

**Seventh Framework Programme (FP7)**



Call Reference N°: FP7-ICT-2013-10  
Grant Agreement N°: 610425

**PROJECT TITLE:**

**Regional Anaesthesia Simulator and Assistant**

**ACRONYM:**

**RASimAs**

**Collaborative Project**

**CONSORTIUM AGREEMENT**

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## CONSORTIUM AGREEMENT

THIS CONSORTIUM AGREEMENT is based upon

REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) hereinafter referred to as Rules for Participation and the European Commission Grant Agreement, adopted on 10 April 2007, hereinafter referred to as the Grant Agreement or EC-GA and Annex II adopted on 10 April 2007 Version 6 adopted on 24 January 2011, hereinafter referred to as Annex II of the EC-GA, and is made on [2013-11-01](#) hereinafter referred to as "Effective Date".

### BETWEEN:

**UNIVERSITÄTSKLINIKUM AACHEN** (PIC 999897632)  
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- the Coordinator -

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- hereinafter, jointly or individually, referred to as "Parties" or "Party" -

relating to the Project entitled

**Regional Anaesthesia Simulator and Assistant**

in short

**RASimAs**

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

**WHEREAS:**

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the European Commission as part of the Seventh Framework Programme of the European Community for Research, Technological Development and Demonstration Activities under the funding scheme of "**Collaborative Project**".

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the Grant Agreement ("**EC-GA**").

The Parties are aware that this Consortium Agreement is based upon the DESCAs model consortium agreement and that explanations to the DESCAs model are available at [www.DESCA-FP7.eu](http://www.DESCA-FP7.eu).

**NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**

**Section 1: Definitions**

**1.1 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 without the need to replicate said terms herein.

**1.2 Additional Definitions**

"**Access rights**" means licences and user rights to foreground or background.

**"Application Programming Interface"**

[Application Programming Interface means the 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.](#)

"**Background**" means information which is held by beneficiaries prior to their accession to this agreement, as well as copyrights or other intellectual property rights pertaining to such information, the application for which has been filed before their accession to this agreement, and which is needed for carrying out the project or for using foreground.

**"Consortium Body":**

Consortium Body means the General Assembly and/or the Coordinator.

**"Consortium Budget"**

Consortium Budget means the allocation of all the resources in cash or in kind for the activities as defined in Annex I of the Grant Agreement and in the Consortium Plan thereafter.

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**"Consortium Plan"** Consortium Plan means the description of the work and the related agreed Consortium Budget, including the payment schedule, as updated and approved by the General Assembly.

### **"Defaulting Party"**

Defaulting Party means a Party which the General Assembly has identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Article 4.2 of this Consortium Agreement.

### **"Effective Date"**

Effective Date means [the 1<sup>st</sup> of November 2013](#), the official start of the project as defined in the Grant Agreement.

**"Foreground"** means the results, including information, whether or not they can be protected, which are generated under the project. Such results include rights related to copyright; design rights; patent rights; plant variety rights; or similar forms of protection.

### **"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 impossible, significantly delayed, or require significant additional financial or human resources.

### **"Object Code"**

[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.](#)

For Use of own Foreground:

**Access Rights are Needed** if, without the grant of such Access Rights, the Use of own Foreground would be technically or legally impossible.

### **"Software"**

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

### **"Software Documentation"**

[Software Documentation means technical information on Software relating to the design, development, use or maintenance of any version of a Software.](#)

### **"Source Code"**

[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.](#)

**"Use"** means the direct or indirect utilisation of foreground in further research activities other than those covered by the project, or for developing, creating and marketing a product or process, or for creating and providing a service.

## **Section 2: Purpose**

The purpose of this Consortium Agreement is to specify with respect to the Project the relationship among the Parties, in particular concerning the organisation of the work between the

Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution.

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

#### **3.1 Entry into force**

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

This Consortium Agreement shall have effect from the Effective Date identified in Article 1.2 and at the beginning of the Grant Agreement.

A new Party enters the Consortium upon signature of the accession document Attachment 2 by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.

#### **3.2 Duration and termination**

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the EC-GA 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 and Annex II of the EC-GA (Articles II.37. and II.38.).

If the Commission does not award the EC-GA or terminates the EC-GA or a Party's participation in the EC-GA, this Consortium Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Art. 3.3 of this Consortium Agreement.

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

The provisions relating to *Access Rights* 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 Consortium 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 input, deliverables and documents for the period of its participation.

### **Section 4: Responsibilities of Parties**

#### **4.1 General principles**

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the EC-GA 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, in accordance with the governance structure of the Project, 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.

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

Each Party represents that it has, and will maintain throughout the term of this Agreement, appropriate public and general liability insurance against any liability it may incur towards third parties as a result of performing, sponsoring or participating in the Study, in an amount commensurate with the applicable national laws and regulations.

It is stated that according to French laws and regulations, INRIA, as a public body, is its own insurer.

Comment [b1]: Amendment by INRIA

#### 4.2 Breach

In the event a responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the EC-GA (e.g.: a partner producing poor quality work), the Coordinator or the Party appointed by the General Assembly if the Coordinator is in breach of its obligations under this Consortium Agreement or the EC-GA will give written notice to such Party requiring that such breach be remedied within 30 calendar days.

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 in accordance with articles II 36 and II 37 of the Annex II of the EC-GA.

Comment [b2]: Amendment by INRIA

#### 4.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Project remains solely 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 EC-GA. It 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 EC-GA.

#The relevant 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 EC-GA and regarding Background and Foreground.

Comment [b3]: Amendment by Bangor University

### Section 5: Liability towards each other

#### 5.1 No warranties

In respect of any information or materials (incl. Foreground 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 Affiliates) exercising its Access Rights.

## 5.2 Limitations of contractual liability

No Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by gross negligence or a wilful act or by a breach of confidentiality.

A Party's aggregate liability towards the other Parties collectively shall be limited to once the Party's share of the total costs of the Project as identified in Annex I of the EC-GA provided such damage was not caused by a wilful act or gross negligence.

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

In the case of transfer of material between Parties for the performance of the Project, an agreement based on the model of the Material Transfer Agreement (Attachment 6) provided on the DESCAs website ([www.DESCA-FP7.eu](http://www.DESCA-FP7.eu) – DESCAs Archives – attachment 7 of the Model CA Version 1: agreement for the transfer of material ) will be provided by the Coordinator. It shall be entered into between the Parties **concerned** and may be amended to contain specific conditions.

Comment [b4]: Amendment by INRIA

## 5.3 Damage caused to third parties

Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party's obligations by it or on its behalf under this Consortium Agreement or from its use of Foreground or Background.

## 5.4 Force Majeure

No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify the competent Consortium Bodies of any Force Majeure without undue delay. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

## Section 6: Governance structure

### 6.1 General structure

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

[The General Assembly \(GA\) is the ultimate decision-making body of the Consortium and shall consist of one representative of each project partner \(hereinafter referred to as "Member"\). The General Assembly is chaired by the Coordinator.](#)

[The Parties agree to abide by all decisions of the General Assembly. This does not prevent the Parties from submitting a dispute for resolution in accordance with the provisions of settlement of disputes in Article 11.8 of this Consortium Agreement.](#)

[Once a year, the External Scientific and Ethics Advisory Board SEAB \(see Section 6.2.2.1 and 6.6\) will meet in a joint meeting with the General Assembly.](#)

Comment [b5]:

The **Steering Committee (SC)** consists of the Work Package Leaders (WPL) and a Clinical Trial Manager (CTM). It is considered as task force for immediate adjustment between the work package leaders and the Coordinator.

[The External Scientific and Ethics Advisory Board \(SEAB\) will be appointed and steered by the General Assembly. It shall be composed of leading experts in the field, composed of academia, industry, and European hospitals. The idea of this advisory board is to interconnect the RASimAs Group with latest results from research and development, ongoing project in](#)



[related fields, and other related initiatives of the European Commission, in particular ongoing projects and networks of excellence \(see 6.6\).](#)

**The Coordinator** is the legal entity acting as the intermediary between the Parties and the European Commission. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the EC-GA and this Consortium Agreement. He shall chair all meetings of the General Assembly, unless decided otherwise by the General Assembly.

The **Project Manager** is responsible for the distribution of the EC Contribution, ensuring the accomplishment of all project tasks and deliverables and for the timely reporting of the results to the EC.

**Administrative Manager:** The Project Manager is assisted by the Administrative Manager in day-to-day management of administrative and financial issues.

**Clinical Trial Manager (CTM):** The Clinical Trial Manager will be an intermediary between the Work Package Leaders (WPL) and the Coordinator, responsible for the monitoring of scientific work with respect to the clinical trial. [The CTM will attend to each Steering Committee meetings but have no voting rights.](#)

Comment [b6]: Amendment by INRIA

## 6.2 General operational procedures for all Consortium Bodies

### 6.2.1 Representation in meetings

Any member of a Consortium Body (hereinafter referred to as "Member"):

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

### 6.2.2 Preparation and organisation of meetings

#### 6.2.2.1 Convening meetings:

The Coordinator or appointed Chairperson shall convene ordinary meetings [of the General Assembly and the Steering Committee](#) and shall also convene extraordinary meetings at any time upon written request of any Member.

	Ordinary Meeting	Extraordinary Meeting
General Assembly	<a href="#">At least once a year/Annually</a>	At any time upon written request
Steering Committee	Every <del>126 months</del> <a href="#">weeks</a>	At any time upon written request
External Advisory Board	<a href="#">On invitation of the Coordinator or the General Assembly</a>	At any time upon written request

#### 6.3.2.2 Notice of a meeting:

The Coordinator or appointed Chairperson shall give notice in writing of a meeting to each Member as soon as possible and no later than 30 calendar days preceding an ordinary meeting and 14 calendar days preceding an extraordinary meeting.

	Ordinary Meeting	Extraordinary Meeting
General Assembly	45 calendar days	15 calendar days
Steering Committee	30 calendar days	14 calendar days
External Advisory Board	30 calendar days	14 calendar days

**6.2.2.3 Sending the agenda:**

The Coordinator or appointed Chairperson shall send each Member a written original agenda no later than 14 calendar days preceding the meeting, or 7 calendar days before an extraordinary meeting.

	Ordinary Meeting	Extraordinary Meeting
General Assembly	21 calendar days	10 calendar days
Steering Committee	14 calendar days	7 calendar days
External Advisory Board	14 calendar days	7 calendar days

**6.2.2.4 Adding agenda items:**

Any agenda item requiring a decision by the Members must be identified as such on the agenda. Any Member may add an item to the original agenda by written notification to all of the other Members no later than 7 calendar days preceding the meeting.

	Ordinary Meeting	Extraordinary Meeting
General Assembly	14 calendar days	7 calendar days
Steering Committee	7 calendar days	7 calendar days
External Advisory Board	7 calendar days	7 calendar days

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

6.2.2.6 Any decision may also be taken without a meeting if the Coordinator or appointed chairperson circulates to all Members a written document which is then signed by the defined majority of Members (see Article 6.2.3 of this Consortium Agreement).

6.2.2.7 Meetings of the General Assembly may also be held by teleconference or other telecommunication means.

6.2.2.8 Decisions will only be binding once the relevant part of the minutes has been accepted according to Article 6.2.5 of this Consortium Agreement.

**6.2.3 Voting rules and quorum**

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

6.2.2 Each Member shall have one vote.

6.2.3 Defaulting Parties may not vote.

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

6.2.5 A Party may represent only one other Party. A Party shall then not represent two or more other Parties.

**6.2.4 Veto rights**

6.2.4.1 A Member which can show that its own work, time for performance, costs, liabilities, intellectual property rights, statutes 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.

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6.2.4.2 When the decision is foreseen on the original agenda, a Member may veto such a decision during the meeting only. No veto may be possible after the meeting.

6.2.4.3 When a decision has been taken on a new item added to the agenda before or during the meeting, a Member may veto such decision during the meeting and within 15 days after the draft minutes of the meeting are sent.

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

6.2.4.5 A Party may not veto decisions relating to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the Consortium or the consequences of them.

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

**6.2.5 Minutes of meetings**

6.2.5.1 The Coordinator or the appointed Chairperson shall produce written minutes of each meeting which shall be the formal record of all decisions taken. He shall send draft minutes to all Members within 20 calendar days of the meeting.

	Ordinary Meeting	Extraordinary Meeting
General Assembly	20 calendar days	20 calendar days
Steering Committee	20 calendar days	20 calendar days
External Advisory Board	20 calendar days	20 calendar days

6.2.5.2 The minutes shall be considered as accepted if, within 15 calendar days from sending, no Member has objected in writing to the Coordinator or the appointed Chairperson with respect to the accuracy of the draft of the minutes.

6.2.5.3 The Coordinator or the appointed Chairperson shall send the accepted minutes to all the Members of the corresponding meeting (General Assembly), and to the Coordinator, who shall safeguard them. If requested the Coordinator shall provide authenticated duplicates to Parties.

**6.2.6 Decisions of the General Assembly**

6.2.6.1 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.

6.2.6.2 The following decisions shall be taken by the General Assembly:

(i) Content, finances and intellectual property rights:

- Proposals for changes to Annex I of the EC-GA to be agreed by the European Commission
- Changes to the Consortium Plan (including the Consortium Budget)
- Additions to Attachment 1 (Background excluded)
- Additions to Attachment 3 (Listed Affiliated Entities)
- Additions to Attachment 4 (List of Third Parties)

(ii) Evolution of the Consortium:

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

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- Declaration of a Party to be a Defaulting Party
- Remedies to be performed by a Defaulting Party
- Termination of a Defaulting Party's participation in the Consortium and measures relating thereto
- Proposal to the European Commission for a change of the Coordinator
- Proposal to the European Commission for suspension of all or part of the Project
- Proposal to the European Commission for termination of the Project and the Consortium Agreement

(iii) Appointments:

- Agree on the Members of the Management Support Team, upon a proposal by the Coordinator.
- [Make recommendations concerning experts to join the External Scientific and Ethics Advisory Board \(SEAB\) and agree on the Members of SEAB.](#)

6.2.6.3 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 the legitimate commitments taken prior to the decisions, which cannot be cancelled.

### 6.3 Coordinator

**6.3.1** The Coordinator shall be the intermediary between the Parties and the European Commission and shall perform all tasks assigned to it as described in the EC-GA and in this Consortium Agreement.

**6.3.2** In particular, the Coordinator shall be responsible for:

- Monitoring compliance by the Parties with their obligations
- Keeping the address list of Members and other contact persons updated and available
- Collecting, reviewing and submitting information on the progress of the Project and reports and other deliverables (including financial statements and related certification) to the European Commission
- 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,
- Administering the financial contribution of the Union and fulfilling the financial tasks described in Article 7.3
- Providing, upon request, the Parties with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims.

**6.3.3** If the Coordinator fails in its coordination tasks, the General Assembly may propose to the European Commission to change the Coordinator.

**6.3.4** The Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party.

**6.3.5** The Coordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the EC-GA.

#### 6.4 Management Support Team

The Management Support Team shall be proposed by the Coordinator. It shall be appointed by the General Assembly and shall assist and facilitate the work of the Steering Committee.

The Management Support Team shall provide assistance to the Coordinator for executing the decisions of the General Assembly. It shall be responsible for the day-to-day management of the Project.

#### 6.5 External Scientific and Ethics Advisory Board (SEAB)

An independent Advisory Board (AB) will be [appointed and steered by the General Assembly](#). It shall be composed of leading experts in the field, composed of academia, industry, and European hospitals. The idea of that advisory board is to interconnect the RASimAs Group with latest results from research and development, ongoing project in related fields, and other related initiatives of the European Commission, in particular ongoing projects and networks of excellence. The SEAB will meet once a year in a joint meeting of the General Assembly. [The SEAB shall assist and facilitate the decisions made by the General Assembly. The members of the SEAB are required to sign a non-disclosure agreement no later than 30 days after their nomination or before any confidential information will be exchanged, whichever date is earlier. The Coordinator or the General Assembly shall invite the members of the SEAB to ordinary General Assembly meetings. The Coordinator shall prepare the implementation of the SEAB's suggestions. The SEAB members shall be allowed to participate in ordinary General Assembly meetings upon invitation of the Coordinator but have not any voting rights.](#)

Comment [b7]: Amendment by INRIA

### Section 7: Financial provisions

#### 7.1 General Principles

##### 7.1.1 Distribution of Financial Contribution

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

- the Consortium Budget as included in the Consortium Plan
- the approval of reports by the European Commission, and
- the provisions of payment in Article 7.3.

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

##### 7.1.2 Justifying Costs

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Project towards the European Commission. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the European Commission.

##### 7.1.3 Funding Principles

A Party which spends less than its allocated share of the Consortium Budget will be funded in accordance with its actual duly justified eligible costs only.

A Party that spends more than its allocated share of the Consortium Budget will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share.

##### 7.1.4 Financial Consequences of the termination of the participation of a Party

A Party leaving the Consortium shall refund all payments it has received except the amount of contribution accepted by the European Commission or another contributor. Furthermore a

Defaulting Party shall, within the limits specified in Article 5.2 of this Consortium Agreement, bear any reasonable and justifiable additional costs occurring to the other Parties in order to perform its and their tasks. Any additional costs which are not covered by the Defaulting Party shall in principle be apportioned to the remaining Parties pro rata to their share in the total costs of the Project as identified in the Consortium Budget.

## **7.2 Budgeting**

The Consortium Budget shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties.

### **7.2.1 Budgeted costs eligible for 100% reimbursement**

These costs shall be budgeted in the Consortium Budget in the following order of priority:

- Banking and transaction costs related to the handling of any financial resources made available for the Project by the Coordinator
- Costs of Parties related to calls for new Beneficiaries
- Costs related to updating this Agreement
- Management costs of the Coordinator and the Management Support Team
- Intellectual property protection costs
- Costs for publications
- Costs for the tasks of chairpersons
- any other costs eligible for 100% reimbursement

### **7.2.2 Budgeting of coordination costs**

Costs of coordination of research which are not allowed as management cost according to Annex II of the EC-GA (EC-GA Article II.16.5) have to be budgeted separately.

## **7.3 Payments**

### **7.3.1 Payments to Parties are the exclusive tasks of the Coordinator**

In particular, the Coordinator shall:

- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references
- perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts
- undertake to keep the Community 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.

### **7.3.2 Payment schedule**

### **7.3.2 Payment schedule**

The Co-ordinator undertakes to transfer, in accordance with the GA and the budget allocation decided by the General Assembly, the appropriate sums received from the Commission and due to the respective Parties with minimum delay, and not later than fifteen (15) days from their receipt unless otherwise provided in this section 7.3.2 below. The Co-ordinator will notify each Party promptly of the date and amount transferred to its respective bank account and shall give the relevant references. The Coordinator is entitled to withhold any payments due to a Party identified by a responsible Consortium Body to be in breach of its obligations under this Consortium Agreement or the EC-GA, or due to a Beneficiary which has not yet signed this Consortium

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Agreement. The Coordinator is entitled to recover any payments already paid to a Defaulting Party. By approval of the General Assembly, the Co-ordinator may suspend payment to a Defaulting Party in the event of non-performance by that Party that reasonably justifies the suspension. Upon suspension the General Assembly shall serve notice on the Defaulting Party within a period of 10 days after suspension. The General Assembly shall decide, within a period of 30 days after the notice to the Defaulting Party has been served, on the measures to be taken in relation to the Defaulting Party in accordance with the provisions of Section 6.2.6.2 and Section 7.1.4.

Funding of costs included in the Consortium Plan will be paid to Parties after receipt from the EU-Commission without undue delay and in conformity with the provisions of Annex II of the EC-GA. Costs accepted by the EU-Commission will be paid to the Party concerned, taking into account the amounts already paid for the reporting period concerned.

The payment schedule, which contains the transfer of pre-financing and interim payments to Parties, will be handled according to the following:

### **Pre Financing (Tranche 1)**

1/2 of the funding accepted and paid by the European Commission as Pre-Financing for a specific Party will be transferred by the Coordinator to the Party with minimum delay, and not later than fifteen (15) days from their receipt from the European Commission.

### **Pre Financing (Tranche 2)**

1/2 of the funding accepted and paid by the European Commission as Pre-Financing for a specific Party will be distributed by the Coordinator to the Party six (6) months from the beginning of the Project. However, if the Board has determined based on internal reviews, milestones fulfillment and confirmation of the relevant work-package leaders, that a Party has materially failed to meet its delivery milestones as defined in Annex 1 of the GA, then the distribution of such funds to the failing party will be delayed until the fulfillment of such deliverables by the Party.

### **Interim Payment (Tranche 1)**

1/2 of the funding accepted and paid by the European for the first reporting period for a specific Party will be distributed by the Coordinator to the Party at the end of the first reporting period, with minimum delay, and not later than fifteen (15) days from their receipt from the European Commission. However, if the General Assembly has determined based on internal reviews, milestones fulfillment and confirmation of the relevant work-package leaders, that a Party has materially failed to meet its delivery milestones as defined in Annex I of the GA, then the distribution of such funds to the failing party will be delayed until the fulfillment of such deliverables by the Party.

### **Interim Payment (Tranche 2)**

1/2 of the funding accepted and paid by the European for the first reporting period for a specific Party will be distributed by the Coordinator to the Party six (6) months from the beginning of the second period. However, if the General Assembly has determined based on internal reviews, milestones fulfillment and confirmation of the relevant work-package leaders, that a Party has materially failed to meet its delivery milestones as defined in Annex I of the GA, then the distribution of such funds to the failing party will be delayed until the fulfillment of such deliverables by the Party.

### Third and Final Payment

100% of the funding accepted and paid by the European Commission after the second and final review for a specific Party will be transferred by the Coordinator to the Party. However, if the Board has determined, based on internal reviews results of review of the EC, milestones fulfillment and confirmation of the relevant workpackage leaders, that a Party has materially failed to meet its delivery milestones as defined in Annex 1 of the GA, then the distribution of such funds to the failing party will be delayed until the fulfillment of such deliverables by the Party.

In any event, the cumulative payments will not exceed the amount accepted and paid by the European Commission.

Decisions regarding delaying payments to a defaulting Party will be taken by the General Assembly according to the provisions of clause 6.2.

### **Section 8: Foreground**

Regarding Foreground, EC-GA, [Annex II](#), Article II.26. - Article II.29. shall apply with the following additions:

#### **8.1 Joint ownership**

Where no joint ownership agreement has yet been concluded:

- each of the joint owners shall be entitled to Use their jointly owned Foreground for internal research purpose on a non-exclusive, non-transferable, royalty-free basis, and without requiring the prior consent of the other joint owner(s), and
- each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sub-license, subject to the following conditions:
  - . at least 45 days prior notice must be given to the other joint owner(s); and
  - . fair and reasonable compensation must be provided to the other joint owner(s).

#### **8.2 Transfer of Foreground**

8.2.1 Each Party may transfer ownership of its own Foreground following the procedures of the EC-GA, [Annex II](#), Article II 27.

8.2.2 It may identify specific third parties it intends to transfer the ownership of its Foreground to in Attachment 4 to this Consortium Agreement. The other Parties hereby waive their right to object to a transfer to listed third parties according to the EC-GA, [Annex II](#), Article II.27.3.

8.2.3 The transferring Party shall, however, notify the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer. Any addition to Attachment 4 after signature of this Agreement requires a decision of the General Assembly.

8.2.4 The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, a Party may be subject to confidentiality obligations which prevent it from giving the full 45 days prior notice for the transfer as foreseen in the EC-GA, [Annex II](#), Article II 27.2.



### **8.3 Dissemination**

#### **8.3.1 Publication**

8.3.1.1 Dissemination activities including but not restricted to publications and presentations shall be governed by the procedure of Article II.30.3 of the EC-GA [Annex II](#) subject to the following provisions.

Prior notice of any planned publication shall be given to the other Parties concerned at least 60 days before the publication. Any objection to the planned publication shall be made in accordance with the General Assembly in writing to the Coordinator and to any Party concerned within 30 days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted.

8.3.1.2 An objection is justified if

- (a) the objecting Party's legitimate academic or tangible commercial interests are compromised by the publication; or
- (b) the protection of the objecting Party's Foreground or Background is adversely affected.

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

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

#### **8.3.2 Publication of another Party's Foreground or Background**

For the avoidance of doubt, a Party shall not publish Foreground or Background of another Party, even if such Foreground or Background is amalgamated with the Party's Foreground, without the other Party's prior written approval. For the avoidance of doubt, the mere absence of an objection according to 8.3.1 is not considered as an approval.

#### **8.3.3 Cooperation obligations**

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

#### **8.3.4 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.

### **Section 9: Access Rights**

#### **9.1 Background covered**

In accordance with and subject to the provisions of the EC-GA, any Party may enter in Attachment 1 any specific Background excluded from the obligation to grant Access Rights in accordance with the provisions of this Consortium Agreement. All other Background except that listed in Attachment 1 shall be available for the granting of Access Rights in accordance with the provisions of this Consortium Agreement.

## 9.2 General Principles

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

9.2.2 As provided in the EC-GA [Annex II](#) Article II.32.3. Parties shall inform the Consortium as soon as possible of any limitation to the granting of Access Rights to Background or of any other restriction which might substantially affect the granting of Access Rights (e.g. the use of open source code software in the Project).

9.2.3 If the General Assembly considers that the restrictions have such impact, which is not foreseen in the Consortium Plan, it may decide to update the Consortium Plan accordingly.

9.2.4 Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise [between the parties concerned](#).

Access Rights shall be free of any administrative transfer costs.  
Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties according to the EC-GA [Annex II](#) Article II.32.7.

Comment [b8]: Amendment by INRIA

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

9.2.6 All requests for Access Rights shall be made in writing.

The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

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

## 9.3 Access Rights for implementation

Access Rights to Foreground and Background Needed for the performance of the own work of a Party under the Project shall be granted on a royalty-free basis.

## 9.4 Access Rights for Use

9.4.1 Access Rights to Foreground if Needed for Use of a Party's own Foreground including for third-party research shall be granted on Fair and Reasonable conditions [and upon a written agreement \(exploitation agreement\) between the parties concerned](#).

Access Rights to Foreground for internal academic, not-for profit research and/or teaching activities shall be granted on a royalty-free basis.

Comment [b9]: Amendment by INRIA

9.4.2 Access Rights to Background if Needed for Use of a Party's own Foreground shall be granted on Fair and Reasonable conditions.

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

9.4.4 Third Party shall not be granted direct Access Rights to Foreground or Background generated by other Parties [during the implementation of the project](#) unless the General Assembly explicitly agree to it.

Comment [b10]: Amendment requested by INRIA

## 9.5 Access Rights for Affiliated Entities

Affiliated Entities have Access Rights under the conditions of the EC-GA [Annex II](#) Article II.34.3.

Such Access Rights to Affiliated Entities shall be granted on Fair and Reasonable conditions and upon written bilateral agreement.

Affiliated Entities which obtain Access Rights in return grant Access Rights to all Parties and fulfil all confidentiality and other obligations accepted by the Parties under the EC-GA or this Consortium Agreement as if such Affiliated Entities were Parties.

Access Rights may be refused to Affiliate Entities if such granting is contrary to the legitimate interests of the Party which owns the Background or the Foreground.

Access Rights granted to any Affiliated Entity are subject to the continuation of the Access Rights of the Party to which it is affiliated, and shall automatically terminate upon termination of the Access Rights granted to such Party.

Upon cessation of the status as an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse.

Further arrangements with Affiliated Entities may be negotiated in separate agreements.

## 9.6 Additional Access Rights

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

## 9.7 Access Rights for Parties entering or leaving the Consortium

### 9.7.1 New Parties entering the Consortium

All Foreground developed before the accession of the new Party shall be considered to be Background with regard to said new Party.

### 9.7.2 Parties leaving the Consortium

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

##### 9.7.2.1.1 Defaulting Party

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

##### 9.7.2.1.2 Non-defaulting Party

A non-defaulting Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the Foreground developed until the date of the termination of its participation. It may request Access Rights within the period of time specified in Article 9.4.3.

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

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

## 9.8 Specific Provisions for Access Rights to Software

### 9.8.1. General principles

The general provisions for Access Rights provided in this Section 9 are applicable also to Software as far as not modified by this Article 9.8.

Parties' Access Rights to Software do not include any right to receive Source Code or respective Software Documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

The Parties acknowledge that they have no objection to the introduction by a Party of background which is software released under an open source or "free" license recognized by the Free Software Foundation (FSF) or by the Open Source Initiative (OSI) if it is needed for the performance and implementation of the project.

The Parties acknowledge that, unless otherwise agreed by or between the Party or Parties owner(s) of the concerned Foreground, all Software which is Foreground shall be released under an open source or "free" license recognized by the Free Software Foundation (FSF) or by the Open Source Initiative (OSI).

### 9.8.2 Access to open source Software

The Access Rights to Software which is Background or Foreground released under open source or "free" license comprise access to Source Code and are subject to the terms and conditions of the applicable open source or "free" license.

### 9.8.3. Access to non open source Software

Access Rights to non open source Software which is Foreground shall comprise:

Access to the Object Code and Application Programming Interface, and if execution of tasks under the Project is technically or legally impossible without Access to the Source Code, Access to the Source Code.

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

If a Party has Access Rights to Software which is Background or Foreground for Use, Access Rights exclude the right to sublicense. Such sublicensing rights may, however, be negotiated between the Parties.

### 9.8.4 Specific formalities

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

## Section 10: Non-disclosure of information

10.1 All information in whatever form or mode of transmission, 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", or when disclosed orally, has been identified as confidential at the time of disclosure and has been

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confirmed and designated in writing within 15 days from oral disclosure at the latest as confidential information by the Disclosing Party, is "**Confidential Information**".

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

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to any third party 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 on demand all Confidential Information which has been supplied to or acquired by the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Recipients may however request to keep a copy for archival purposes only.

10.3 The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees and shall ensure that their employees remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of employment.

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 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 confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
- the disclosure or communication of the Confidential Information is foreseen by provisions of the EC-GA;
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or
- the Confidential Information was already known to the Recipient prior to disclosure or
- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Article 10.7 hereunder.

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

10.6 Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

10.7 If any 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, 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.

10.8 The confidentiality obligations under this Consortium Agreement and the EC-GA shall not prevent the communication of Confidential Information to the European Commission.

### 10.9 Freedom of Information Act 2000 (as amended from time to time "FOIA") and Environmental Information Regulations 2004 (as amended from time to time "EIR")

- FOIA 2000 is provided under  
<http://www.legislation.gov.uk/ukpga/2000/36/contents>
- Exemptions guidance for FOR 2000 is provided under  
<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/exemptions-guidance>
- EIR 2004 is provided under  
<http://www.legislation.gov.uk/uksi/2004/3391/contents/made>
- See also Attachment 7 to this CA ("Procedure for Dealing with FOI Requests Which Include Third Party Information")

The Parties acknowledge that BU is subject to requirements under the EIR and FOIA and shall assist and cooperate with BU to enable BU to comply with any such information disclosure requirements.

Where BU receives a request by a British Public Authority according to Freedom of Information Act 2000 Part 1 resp. Schedules 1-8 to disclose any information that, under this Agreement, is the Party's Confidential Information, it will notify the Party and will consult with the Party. The Party shall respond to BU within 8 working days after receiving BU's notice of the request. In the event that the Party fails to respond within the requisite period, BU reserves the right to disclose any such information it deems appropriate.

BU shall be responsible for determining at its absolute discretion whether the Information is:-

exempt from disclosure in accordance with the FOIA and EIR; to be disclosed in response to a request for information under the FOIA and EIR and in no event shall the Parties respond directly to a request for information unless expressly authorised to do so by BU;

The Parties acknowledge that BU may be obliged under the FOIA and EIR to disclose information following consultation with the Party and having taken its views into account.

Comment [b11]: Amendment by Bangor University

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## **Section 11: Miscellaneous**

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

This Consortium Agreement consists of this core text and:

- Attachment 1 (Background excluded)
- Attachment 2 (Accession document)
- Attachment 3 (Listed Affiliated Entities)
- Attachment 4 (List of Third Parties)
- Attachment 5 (Description of Work)
- Attachment 6 (Model for Material Transfer Agreement)

In case the terms of this Consortium Agreement are in conflict with the terms of the EC-GA, 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 which fulfils the purpose of the original provision.

### 11.2 No representation, partnership or agency

The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Party. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

### 11.3 Notices and other communication

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

#### Formal notices:

If it is required in this Consortium Agreement (Article. 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 or telefax with receipt acknowledgement.

#### Other communication:

Other communication between the Parties may also be effected by other means such as e-mail with acknowledgement of receipt, which fulfils the conditions of written form.

Any change of persons or contact details shall be notified immediately by the respective Party to the Coordinator. The address list shall be accessible to all concerned.

### 11.4 Assignment and amendments

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 6.3.6 require a separate written agreement between all Parties.

Comment [b12]: Amendment by INRIA

### 11.5 Mandatory national law

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

### 11.6 Language

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

### 11.7 Applicable law

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

### 11.8 Settlement of disputes

Should a dispute arise between the Parties concerning the validity, the interpretation and/or the implementation of this Consortium Agreement, they will try to solve it through mediation according to the rules of bMediation, Brussels. The Parties undertake not to put an end to the mediation before the introductory statement made by each party in joint session.

Should the mediation fail to bring about a full agreement between the Parties putting an end to the dispute, said dispute will be finally settled by arbitration, according to the rules of the Belgian Centre for Arbitration and Mediation (in short: CEPANI).



**Section 12: 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.

**UNIVERSITÄTSKLINIKUM AACHEN (UKA) - DE**

Signature \_\_\_\_\_

Name Mr. Hermann Jennessen  
Title Head of Legal Department

Date of signature:

Stamp of Organisation:

Authorised to sign on behalf of

RHEINISCH-WESTFALISCHE TECHNISCHE HOCHSCHULE AACHEN (RWTH) – DE

Signature \_\_\_\_\_

Name Prof. Ernst Schmachtenberg  
Title Rector of RWTH Aachen

Signature \_\_\_\_\_

Name Mr. Manfred Nettekoven  
Title Chancellor of RWTH Aachen

Date of signature:

Stamp of Organisation:

**Authorised to sign on behalf of  
BANGOR UNIVERSITY (PBU) - UK**

Signature \_\_\_\_\_

Name Mr. Paul Storey  
Title Accountant

Signature \_\_\_\_\_

Name Ms. Clare Williams  
Title Assistant Accountant

Date of signature:

Stamp of Organisation:

Authorised to sign on behalf of  
UNIVERSITY COLLEGE CORK (UCC) - IRE

Signature \_\_\_\_\_

Name Prof. Anita Maguire  
Title Vice President for Research & Innovation

Date of signature:

Stamp of Organisation:

**Authorised to sign on behalf of**  
**UNIVERSIDAD REY JUAN CARLOS (URJC) - ESP**

Signature \_\_\_\_\_

Name Prof. Rafael Garcia Munos  
Title Vice-Rector for research

Signature \_\_\_\_\_

Name Pedro González-Trevijano Sánchez  
Title Rector

Date of signature:

Stamp of Organisation:

**Authorised to sign on behalf of  
FOUNDATION FOR RESEARCH AND TECHNOLOGY HELLAS (FORTH) - GRC**

Signature \_\_\_\_\_

Name Prof. Costas Fotakis  
Title Chairman of Board of Directors

Date of signature:

Stamp of Organisation:

Authorised to sign on behalf of

**INSTITUT NATIONAL DE RECHERCHE EN INFORMATIQUE ET EN AUTOMATIQUE  
(INRIA) - FR**

Signature \_\_\_\_\_

Name Prof. David Simplot-Ryl  
Title Director

Signature \_\_\_\_\_

Name Ms. Sylvie Coudert  
Title Administrative Manager

Date of signature:

Stamp of Organisation:

**Authorised to sign on behalf of  
ZILINSKA UNIVERZITA V ZILINE (UNIZA) - SK**

Signature \_\_\_\_\_

Name Prof. Tatiana Corejova  
Title Rector UNIZA

Signature \_\_\_\_\_

Name Prof. Karol Matiasko  
Title Dean of the Faculty of Management Science and Informatics

Date of signature:

Stamp of Organisation:



**Authorised to sign on behalf of**  
**KATHOLIEKE UNIVERSITEIT LEUVEN (KU Leuven) - BE**

Signature \_\_\_\_\_

Name Mr. Paul van Dun  
Title General Manager

Signature \_\_\_\_\_

Name Dr. Elke Lammertyn  
Title Head of European Projects

Date of signature:

Stamp of Organisation:

Authorised to sign on behalf of  
VIRTUAL PROTEINS BV (VP) - NL

Signature \_\_\_\_\_

Name Mrs. Jackie Schooleman  
Title Founder & Corporate Strategist

Date of signature:

Stamp of Organisation:

**Authorised to sign on behalf of  
SENSEGRAPHICS AB (SG)- SE**

Signature \_\_\_\_\_

Name Mr. Tommy Forsell  
Title CEO

Signature \_\_\_\_\_

Name Mr. Daniel Evestedt  
Title CTO

Date of signature:

Stamp of Organisation:

**[Attachment 1: Background excluded]**

Background excluded from Access Rights:

**Partner 1: Universitätsklinikum Aachen (UKA)**

UKA hereby excludes from its obligation to grant Access Rights to Background including, but not limited to, the following: I) All Background developed by researchers working at UKA who are not participating in the project and II) All Background developed by researchers working at UKA and participating in the RASimAs project where this Background falls outside the scope of the Work Tasks allocated to UKA under the project; and III) All Background developed by researchers working at UKA which is subject to third party rights or for which UKA needs to obtain permission to grant Access Rights.

**Partner 2: Rheinisch-Westfälische Technische Hochschule (RWTH)**

RWTH Aachen hereby excludes from its obligation to grant Access Rights to Background all Background generated by RWTH Aachen other than that generated by RWTH Aachen's personnel which is directly involved in carrying out the Project. RWTH Aachen also hereby excludes specifically from its obligation to grant Access Rights to Background to the following: all data, methodologies, know-how, Databases and software not generated through the direct participation in the project or which RWTH Aachen is not free to provide.

**Partner 3: Bangor University (PBU)**

PBU hereby excludes from its obligation to grant Access Rights to Background including, but not limited to, the following: I) All Background developed by researchers working at PBU who are not participating in the project and II) All Background developed by researchers working at PBU and participating in the RASimAs project where this Background falls outside the scope of the Work Tasks allocated to PBU under the project; and III) All Background developed by researchers working at PBU which is subject to third party rights or for which PBU needs to obtain permission to grant Access Rights.

**Partner 4: Universidad Rey Juan Carlos (URJC)**

URJC hereby excludes from its obligation to grant Access Rights to Background to any results generated by URJC researchers other than those generated by the URJC's personnel which is directly involved in carrying out the Project, within the RASimAs Project tasks. URJC therefore excludes specifically from its obligation to grant Access Rights to Background to the following: all data, methodologies, know-how, databases and software that falls outside the scope of this project, or which has been developed under another contract or funding or which URJC is not free to provide.

**Partner 7: Foundation for Research and Technology – Hellas (FORTH)**

FORTH hereby excludes from its obligation to grant Access Rights to all Background generated and/or owned by FORTH, other than that generated in the scientific area of 'computational medicine' that has been developed by the personnel of the Computational Medicine Lab (CML) headed by Dr. K.Marias at FORTH-ICS, and owned by FORTH-ICS, and which is directly and necessarily associated with the hereby agreed Deliverables of this Project.

For the avoidance of doubt it is also stated that FORTH hereby also excludes from its obligation to grant Access Rights to all Background including without limitation data, materials, methodologies,

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software and know-how not generated through its direct participation in the Project or which FORTH is not authorised, entitled, free to provide with respect to third parties' rights.

FORTH hereby also excludes from its obligation to grant Access Rights to Background that has been and/or will be derived outside this Project which FORTH due to third party rights is not able to grant Access Rights to or for which FORTH needs to get permission to grant such Access Rights.

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

**[Attachment 2: Accession document]**

**ACCESSION**

**of a new Party to**

RASimAs Consortium Agreement, version [ YYYY-MM-DD]

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE EC-GA]

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

**Universitätsklinikum Aachen**

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]

Prof. Dr. Thomas M. Deserno  
Signature(s)  
Name(s)  
Title(s)

**[Attachment 3: Listed Affiliated Entities]**

**[Attachment 4: List of Third Parties]**

**List of Third Parties to which transfer of Foreground is possible with prior notice to the other Parties and for which the other Parties have waived their right to object.**



[Attachment 5: Description of Work]

**[Attachment 6: Model for Material Transfer Agreement]**

**In response to the RECIPIENT's request for the MATERIAL [insert description] . . . the PROVIDER asks that the RECIPIENT agrees to the following before the RECIPIENT receives the MATERIAL:**

- The above MATERIAL is the property of the PROVIDER and is made available in the frame of the [name of the Project] project.
- The terms relating to confidentiality and restrictions of use agreed upon in the above mentioned project's Consortium Agreement shall be applicable also in respect of the MATERIAL.
- The MATERIAL IS NOT FOR USE IN HUMAN SUBJECTS.
- The MATERIAL will not be used for other than not-for-profit research purposes.
- The MATERIAL will not be further distributed to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the MATERIAL to the PROVIDER.
- The RECIPIENT agrees to acknowledge the source of the MATERIAL in any publications reporting use of it.
- Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. THE MATERIAL IS PROVIDED "AS-IS". THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED WITH RESPECT TO THE MATERIAL. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Unless prohibited by law, RECIPIENT assumes all liability for claims for damage against it by third parties which may arise from the use, storage or disposal of the MATERIAL by the RECIPIENT except that, to the extent required by law, the PROVIDER shall be liable to the RECIPIENT when the damage is caused by the gross negligence or wilful misconduct of the PROVIDER.
- The RECIPIENT agrees to use the MATERIAL in compliance with all applicable statutes and regulations.
- The MATERIAL is provided at **no cost**.

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

**PROVIDER INFORMATION and AUTHORISED SIGNATURE**

**Provider Organisation:** .....  
**Name of Authorised Official:** .....  
**Title of Authorised Official:** .....  
**Signature of Authorised Official:** .....  
**Date:** .....

**RECIPIENT INFORMATION and AUTHORISED SIGNATURE**

**Recipient Organisation:** .....  
**Name of Authorised Official:** .....  
**Title of Authorised Official:** .....  
**Signature of Authorised Official:** .....  
**Date:** .....

[Attachment 7: Procedure for Dealing with FOI Requests Which Include Third Party Information ]



**Procedure for Dealing with FOI Requests  
Which Include Third Party Information**

1. Any Freedom of Information Request must be to be forwarded as soon as possible to the Records and Archives Assistant in the Registrar's Office who will log the request and send an acknowledgement out to the requestor. The University has a legal deadline of 20 working days in which to respond to any request and therefore early receipt of any request assists in ensuring that the deadline is met.
2. Where the request includes third party information a copy of the request will be sent to the relevant company/third party whose data/confidential information may be involved. This will be accompanied by a request that they notify the Records and Archives Assistant within 5 working days whether they are happy for the information to be disclosed or not.
3. During this time the Assistant Registrar (Registrar's Office) and the company / third party will liaise closely to ascertain if any of the relevant exemptions may be applied to the information requested. If an exemption is to be used, the Assistant Registrar will draft the section 17 Refusal Notice and send it to the requestor.
4. If the company/third party is happy to release any or all of the information requested the University will require that this be confirmed in writing before the information is disclosed to the requestor.
5. In most instances, Bangor University and the company/third party will agree on the appropriate course of action. In the event that the company/third party is unhappy to release any or all of the information requested against the advice of the Assistant Registrar, the Assistant Registrar will request that the company/third party put its detailed objections and concerns in writing.
6. The Assistant Registrar will discuss the matter in an emergency overview meeting with the Registrar. The company/third party may be invited to attend.

7. In the unlikely event that the Registrar and Assistant Registrar feel it necessary to override the company/third party's view to release the information requested, the Vice Chancellor will be notified.<sup>1</sup>
8. The company/third party shall be notified of this decision in writing by way of letter or email in order that they may seek legal advice to avoid such disclosure if so required.
9. If you have any questions about the procedure for dealing with freedom of information requests, please contact the Assistant Registrar on 01248 382413 or email [gwenan.hine@bangor.ac.uk](mailto:gwenan.hine@bangor.ac.uk).

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<sup>1</sup> Please note that the decision to release third party information is not a decision that will be taken lightly. Bangor University is aware that information belonging to a company/third party is of a commercially sensitive nature. The University does not wish to prejudice any commercial relationship and/or trust with such company/third party and will always endeavor to work together to achieve a mutually advantageous decision. However, since the criminal sanctions rest with Bangor University, the ultimate decision must rest with it.

Authorised to sign on behalf of

FOUNDATION FOR RESEARCH AND TECHNOLOGY HELLAS (FORTH) - GRC

Signature



Name

Prof. Costas Fotakis

Title

Chairman of Board of Directors

Date of signature: 17.10.2013

Stamp of Organisation:

