relevance.**

Issues related with career management, including transferable skills, management of own career progression, ways to develop employability, awareness of what potential employers are looking for when considering CV applications etc.

# Attachment 4a) (Secondment Agreement for Doctoral Candidates) according to Section 4.4

**[Secondment Agreement (non-binding template)** **between Parties to the Consortium Agreement**]

THIS SECONDMENT AGREEMENT is based upon the Consortium Agreement for the Action [name of the Action] (hereinafter referred to as “Consortium Agreement”) between the Beneficiary x / Employing Associated Partner xx

and

the Beneficiary y/ Employing Associated Partners with effective date of xxx and Grant Agreement No xxx and its Annexes (hereinafter referred to as "Grant Agreement")

BETWEEN:

…..

hereinafter, referred to as “Seconding Entity”

and

……

hereinafter, referred to as “Host Entity”

- hereinafter, “Seconding Entity” and “Host Entity”, jointly or individually, referred to as ”Parties” or ”Party”

relating to the Secondment within the MSCA-DN Project titled

[title of the Project]

in short

[Acronym of the Project]

hereinafter referred to as “Secondment Agreement”

concerning the Doctoral Candidate [name of the Doctoral Candidate]

WHEREAS:

…..

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the Grant Agreement and the Consortium Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Section 1: Definitions

Definitions

Words beginning with a capital letter shall have the meaning defined either herein or in the Rules for Participation or in the Grant Agreement including its Annexes or the Consortium Agreement without the need to replicate said terms herein.

Section 2: Purpose

The purpose of the Secondment Agreement is to specify the relationship between the Parties with respect to the Project under the Action, in particular to the organization of work between the Parties, the management of the Project and the rights and obligations of the Parties, including inter alia Access Rights to Background needed in this Secondment (see Attachment 1), specific provisions for Access Rights to Software in accordance with the Partnership Agreement and the Grant Agreement.

The provisions of this Agreement supplement and specify the Consortium Agreement and the Grant Agreement which are fully and predominantly applicable.

Section 3: Responsibilities of the Parties

3.1. Each Party undertakes to take part in the efficient implementation of the Secondment in accordance with the responsibilities set out in the Grant Agreement, the Consortium Agreement and this Agreement including its Annexes.

3.2. Each Party shall bear in mind the Fellow’s career development objectives agreed upon in the Career Development Plan between the Doctoral Candidate’s supervisor(s) and the Doctoral Candidate.

[OPTIONAL for Section 4: Access Rights

In Attachment 1 to this Agreement the Parties shall identify and agree on specific Background for the Fellowship Project and shall also, where relevant, inform each other that Access to specific Background is subject to legal restrictions or limits.

[OPTIONAL:] Section 5: Specific provisions for Access Rights to Software

Optional: [MODULE IPR SC] from DESCA model

Section 6: Miscellaneous

6.1. Contact person for the Seconding Entity shall be Prof.\_\_\_\_\_\_\_, Chair of\_\_\_\_\_\_\_\_\_\_, contact person for the Host Entity shall be Prof.\_\_\_\_\_\_\_, Chair of\_\_\_\_\_\_\_\_\_\_.

6.2. Attachments, inconsistencies and severability

This Secondment Agreement consists of this core text and

Attachment 1 (Background included)

Attachment 2 (Career Development Plan).

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

Should any provision of this Secondment Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Secondment 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.

6.3. Amendments or changes to the Agreement shall be made in writing and signed by the duly authorized representatives of the Parties.

6.4. This Secondment Agreement shall be construed in accordance with and governed by the laws of Belgium excluding its conflict of law provisions and for any kind of dispute shall follow the procedures as set down in Section 11.8of the ConsortiumAgreement.

Section 8: Signatures

AS WITNESS:

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

FOR AND ON BEHALF OF THE SECONDING ENTITY

**XXX**

|  |  |
| --- | --- |
| Date |  |
| Name of authorized signatory |  |
| Title(s)/function |  |
| Signature by authorized signatory |  |

FOR AND ON BEHALF OF THE HOST ENTITY

**XXX**

|  |  |
| --- | --- |
| Date |  |
| Name of authorized signatory |  |
| Title(s)/function |  |
| Signature by authorized signatory |  |

READ AND ACKNOWLEDGED BY THE Doctoral Candidate

|  |  |
| --- | --- |
| Date |  |
| Name of DC |  |
| Signature by DC |  |

# [Attachment: 4 b) Partnership Agreement according to Section 4.4]

**[Coordinator or Beneficiaries/Employing Associated Partners with Partner Organisations – scope might be training activities but no Secondment]**

This agreement is made between:

between the

PARTY X,

Hereinafter referred to as “Coordinator”

as the Coordinator of the Horizon Europe Project ‘[LONG NAME]’, in short [ACRONYM]

hereinafter referred to as “Project”

funded with Grant Agreement No. Project [No. and ACRONYM] (hereinafter the ‘Grant Agreement’)

and by the Coordinator on behalf of

Partners of the Consortium [Please insert all Parties to the Consortium Agreement]

Hereinafter Coordinator and above named Parties to the Consortium Agreement referred to as “Consortium Partners”

and

xy

Hereinafter referred to as ‘Partner Organisation’

All Parties together hereinafter referred to as “Parties”

**Preamble**

Within Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), the Beneficiaries receive funding from the EU for the project “LONGTITLE; SHORTTITLE” (“Action”) under the grant agreement number – No xxxxxx - in the following referred to as “Grant Agreement”.

THE PARTNER ORGANISATION is willing to provide [task as foreseen in Annex I to the Grant Agreement/ the task as set down to this Agreement] for the implementation of the Action.

1.1 The Consortium Partners are Parties to a Consortium Agreement with the scope of the Project which is funded by the European Union, represented by [insert Agency] (Grant Agreement No. Project No-ACRONYM). [For Associated Partners: The Partner Organisation is listed in Art. 9.1 Grant Agreement as Associated Partner.]

1.2 The Partner Organisation hereby commits to implement the Project tasks attributed to it in Annex 1 of the Grant Agreement/ which are described in Annex I to this Agreement.

[Option:The Consortium welcomes [Partner Organisation short name] to the Project. Participation will involve the representative(s) of [Partner Organisation short name] receiving, and/or participating in Project discussions/presentations/correspondence concerning confidential information, including, but not limited to, information produced and/or acquired by the Consortium members either as part of the Project (“Results”) or before the Project (“Background”). As the Consortium Members have preexisting obligations with respect to the confidentiality of such Results, Background and confidential information, [Partner Organisation short name] will be required to keep confidential, as indicated below. ]

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

2.2 The Recipient hereby undertakes for a period of 5 years after the final payment of the Granting Authority (the Coordinator notifies the Partner Organisation(s) about the date of the final payment):

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

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

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

* the Confidential Information has become or becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;
* the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
* the Confidential Information is communicated to the Recipient without any obligation of confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality to the Disclosing Party;
* the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
* the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party;
* the Confidential Information was already known to the Recipient prior to disclosure, or
* the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 2.7 hereunder.

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

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

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

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

3. For the avoidance of doubt, the Partner Organisation does not sign the Grant Agreement and does not receive funding from the Granting Authority and therefore does not have a right to charge costs or claim contributions from the Granting Authority. Partner Organisation’s costs of their tasks are not eligible under the Grant Agreement. Partner Organisations must ensure its own funding for the implementation of the Project.

However, certain terms and conditions of the Grant Agreement and its Annexes are applicable to the Partner Organisations [in case they are Associated Partner(s)]. The Coordinator will share a copy of the terms and conditions of the signed Grant Agreement and information on any amendments (meaning the terms and conditions including Annex 5) with the Partner Organisation.

The Partner Organisation hereby commits to implement the Project tasks attributed to it in [Annex 1 of the Grant Agreement/ Appendix A to this Agreement].

In addition, the Partner Organisation(s) hereby commit(s) especially to the following articles of the Grant Agreement and related regulations of Annex 5:

- Proper implementation of the action (Article 11)

- Conflicts of interest (Article 12)

- Confidentiality and security (Article 13)

- Ethics and values (Article 14)

- Visibility (Article 17.2)

- Specific rules for carrying out the action (Article 18)

- Information obligations (Article 19)

- Record-keeping (Article 20)

The Partner Organisation supports the Beneficiaries regarding their exploitation, dissemination and Open Science obligations and commits to contribute to the technical and continuous reporting during and after the implementation of the Project.

Furthermore, the Partner Organisation hereby explicitly agrees to cooperate with and grant access to bodies according to Article 25 of the Grant Agreement (the Granting Authority, the European Anti-Fraud Office (OLAF), the European Public Prosecutor’s Office (EPPO), the European Court of Auditors (ECA)), so that these bodies can carry out checks, reviews, audits and investigations also towards the Partner Organisation.

Any Partner Organisation from a non EU-country undertakes to comply additionally with any other obligation arising from Art. 10.1 of the Grant Agreement.

In case of termination or being declared a Defaulting Party, the Partner Organisation shall, within the limits specified in Section 4.2 of this Partnership Agreement, bear any reasonable and justifiable costs occurring to the other Parties for performing this Partner Organisation’s tasks and the costs for additional efforts necessary to implement the Project.

Should the Partner Organisation be obliged to sign a separate agreement concerning its funding for the Project, it is the responsibility of the Partner Organisation to ensure such agreement is not in conflict with this Partnership Agreement and the Grant Agreement.

[Where necessary, please include rules on IP-Management and Access Rights.]

**4 Liability towards each other**

**4.1 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.

**4.2 Limitations of contractual liability**

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

A Party’s general aggregate liability towards the other Parties collectively shall be limited to [Insert: once or twice] the Beneficiary’s share of the total costs of the Project as identified in [ Annex 2 of the Grant Agreement / Attachment XY] and in case of Partner Organisation to [Insert: once or twice] the [Insert: amount of its total budget as indicated in Annex 1 of the Grant Agreement / amount of X €].

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 act or gross negligence or to the extent that such limitation is not permitted by law.

**4.3 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 Partnership Agreement or from its use of Results or Background.

**4,4 Force Majeure**

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

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

**5.1 Mandatory national law**

Nothing in this Partnership Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating and fulfilling the requirements of such mandatory statutory law shall never make a Party liable in any way towards the other Parties or other legal entities.

**5.2 Language**

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

**5.3 Applicable law**

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

**5.4 Severability**

Should any provision of this Partnership Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Partnership 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.

### 5.5 Settlement of disputes

The Parties shall endeavor to settle their disputes amicably.

(Include here the option of Dispute Resolution selected for the Consortium Agreement, see Sec. 11.8 of the Consortium Agreement]

Appendix A – Terms and Conditions, Annex 5 and Annex 1 of the Grant Agreement (CONFIDENTIAL)

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

[Date and Place]

[INSERT NAME OF THE PARTNER ORGANISATION]

Signature(s)

Name(s)

Title(s)

[Date and Place]

[INSERT NAME OF THE Project Coordinator]

Signature(s)

Name(s)

Title(s)

**[Option: Attachment 4c ) SECONDMENT AGREEMENT for Doctoral Candidates according to Section 4.4]**

**[Beneficiaries/Employing Associated Partners with Partner Organisations]**

This agreement is made between:

**Party x** established in ADDRESS, represented by the Position/Name,

Hereinafter referred to as Seconding Entity

and,

**Party y** established in ADDRESS, represented by the Position/Name,

Hereinafter referred to as Host Entity

Both hereinafter referred to as “Party” or “Parties”

**Preamble**

Within Horizon Europe – the Framework Programme for Research and Innovation (2021-2027), Party x receives funding from the EU for the project “LONGTITLE; SHORTTITLE” (“Action”) under the grant agreement number – No xxxxxx - in the following referred to as “Grant Agreement”.

Host Entity is willing to provide training and support to a Doctoral Candidate for the implementation of the Action. During his stay at the Host Entity, the Doctoral Candidate shall conduct the Research and Training Activities as further described in Annex 1 of this Agreement.

The Parties therefore agree to the placement of the doctoral candidate Mrs. / Mr. NAME (“the DC”) with the Host Entity for the work hours of his employment, i.e. xx hours per week [full time equivalent] for the implementation of the Research and Training Activitites on the following conditions:

1. **Definitions**
   1. *Doctoral Candidate (DC):* is a researcher, i.e. not already in possession of a doctoral degree at the date of the recruitment. The DC is recruited and employed under separate agreement by the Seconding Entity. The details of DCs, their appointing institutions and their person-months are included in Annex I to this Agreement.
   2. *Secondment*: means the fact that and the period during which a DC is hosted by the Host Entity other than his/her employing institution (Seconding Entity) on the condition as set out in this Agreement in order to perform the Research and Training Activities.
   3. *Secondment Period:* means the period commencing on xx.xx.xxxx and ending on xx.xx.xxxx or upon the termination of this Agreement by either Party in accordance with Article 8 of this Agreement, whichever is earlier.
   4. *Research and Training Activities:* The activities to be carried out by the DC during the Secondment as described in Annex 1 of this agreement.
   5. *Results*: means any tangible or intangible output of the Research and Training Activities including the training and supervision activities by the Host Entity in this respect, during the Secondment, such as data, knowledge or information, that is generated during the Secondment by either Party, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights.
   6. *Granting Authority*: means the European Research Executive Agency as the body awarding the grant for the Action.
2. **Tasks, Infrastructure and General Rules**
   1. During the Secondment the DC will undertake to perform the Research and Training Activities (Annex 1) at the Host Entity in Place and the DC will reside in that country.
   2. The Host Entity will ensure that throughout the Secondment facilities, infrastructure, equipment and products necessary for implementing the Research and Training Activities are provided and will be available to the DC.
   3. The Host Entity will ensure that throughout the Secondment it will provide reasonable assistance to the DC in all administrative procedures required by the Seconding Entity.
   4. The Host Entity will designate NAME to supervise the Research and Training Activities of the DC.
   5. Nothing in this Agreement will be construed to have effect as forming or recording any relationship of employer and employee between the Host Entity and the DC and nothing in this Agreement shall constitute or be construed as constituting or establishing any partnership or joint venture between the Parties to this Agreement for any purpose whatsoever.
   6. The Host Entity shall ensure that the Seconding Entity is in a position to honour its obligations towards the *European Union,* including, but not limited to the following Articles of the Grant Agreement: Articles 11 (proper implementation), 12 (conflict of interest), 13 (confidentiality and security), 14 (ethics), 17.2 (visibility), 18 (specific rules for carrying out action), 19 (information) and 20 (record-keeping). **The Host Entity must ensure that the the bodies mentioned in Article 25 GA (e.g. granting authority, OLAF, Court of Auditors (ECA), etc.) can exercise their rights also towards the Host Entity**.
   7. The Seconding Entity shall inform the Host Entity about the end date of the Action.
3. **Financial Arrangement**
   1. The Host Entity shall cover any costs associated with the Secondment, including general use of premises, infrastructure, equipment, products and consumables during the period of the Agreement. In no event shall the Host Entity be responsible for the payment or waiver of any cost associated with the accommodation, board or travel expenses during the Secondment period*.* The DC will not receive any other incomes than those received from the Seconding Entityfor the activities carried out in the framework of this Agreement.
4. **Policies and Regulations** 
   1. The Host Entity will support the Seconding Entity regarding their dissemination and Open Science obligations under the Grant Agreement and commit(s) to contribute to the technical and continuous reporting obligations of the Seconding Entity during and after the implementation of the Action, where and to the extent necessary.
   2. The DC shall at all times remain subject to the terms and conditions under his/her contract with the Seconding Entity. The DC will be maintained on the payroll of the Seconding Entity, the Seconding Entity shall continue to pay the DC’s salary, incentives, health and retirement benefits and any other compensation or benefits to which the DC is entitled to as an employee of the Seconding Entity and the Seconding Entity shall retain all rights and responsibilities in relation to the employment of the DC at Seconding Entity. For the avoidance of doubt, the Parties acknowledge that the DC shall only conduct the Secondment within the scope of this Agreement. Neither Seconding Entity nor DC shall have any claim to a future/potential employment at Host Entity as a result of the Secondment.
   3. DC hosted by the Hosting Entity shall comply with all internal regulations and policies in matters of work organization, working hours, hygiene, safety and security, as well as, when applicable, provisions regarding bioethics. However, the Seconding Entity remains the only authority with disciplinary power over the DC.
   4. The Secondment is subject to the DC being and remaining eligible to be appointed in the seconding countryand is subject to the DC obtaining a valid visa entitling them to work in the Host Entity country and compliance with the Host Entity country’s immigration rules.
   5. The Host Entity will enable the DC to devote himself/herself to the tasks as outlined in the attached Research and Training Activities.
   6. The Host Entity will ensure that the DC enjoys the same standards of safety and occupational health as those of its employees holding a similar position.
5. **Liability**
   1. The Parties make, give or imply no warranty, condition or representation of any kind in any case as to the sufficiency, accuracy or fitness for particular purpose or similar of the know-how, information, data, material or attached intellectual property rights and the receiving Party shall be solely liable for the use it puts such know-how, information, data, material and the related intellectual property rights.
   2. Except in cases of personal injuries or death, the Parties, their legal representatives, directors and employees are only liable to each other for damages due to acts of gross negligence or willful misconduct. Any obligation of a Party to pay damages to another Party due to a violation of this Agreement shall be limited to foreseeable damages and - except in cases where a Party has acted by willful misconduct - shall exclude any indirect or consequential loss or similar damage such as, but not limited to, lost profits, loss of business opportunities, or loss of goodwill. The terms of this Agreement shall not be construed to amend or limit any Party’s mandatory statutory liability.
6. **Intellectual Property and Dissemination**
   1. All Results created by employees of the Host Entity shall be the property of the Host Entity. All Results created by the DC shall be the property of the Seconding Entity. Where employees of the Host Entity and the DC as employee of the Seconding Entity have jointly generated Results, and where their respective contribution to the joint results cannot be ascertained, or where it is not possible to separate such joint results for the purpose of applying for, obtaining or maintaining the relevant intellectual property rights protection, they shall have joint ownership of those Results (“Joint Results”). In this case, the Host Entity and the Seconding Entity have to agree amongst themselves upon arrangements for applying for, obtaining and/or maintaining such Joint Results on a case-by-case basis. Unless otherwise agreed, each of the joint owners as well as all Parties to the consortium agreement of the x Project shall be herewith entitled to use their Joint Results for the implementation of the Action, and for non-commercial research and teaching activities on a non-exclusive, royalty-free basis, and without requiring the prior consent of the other joint owner(s).

Any other use of the Joint Results by a Party, in particular any commercial use by a Party or licensing to third parties, is subject to the other Parties’ prior written approval, and a separate agreement on appropriate financial compensation, which the Parties will negotiate in good faith. For twelve (12) months after the end of the Action, Host Entity must respect any rights with respect to Exploitation of own Results by the Parties to the consortium agreement of the Action.

* 1. The Parties grant each other, for the duration and purposes of the Action, the non-exclusive, non-transferable, non-sublicensable, irrevocable and royalty-free right of use to the Results generated under the Agreement.
  2. The Parties grant each other, for the duration and purposes of the Action, the non-exclusive, non-transferable, non-sublicensable and royalty-free right of use to previously generated protectable and non-protectable work results (“Background”) to the extent necessary for the realisation of the Action and for DC’s own non-commercial research and academic purposes including the publication of the dissertation; and to Background necessary for the use of own Results under fair and reasonable conditions, provided however that there are no adverse third party rights in such Background.
  3. The Parties shall agree on a case-by-case basis on the granting of further rights of use of the Results, particularly for purposes outside of the Action and after the expiration of the Action. Such rights shall be granted on terms customary in the market.
  4. A request for access rights may be made up to twelve (12) months after the end of the Action or after the termination of the requesting Party’s participation in the Project.
  5. Seconding Entity or DC is entitled to issue publications that do not contain any confidential information or Results or Background of the Host Entity without the consent of the Host Entity. Publications containing confidential information and/or Results and/or Background of the Host Entity shall require the latter´s prior written consent (email is sufficient) and must be submitted to that Party prior to the publication. With respect to such publications, consent may not be unreasonably withheld or delayed. If no objection is made within 15 calendar days after receipt of the notice, the publication is permitted. Any disclosure or notification obligations by the Seconding Entity to the Funding Authority shall remain unaffected.

1. **Confidentiality**
   1. Each Party will keep confidential for the duration of this agreement and for a period of six (6) years after the end of the Action any information, data or material in whatever form or mode of communication, which is disclosed by one Party to the other Party under this Agreement, provided that it is clearly and conspicuously marked or designated in writing by the disclosing party as being confidential. Confidential information that is disclosed orally or visually shall be identified by the disclosing party as confidential at the time of disclosure and reduced to a written summary by the disclosing party, who shall mark such summary as confidential and deliver it to the receiving party within fifteen (15) calendar days from the oral disclosure. The receiving Party shall treat such information as disclosing Party's confidential information pending receipt of such summary.
   2. Each Party undertakes (a) not to disclose or use such confidential information received from the other Party otherwise than for the purpose for which it was disclosed; (b) to apply for the security of confidential information at least the same degree of care as it applies for the security of its own confidential information; (c) to ensure that internal distribution of confidential information shall take place on a need-to-know basis; and (d) not to not to reverse-assemble, reverse-compile or reverse engineer any confidential information provided by the other Party unless it is necessary for the implementation of the Action and the disclosing party has agreed to it.
   3. The obligations to confidentiality under this agreement does not apply where the receiving Party can show that:

- Confidential information is or becomes in the public domain otherwise than by breach of this clause; or

- The disclosing Party subsequently informs the other Party that the confidential information is no longer confidential; or

- the confidential information is communicated to the recipient without any obligation of confidentiality by a third party who is to the best knowledge of the recipient in lawful possession thereof and under no obligation of confidentiality to the disclosing Party; or

- the disclosure or use of the confidential information is foreseen by Seconding Entity’s obligations under the Action;

- the confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or

- the confidential information was already known to the recipient prior to disclosure; or

- the receiving Party is required to disclose the confidential information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 7.4 hereunder. This obligation does not alter the status of the information as a Confidential Information and it is still to be treated as confidential in regards to any other Party unless otherwise regulated under the respective applicable law.

* 1. If any Party becomes aware that it will be required, or is likely to be required, to disclose confidential information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, notify the disclosing Party.

1. **Termination**
   1. This Agreement shall become effective as of the begin of the Secondment Period and be terminated automatically at the end of the Secondment Period, or if the DCsappointment by the Seconding Entity is terminated for whatever reason or if the Action is terminated. The duration of the Secondment can be extended by mutual written agreement between the Seconding Entity and the Host Entitiy.
   2. Each Party may terminate the Agreement if the DC’sappointment or employment (whichever is applicable) by the Seconding Entity is terminated for whatever reason or if the Action is terminated. The Seconding Entity has to notify the Host Entity immediately in case the DC’s employment is terminated for whatever reason or any other circumstances of relevance for this Agreement.
   3. The right to terminate the Agreement for good cause by either Party remains unaffected.
   4. Any termination must be made in writing.
   5. The provisions relating to Intellectual Property, Dissemination and confidentiality, for the time period mentioned therein, as well as for liability, applicable law and settlement of disputes shall survive the expiration or termination of this Secondment Agreement.
   6. 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 Parties. This includes the obligation to provide all necessary input, deliverables and documents for the period of its participation.
   7. At the end of this Agreement the DC will resume the full duties of his/her employment at the Seconding Entity.
2. **Miscellaneous**
   1. Nothing in this Agreement shall be construed in any way as to diminish or alter the rights of the European Commission as set out in the Grant Agreement of the project under EU No…., or the associated terms and conditions of the appointment held by the DC at the Seconding Entity.
   2. Nothing in this Consortium Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.
   3. This Agreement shall be governed by the law of Seconding Entity without recourse to its conflict of laws principles. Place of jurisdiction in case of any disputes between the Parties out of or in connection with this Agreement that cannot be amicably solved shall be xxx, country.
   4. The Parties will endeavour to amicably settle disputes arising out of or in connection with this Agreement.
   5. This Agreement forms the entire understanding of the Parties with regards to its subject matter and no oral or other supplement agreements exist. Additional agreements, alterations and supplements are only valid in written form, signed by all Parties. This requirement of written form can only be waived in writing.
   6. Should any term or provision of this Agreement be or become invalid or unenforceable, the remaining terms and provisions shall remain in full force and effect. In this case a valid term or provision shall be agreed upon by the Parties to the fullest extent permitted by law.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives on separate signature pages. The Parties agree that this Agreement is executed by electronic signatures [incorporating a digital certificate for independent identity validation], which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature./The signature of a Party via a scanned handwritten signature (scan of a Party’s signature page including the handwritten signature in PDF format) 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 Agreement. Delivery of a fully executed copy via e-mail shall have the same force and effect as delivery of an original hard copy.

Annex 1: Research and Training Activities

FOR AND ON BEHALF OF THE SECONDING ENTITY

**XXX**

|  |  |
| --- | --- |
| Date |  |
| Name of authorized signatory |  |
| Title(s)/function |  |
| Signature by authorized signatory |  |

FOR AND ON BEHALF OF THE HOST ENTITY

**XXX**

|  |  |
| --- | --- |
| Date |  |
| Name of authorized signatory |  |
| Title(s)/function |  |
| Signature by authorized signatory |  |

READ AND ACKNOWLEDGED BY THE DC

|  |  |
| --- | --- |
| Date |  |
| Name of DC |  |
| Signature by DC |  |

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

# [Attachment 6: Consortium Plan Budget and Coordination costs according to Section 7.3]

(Show Annex 2 redistribution of category B.2 Management and Indirect Costs, for example:)

[Option: Attachment 7: List of third parties for simplified transfer according to Section 8.3.2.]

[Option: Attachment 8: Identified entities under the same control according to Section 9.5]

[Option: Module GOV LP]

Governance structure for Medium and Large Projects

[To use the following paragraphs it is recommended to do as follows:

(1) Select all the following clauses,

(2) use Ctrl+X to cut the text (it will be stored in a clipboard. ),

(3) select all clauses in section 6.1 to 6.5, and

(4) use Ctrl+V to insert.

Using this process preserves a consistent numbering throughout the document. Cross references within the text will remain as they are.

## 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.

## General operational procedures for all Consortium Bodies

### 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.

### Preparation and organisation of meetings

#### Convening meetings:

The chairperson of a Consortium Body shall convene meetings 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 |

#### 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 |

#### 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 |

#### 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 |

#### 

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

#### 

Meetings of each Consortium Body may also be held by tele- or videoconference, or other telecommunication means.

#### 

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

#### 

*Decisions without a meeting*

Any decision may also be taken without a meeting if

1. 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
2. the decision is agreed by 51 % of all Parties.

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

A veto according to Section 6.2.4 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.

### Voting rules and quorum

#### 

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

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

#### 

Each Member of a Consortium Body present or represented in the meeting shall have one vote. Employing Associated Partners are excluded from certain decisions of the General Assembly according to Section 6.3.1.1.4.

#### 

A Party which the General Assembly has declared according to Section 4.3 to be a Defaulting Party may not vote.

#### 

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

### Veto rights

#### 

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.

#### 

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

#### 

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.

#### 

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.

#### 

In case of exercise of veto, 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.

#### 

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.

#### 

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

### Minutes of meetings

#### 

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.

#### 

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.

#### 

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

## Specific operational procedures for the Consortium Bodies

### General Assembly

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

#### Members

##### 

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

##### 

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.

##### 

The Coordinator shall chair all meetings of the General Assembly, unless decided otherwise in a meeting of the General Assembly.

##### 

The Parties agree to abide by all decisions of the General Assembly. This does not prevent the Parties from exercising their veto rights, according to Section 6.2.4.1 or from submitting a dispute to resolution in accordance with the provisions of Settlement of disputes in Section 11.8.

The Employing Associated Partner(s) is/are excluded from voting on and vetoing the following decisions of the General Assembly (6.3.1.2) and therefore are not counted towards any respective quorum:

* Financial changes to the Consortium Plan
* Distribution of EU contribution among the Beneficiaries
* Proposals for changes to Annex 2 of the Grant Agreement to be agreed by the Granting Authority
* Decisions related to Section 7.1.4 of this Consortium Agreement
* [Insert further decisions in bullet points]

Regarding unanimity or majority decisions, only Members with voting rights regarding the item are taken into account (e.g. Section 6.2.2.8).

#### 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)
* Additions to Attachment 3 (List of Third Parties for simplified transfer according to Section 8.3.2)
* Additions to Attachment 4 (Identified entities under the same control)

Evolution of the consortium

* Entry of a new Party to the Project and approval of the settlement on the conditions of the accession of such a new Party
* Withdrawal of a Party from the Project and the approval of the settlement on the conditions of the withdrawal
* 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

Breach, defaulting party status and litigation

* Identification of a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement
* Declaration of a Party to be a Defaulting Party
* Remedies to be performed by a Defaulting Party
* Termination of a Defaulting Party’s participation in the consortium and measures relating thereto
* Steps to be taken for litigation purposes and the coverage of litigation costs in case of joint claims of the parties of the consortium against a Party (Section 4.2, Section 7.1.4)

Appointments

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

* Executive Board Members
* External Expert Advisory Board Members

### Executive Board

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

#### Members

The Executive Board shall consist of the Coordinator and the representatives of the Parties appointed to it by the General Assembly.

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

#### Minutes of meetings

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

#### Tasks

##### 

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

##### 

The Executive Board shall seek a consensus among the Parties.

##### 

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

##### 

The Executive Board shall monitor the effective and efficient implementation of the Project.

##### 

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.

##### 

The Executive Board shall:

* support the Coordinator in preparing meetings with the Granting Authority and in preparing related data and deliverables
* 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.

##### 

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.

## Coordinator

### 

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.

### 

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
* 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.
* providing a copy of the Grant Agreement and its Annexes to the Employing Associated Partners.

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.

### 

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

### 

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.

### 

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

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

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

The Coordinator will ensure that a non-disclosure agreement is executed between all Parties and each EEAB member.

[Optional: By way of exception to Section 6.4.4 above, the Parties mandate the Coordinator to execute, in their name and on their behalf, a non-disclosure agreement (hereafter “NDA”) with each member of the EEAB, in order to protect Confidential Information disclosed by any of the Parties to any member of the EEAB, 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 EEAB 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 confidential information will be exchanged/disclosed, whichever date is earlier. The Coordinator shall write the minutes of the EEAB meetings and submit them to the General Assembly. The EEAB members shall be allowed to participate in General Assembly meetings upon invitation but have not any voting rights.]

[Option: MODULE IPR SC] Specific Software provisions for the Access Rights Section 9.8

[To use the following paragraphs it is recommended to do as follows: (1) Select all the flowing clauses, (2) use Ctrl+X to cut the text (it will be stored in a clipboard), (3) select all clauses in section 9.8, including that section header, and (4) use Ctrl+V to insert. Using this process preserves cross references. These may need to be refreshed/updated]

## Specific provisions for Access Rights to Software

### Definitions relating to Software

“Application Programming Interface” or “API” means the application programming interface materials and related documentation containing all data and information to allow skilled Software developers to create Software interfaces that interface or interact with other specified Software.

"Controlled License Terms" means terms in any license that require that the use, copying, modification and/or distribution of Software or another work (“Work”) and/or of any work that is a modified version of or is a derivative work of such Work (in each case, “Derivative Work”) be subject, in whole or in part, to one or more of the following:

1. (where the Work or Derivative Work is Software) that the Source Code or other formats preferred for modification be made available as of right to any third party on request, whether royalty-free or not;
2. that permission to create modified versions or derivative works of the Work or Derivative Work be granted to any third party;
3. that a royalty-free license relating to the Work or Derivative Work be granted to any third party.

For the avoidance of doubt, any Software license that merely permits (but does not require any of the things mentioned in (a) to (c) is not under Controlled License Terms.

“Object Code” means Software in machine-readable, compiled and/or executable form including, but not limited to, byte code form and in form of machine-readable libraries used for linking procedures and functions to other software.

“Software Documentation” means Software information, being technical information used, or useful in, or relating to the design, development, use or maintenance of any version of a Software programme.

“Source Code” means Software in human readable form normally used to make modifications to it including, but not limited to, comments and procedural code such as job control language and scripts to control compilation and installation.

### General principles

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software as far as not modified by this Section 9.8.

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 Source Code, Object Code or respective Software Documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

The introduction of Software under Controlled License Terms in the Project requires the prior approval of the General Assembly to implement such introduction into the Consortium Plan.

[Option] In case of an [approved] introduction of Software under Controlled License Terms’ in the Project, the Controlled License Terms shall prevail over any conflicting provisions of this Consortium Agreement for affected original and derivative Background and Results.

### Access to Software

Access Rights to Software that is Results shall comprise:

* Access Rights to the Object Code; and,
* where normal use of such an Object Code requires an API, Access Rights to the Object Code and such an API; and,
* if a Party can show that the execution of its tasks under the Project or the Exploitation of its own Results is technically or legally impossible without Access Rights to the Source Code, Access Rights to the Source Code to the extent necessary.

Background shall only be provided in Object Code unless otherwise agreed between the Parties concerned.

### Software license and sublicensing rights

#### Object Code

##### Results - Rights of a Party

Where a Party has Access Rights to Object Code and/or API that is Results for Exploitation, such Access shall, in addition to the Access for Exploitation foreseen in Section 9.4, as far as Needed for the Exploitation of the Party’s own Results, comprise the right:

* to make an agreed number of copies of Object Code and API; and
* to distribute, make available, market, sell and offer for sale such Object Code and API alone or as part of or in connection with products or services of the Party having the Access Rights;

provided however that any product, process or service has been developed by the Party having the Access Rights in accordance with its rights to exploit Object Code and API for its own Results.

If it is intended to use the services of a third party for the purposes of this Section 9.8.4.1.1, the Parties concerned shall agree on the terms thereof with due observance of the interests of the Party granting the Access Rights as set out in Section 9.2 of this Consortium Agreement.

##### Results - Rights to grant sublicenses to end-users

In addition, Access Rights to Object Code shall, as far as Needed for the Exploitation of the Party’s own Results, comprise the right to grant in the normal course of the relevant trade to end-user customers buying/using the product/services, a sublicense to the extent as necessary for the normal use of the relevant product or service to use the Object Code alone or as part of or in connection with or integrated into products and services of the Party having the Access Rights and, as far as technically essential:

* to maintain such product/service;
* to create for its own end-use interacting interoperable Software in accordance with the Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs.

##### Background

For the avoidance of doubt, where a Party has Access Rights to Object Code and/or API that is Background for Exploitation, Access Rights exclude the right to sublicense. Such sublicensing rights may, however, be negotiated between the Parties.

#### **Source Code**

##### Results - Rights of a Party

Where, in accordance with Section 9.8.3, a Party has Access Rights to Source Code that is Results for Exploitation, Access Rights to such Source Code, as far as Needed for the Exploitation of the Party’s own Results, shall comprise a worldwide right to use, to make copies, to modify, to develop, to adapt Source Code for research, to create/market a product/process and to create/provide a service.

If it is intended to use the services of a third party for the purposes of this Section 9.8.4.2.1, the Parties shall agree on the terms thereof, with due observance of the interests of the Party granting the Access Rights as set out in Section 9.2 of this Consortium Agreement.

##### Results – Rights to grant sublicenses to end-users

In addition, Access Rights, as far as Needed for the Exploitation of the Party’s own Results, shall comprise the right to sublicense such Source Code, but solely for purpose of adaptation, error correction, maintenance and/or support of the Software.

Further sublicensing of Source Code is explicitly excluded.

##### Background

For the avoidance of doubt, where a Party has Access Rights to Source Code that is Background for Exploitation, Access Rights exclude the right to sublicense. Such sublicensing rights may, however, be negotiated between the Parties.

### Specific formalities

Each sublicense granted according to the provisions of Section 9.8.4 shall be made by a traceable agreement specifying and protecting the proprietary rights of the Party or Parties concerned.