Optional contractual provision: (provisions marked as “optional contractual provision” can be kept at user’s option or omitted without replacement)

[\_\_\_\_] alternative clauses and comments of industrial partners / public research institutes

[\_\_\_\_] options, alternatives

(\_\_\_\_) assistance for fill in areas, options, alternatives

\_\_\_\_\_\_\_\_\_\_\_ (to be completed by the user)

research assignment [development assignment][research and development contract assignment]

concluded between

\_\_\_\_\_\_\_\_\_\_\_\_\_(university, research institute)

represented by \_\_\_\_\_\_\_\_\_\_\_(name)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(address)

(hereinafter referred to as “**Research Institute**” or “**Contractor**”)

and

**[name, company name]**

a company established under \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(e.g. Austrian) law

\_\_\_\_\_\_\_\_\_\_\_\_\_\_(commercial register number), \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(competent court) having its registered office in \_\_\_\_\_\_\_\_\_\_(place)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(address)

(hereinafter referred to as “**Principal**”)

hereinafter referred to jointly or individually as “**Party**” or “**Parties**”

in this Agreement, the male gender was used merely for reasons of simplicity and refers to both men and women equally

# 1. DefinitionS

## **Background Technology** or **Background** or **Pre-Existing Intellectual Property:**

## **Background Technology** or **Background** or **Pre-Existing Intellectual Property** shall refer to **Results** which were acquired or generated by the **Parties** prior to the **Effective Date** or outside the scope of this **Project**.

[alternative to clause 1.1.

* 1. **Pre-Existing Intellectual Property** or **Background:**

**Pre-Existing Intellectual Property** shall include any and all intellectual property rights as well as know-how and business and trade secrets of a **Party**, irrespective of whether such rights are eligible for IP right protection, which came into existence prior to the **Effective Date** or which were acquired or generated outside the scope of this **Project** and independently of the use of the **Information** and which this **Party** may lawfully dispose of and use.

## **Results:**

**Results** shall refer to any and all rights that relate to creations brought forth by human intellect and shall basically comprise intellectual property rights (including, without limitation, trademarks and other signs, patents, utility models, supplementary protection certificates, semiconductor topography rights, designs, copyrights, copyright-related IP rights), know-how, technical improvements as well as business and trade secrets in their entirety.

## **Foreground Technology** or **Foreground:**

**Foreground Technology** or **Foreground** shall refer to any and all **Results** generated in the framework of the **Project** and the project objectives defined for the respective **Project**.

[alternative to clauses 1.2. und 1.3.

* 1. **Results** or **Foreground:**

**Results** or **Foreground** shall refer to all data and information derived from the **Information** and/or resulting from the implementation of a **Project** and all reports which relate thereto.

* 1. **Information:**

Any **Information** which one **Party** receives from another **Party** and which refers to a **Project**.]

## **Joint IP Rights:**

**Joint IP Rights** shall refer to **Results** jointly developed by the **Principal** and by the **Contractor** which are eligible for protection as an **IP right**.

## **Exclusive License:**

An **Exclusive License** shall refer to a license granted to the licensee entitling the licensee to exploit **Foreground** in a specific contractual territory while no other licensee or the licensor is entitled to exploit the **Results** in the defined contractual territory.

## **Non-Exclusive License:**

A **Non-Exclusive License** shall refer to a license granted to the licensee by the licensor for exploiting **Results** together with the **Licensor** itself and other licensees.

[additional clause

## **Publication:**

## **Publication** shall refer to any form of publication of **Results**, including, without limitation, publications in print media, in electronic media or by way of presentations, lectures or speeches.]

## **IP Rights:**

**IP Rights** shall be deemed to arise when **Results** are registered as, for instance, patents, utility rights, supplementary protection certificates, plant variety rights, semiconductor topography rights, trademarks or designs.

## **Third Parties:**

**Third Parties** shall refer to all legal or natural persons excluding the **Parties**.

## **Effective Date:**

**Effective Date** shall refer to the day when the **Principal** and the **Contractor** sign this **Agreement**. [**Effective Date** shall be \_\_\_\_\_\_\_\_\_\_\_\_\_(date).]

## **Turnover:**

**Turnover** shall refer to the amount charged bythe **Principal** [and by its sublicensees] to its[the] customers for the exploitation of **Foreground** less any turnover or value added taxes (commissions, discounts, risk premiums, bonuses or annual compensations, payment defaults, etc. cannot be deducted, return deliveries to the licensee cannot be charged).

## **Sublicense:**

**Sublicense** shall be an **Exclusive** or **Non-Exclusive License** granted by the licensee to a further sublicensee designated by it (sublicensee) for exploiting **Foreground** within the scope of the rights granted to the licensee itself.

## **Affiliated Companies:**

**Affiliated Companies** shall refer to a) companies in whose case a **Party** indirectly or directly owns more than half of the capital or the assets of the company or can appoint more than half of the members of the managing or administrative body or the bodies appointed for legal representation or is entitled to conduct the business of the company and b) companies which indirectly or directly have the rights and means of influence mentioned under a) related to a contracting company and c) companies in whose case the contracting companies jointly have the rights and means of influence mentioned under a). Such jointly controlled companies are considered as affiliates of every contracting company.

## **Agreement:**

**Agreement** or **Assignment** shall refer to this research assignment [development assignment][research and development assignment] (choose alternative).

## **Access Rights** or **Access:**

## **Access Rights** or **Access** shall refer to the granting of rights of use relating to **Background** or **Foreground** required for the implementation of this **Project** or for the use or exploitation of **Foreground**, to the extent that there are no conflicting rights of **Third Parties**.

## **Personal Data:**

## **Personal Data** are any information relating to an identified or identifiable natural person pursuant to Article 4 item 1 GDPR (General Data Protection Regulation).

# 2. Object of the Agreement

## The **Research Institute** undertakes to carry out the research assignment [development assignment][research and development assignment] \_\_\_\_\_\_\_\_\_\_\_\_\_(project title) [in accordance with the Work, Time and Financial Schedule **Annex ./2.**] [in accordance with the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**](choose alternative) [for the field of use and purpose of use specified therein] (hereinafter referred to as “**Project**” or “**Assignment**”) subject to the terms and conditions agreed below.

# 3. PROJEcT head

## [Option] **Project Head**: \_\_\_\_\_\_\_\_\_\_\_\_\_(name, telephone, e-mail) Institute for/of \_\_\_\_\_\_\_\_\_\_\_\_\_(name of institute, department)

Contact person at the **Principal‘s**: \_\_\_\_\_\_\_\_\_\_\_\_\_(name, telephone, e-mail)

## Option

[If the **Project Head** is no longer available within the framework of this **Project** for any reasons whatsoever, this shall not constitute any reason to terminate the **Project**.]

## Alternative 1

[The **Research Institute** shall be entitled to immediately terminate the **Project** pursuant to Article 10.2 if the **Project Head**, for any reason whatsoever, ceases to be available for the **Project** and the function of **Project Head** cannot be fulfilled by another employee of the **Research Institute**.]

Alternative 2

[The **Research Institute** shall be entitled to immediately terminate the **Agreement** pursuant to Article 10.2 if the **Project Head**, for any reason whatsoever, ceases to be available for the **Project** and the function of **Project Head** cannot be fulfilled by another, equally qualified employee of the **Research Institute**. The replacement of the **Project Head** by an equally qualified person shall take place within not more than \_\_\_\_\_\_\_\_\_\_\_\_\_(e.g. 3 (three)) [days][weeks](choose alternative).]

## Alternative 3

[If the **Project Head** provided by the **Research Institute** ceases to be available for the **Project**, the **Research Institute** shall promptly propose to the **Principal**, in writing, a new **Project Head**. The **Principal** shall have the right to notify the **Research Institute** within not more than \_\_\_\_(number of) business days whether or not it approves of the new **Project Head** and, if it does not approve, which approval shall not be unreasonably withheld, shall have the right to terminate the **Project** with immediate effect.

## Alternative 4

[If the **Project Head** provided by the **Research Institute** ceases to be available for the **Project**, the **Research Institute** shall promptly notify the **Principal** in writing in order to agree on any further action to take. If no adequate replacement can be found within a reasonable period of time, the **Parties** may, by mutual consent, agree to terminate the **Project**.

# 4. PRECEDENCE OF DOCUMENTS

In the event of conflicting provisions or ambiguities, the following shall take precedence in descending order

## The provisions of this **Assignment**.

#### **4.2.** [the Work, Time and Financial Schedule **Annex ./2.**] [ the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**](choose alternative).

# 5. DUTY TO REPORT AND INFORM, OTHER OBLIGATIONS

## **5.1. Information to be provided by the Principal**

The **Principal** shall provide, in a timely manner, all information needed to implement the **Project** and shall make available all resources as defined in [ the Work, Time and Financial Schedule **Annex ./2.**] [ the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**] (choose alternative).

## **5.2. Contractor’s reporting duties**

Interim progress reports shall be submitted to the **Principal** pursuant to[the Work, Time and Financial Schedule **Annex ./2.**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**] (choose alternative). To the extent that said document does not contain any provisions regarding reporting, the **Contractor** shall submit to the **Principal** a comprehensive written report within not more than \_\_\_\_\_\_\_\_\_\_\_\_\_(e.g. sixty) days of the termination of the **Project**.

[Reports may be submitted via e-mail using encryption and shall be addressed to: \_\_\_\_\_\_\_\_\_\_\_\_\_(name, telephone, e-mail)]

As soon as it becomes certain that a deadline or a work package or the basic concept of the **Project** as defined in [ the Work, Time and Financial Schedule **Annex ./2.**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**] (choose alternative)cannot be met/cannot be performed or cannot be performed as agreed, the **Contractor** shall immediately inform the **Principal** thereof in writing. The **Parties** shall then agree by mutual consent on which steps to take.

## **5.3. Changes and amendments**

Any changes of, or amendments to [the Work, Time and Financial Schedule **Annex ./2.**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**](choose alternative) shall be added as amendments to the **Agreement** signed by both **Parties**. Pending such amendment, the **Contractor** shall not make any changes in terms of contents, time schedule and costs and shall continue its work accordingly.

## **5.4. Other obligations on the part of the Contractor**

Apart from complying with reporting duties, the **Contractor** shall furthermore be under the obligation, in accordance with [the Work, Time and Financial Schedule **Annex ./2.**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**](choose alternative) to meet all deadlines and use the resources made available by the **Principal** only for the purpose of carrying out the **Assignment**.

## **5.5. Correct and orderly status**

The **Research Institute** shall take all steps required to implement the **Project** and shall be responsible for ensuring compliance of all premises, plants and equipment with the applicable statutory provisions and that all necessary permits and authorisations have been obtained and adequate insurance has been taken out.

The process of obtaining project-related permits and authorisations and the responsibility of each of the **Parties** is set forth in more detail in [the Work, Time and Financial Schedule **Annex ./2.**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**](choose alternative).

The **Research Institute** shall take all necessary steps to be lawfully entitled to conduct animal testing, including, but not limited to correctly notifying all competent authorities, obtaining all permits and authorisations stipulated by the applicable laws, and shall implement the **Project** in accordance with the applicable principles as well as all specifically applicable statutory provisions relating to the care, welfare and ethical treatment of laboratory animals in research projects. The responsibility of each of the **Parties** for ensuring compliance with such principles is set forth in more detail in [the Work, Time and Financial Schedule **Annex ./2.**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**] (choose alternative).

# 6. INVOLVEMENT OF THIRD PARTIES IN THE PROJECT

6.1. The **Principal** shall be notified in writing of the involvement of any subcontractors or other **Third Parties** that have not yet been listed in [the Work, Time and Financial Schedule **Annex ./2.**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date) **Annex ./2.**](chose alternative)[; the **Principal** may raise justified and well-founded objections against such involvement within a period of \_\_\_\_(number of) days (in particular regarding competence or competitors). If no such objection is raised within this period, the **Principal‘s** consent shall be deemed to have been given].

6.2. For the avoidance of doubt, the involvement of its own students by the **Research Institute** as **Contractors** for specific subtasks shall not require separate consent by the **Principal**.

6.3. The **Research Institute** shall be under the obligation to impose, in a verifiable manner, any obligations arising under this **Agreement** on any subcontractors or students it involves in a **Project**. Such obligations shall, include, without limitation, obligations of confidentiality as well as duties to report and inform. Furthermore, the **Research Institute** shall, in a verifiable manner, take all precautions and measures required for said subcontractors or students to transfer any and all **Foreground** to the **Research Institute**.

# 7. background And foreground Technology

## **Ownership in Background, required Background**

7.1.1. Each **Party** shall retain ownership of its **Background**.

7.1.2. Prior to the launch of the **Project** and during the **Project**, the **Parties** shall mutually inform one another in writing, to the best of their knowledge, on the existence of **Background** required to implement the **Project**, unless this were to infringe the rights of **Third Parties**. The **Research Institute‘s** duty to inform shall be limited to **Background** attributable to the institute for/of \_\_\_\_\_\_\_\_\_\_\_\_\_(name of institute, department).

7.1.3. **Annex ./7.1.** specifies the **Background** of the **Parties** required for the **Project,** as well as **Background** of the **Parties** which is expressly excluded from this **Project**. Moreover, **Annex ./7.1** states, to the best of the **Parties**‘ knowledge, in how far and to what extent the use of **Background** infringes the rights of **Third Parties**. Should it become apparent during the course of the **Project** that additional **Background** will be required for implementing the **Project, Annex ./7.1.** shall be amended accordingly. The provisions of Article 5.3. on changes and amendments to the **Agreement** shall apply mutatis mutandis. After conclusion of the **Agreement**, it shall only be possible for a **Party** to withdraw **Background** with the consent of the other **Party**.

[alternative to clause 7.1.3.

**Annex ./7.1.** specifies the **Background** of the **Parties** required for the **Project**. Moreover, **Annex ./7.1** states, to the best of the **Parties**‘ knowledge, in how far and to what extent the use of **Background** infringes the rights of **Third Parties**. Should it become apparent during the course of the **Project** that additional **Background** will be required for implementing the **Project, Annex ./7.1.** shall be amended accordingly. The provisions of Article 5.3. on changes and amendments to the **Agreement** shall apply mutatis mutandis. After conclusion of the **Agreement**, it shall only be possible for a **Party** to withdraw **Background** with the consent of the other **Party**.

## **Access to Background for the implementation of the Project**

7.2.1. The **Parties** shall grant each other free, non-transferable and non-exclusive **Access Rights** to the **Background** defined in **Annex ./7.1**., such rights being limited to the duration of the **Project** and their being necessary for the implementation of the **Project**, unless this were to infringe the rights of **Third Parties**.

7.2.2.Necessary **Access Rights** shall be **Access Rights** without the granting of which it would either not be possible to perform the tasks in the given **Project** at all or it would only be possible to do so subject to considerable delay or at unreasonable extra cost. It shall be incumbent upon the requesting **Party** to justify such necessity. The granting of **Access Rights** shall not give rise to the right to grant **Sublicenses** [except to **Affiliated Companies**].

## **Access to Background after completion of the Project**

7.3.1. To the extent that, following completion of the **Project**, a **Party** requires another **Party’s** **Background** for the purpose of making use of or exploiting its own **Foreground** generated in the **Project**, the other **Party** shall grant the relevant **Party** **Access Rights** thereto, subject to fair conditions that conform to market practice, within the framework of a **non-exclusive licensing agreement** to be concluded separately, unless this were to infringe the rights of **Third Parties**. Unless expressly stipulated otherwise in the **Agreement**, the compensation for the **Assignment** shall not cover the use of **Background** for the exploitation of **Foreground** by the **Principal**.

[Option 1] To the extent that, following completion of the **Project**, the **Principal** requires the **Research Institute’s** **Background** for the purpose of making use of or exploiting the **Foreground** generated in the **Project**, the **Research Institute** shall grant the **Principal** **Access Rights** thereto, subject to fair conditions that conform to market practice, within the framework of a **non-exclusive licensing agreement** to be concluded separately, unless this were to infringe the rights of **Third Parties**. Unless expressly stipulated otherwise in the **Agreement**, the compensation for the assignment shall not cover the use of **Background** for the exploitation of **Foreground** by the **Principal**.

[Option 2] To the extent that, following completion of the **Project**, the **Principal** or its **Affiliated Companies** require(s) the **Research Institute’s** **Background** for the purpose of making use of or exploiting the **Foreground** generated in the **Project**, the **Research Institute** shall grant the **Principal** a non-exclusive, irrevocable, free, worldwide license therein, including the right to grant sublicenses, unless this were to infringe the rights of **Third Parties**.

7.3.2. Necessary **Access Rights** to **Background** can be applied for in writing with the relevant **Party** up to \_\_\_\_\_\_\_\_\_(e.g. 1 (one) year) after the end of the **Project**.

7.3.3.Necessary **Access Rights** shall be **Access Rights** without the granting of which it would either not be possible to perform the tasks in the given **Project** or use or exploit **Foreground** at all or it would only be possible to do so subject to considerable delay or at unreasonable extra cost. It shall be incumbent upon the requesting **Party** to justify such necessity. The granting of **Access Rights** shall not give rise to the right to grant **Sublicenses** [except to **Affiliated Companies**].

7.3.4. If it becomes apparent, after the end of the **Project**, that access to **Background** is required which originates from an institute other than \_\_\_\_\_\_\_\_\_\_\_\_\_(name of institute, department), the **Research Institute** shall use its best efforts to ensure that the **Principal** is granted the necessary **Access Rights** thereto.

[alternative to clause 7.3.4.

If it becomes apparent, during or after the end of the **Project**, that the **Principal** requires access to **Background** which is not listed in **Annex ./7.1.** but was used by the **Research Institute** during the implementation of the **Project** without informing the **Principal** in writing of its intended use, the **Research Institute** shall in any case grant free of charge the **Principal** all the necessary **Access Rights** thereto.**]**

## **Notification of Foreground**

The **Contractor** shall, within the scope of the agreed reporting duties, inform the **Principal**, to the best of its knowledge, of any **Foreground** developed in the **Project**.To the extent that patentable inventions were made within the framework of **Foreground**, the **Contractor** shall notify the **Principal** thereof immediately.

In the event of **IP Rights** being registered by the **Contractor** for **Foreground** developed in the **Project**, the **Contractor** shall provide the **Principal** with a copy of the relevant registration for its information.

[Option] The **Contractor** shall fully involve the **Principal** in the process of IP right registration, thus enabling the **Principal** to contribute comments and ideas in the registration process.

## **License in Foreground**

Upon submitting the final project report, the **Research Institute** shall grant to the **Principal** an [exclusive] [non-exclusive] [worldwide](choose alternative) irrevocable license in **Foreground** [for the countries(countries)] [for the field of application defined in **Annex ./2**] [for the field of application(field of application)] (choose alternative), unless it involved **Results** eligible for IP right protection, such as know-how, technical improvements, copyrights.

The granting of the license shall be deemed covered by the compensation for the assignment.

[Variant]:

Upon submitting the final project report, the **Research Institute** shall grant to the **Principal** a [non-exclusive] [worldwide](choose alternative) irrevocable license in **Foreground** [for the countries(countries)] [for the field of application defined in **Annex ./2**] [for the field of application(field of application)](choose alternative), unless it involved **Results** eligible for IP right protection, such as know-how, technical improvements, copyrights. The granting of a **Non-Exclusive License** shall be deemed covered by the compensation for the **Assignment**. To the extent that the **Research Institute** grants the **Principal** an **Exclusive License** in **Foreground**, the **Principal** shall pay the following compensation:

#### A one-off non-refundable flat-rate license fee in the amount of EUR\_\_\_\_ (excluding VAT), due and payable within \_\_\_\_ days after submission of the final project report, and a license fee in the amount of \_\_\_\_% of the **Principal’s** **Turnover** [and the **Turnover** of its sublicensees] upon exploitation of the **Foreground**,in any event, however, an amount of EUR\_\_\_\_ (excluding VAT).

## **Foreground eligible for protection**

7.4.2.1. If the **Foreground** includes **IP Rights** or **Results** eligible for protection, the **Research Institute** shall transfer ownership therein to the **Principal**, at the **Principal’s** expense, subject to the terms and conditions defined below [with respect to the field of application defined in, and the purposes agreed for, this **Project**].

7.4.2.2. In the case of patentable inventions, the **Research Institute** shall, immediately following receipt of the relevant invention disclosure, notify the **Principal** thereof in writing and request the **Principal** to communicate to it, within a reasonable period of time not exceeding \_\_\_\_(e.g. 4 (four)) weeks, whether or not it intends to take over this invention. Provided the **Principal** signals, in writing, its intention to take over the invention, the **Research Institute** shall claim the invention and transfer it to the **Principal**. Any registration of IP rights shall be made by the **Principal**.

7.4.2.3. Upon transfer of an invention or another **IP Right**, not only the compensation for the assignment, but also a one-off payment for each **IP Right** and/or each invention in the amount of EUR\_\_\_\_ [of \_\_\_\_% of the agreed compensation for the assignment] (excluding VAT), shall become due, payable within \_\_\_\_(e.g. 14 (fourteen)) days after transfer of the invention or the **IP Right**. In addition, a variable compensation in the amount of \_\_\_\_% of the **Principal’s** **Turnover** [and the **Turnover** of its sublicensees] upon exploitation of the transferred inventions or **IP Rights** shall become due if and when the **Turnover** thus achieved exceeds EUR\_\_\_\_ (excluding VAT) annually, per calendar year, payable at the beginning of the subsequent calendar year. [additional option or alternative: Moreover, depending on the realisation of defined milestones pursuant to **Annex ./7.4.2.3.**, compensation in the amount of EUR\_\_\_\_ shall become due when milestone 1 is achieved, EUR\_\_\_\_ when milestone \_\_\_\_(number) is achieved, payable within \_\_\_\_\_\_\_\_(e.g. 14 (fourteen)) days after the relevant milestone has been achieved.]

[Alternative to preceding paragraph 7.4.2.3.: Upon transfer of an invention or another **IP Right**, not only the compensation for the assignment, but also additional compensation [in the amount of EUR\_\_\_\_] [subject to terms and conditions that conform to market practice and shall be agreed on a case-by-case basis] shall become due. [If, within \_\_\_\_(e.g. 6 (six)) weeks after the transfer, the **Parties** cannot agree on the terms of the transfer, in particular with respect to compensation for the **IP Rights** and/or inventions, patent attorney \_\_\_\_ shall be appointed to act as expert arbitrator and the patent attorney‘s expert opinion shall be binding on both **Parties**. [The fees of the expert arbitrator shall be borne by the **Principal**.] [Alternative: The fees of the expert arbitrator shall be shared equally between the **Parties**.]

Variant 1 (with reference to the 3 preceding paragraphs 7.4.2.1. - 7.4.2.3.):

[7.4.2.1. If the **Foreground** includes **IP Rights** or **Results** eligible for protection (including, but not limited to, patentable inventions), the **Research Institute** shall grant the **Principal** an option for conclusion of an [**Exclusive**] [**Non-Exclusive**] [worldwide](choose alternative) **License** in the **Foreground** [for the countries(countries)] [for the field of application defined in **Annex ./2**] [for the field of application(field of application)](choose alternative). The option shall be limited to a period of \_\_\_\_(e.g. 6 (six)) weeks from receipt, by the **Principal**, of the notification of the arising of IP rights and may, upon written request by the **Principal**, be extended once by not more than \_\_\_\_(e.g. 4 (four)) weeks. However, in this context the maximum period of time available to the **Research Institute** for claiming inventions shall have to be taken into account, as such period, taken in total, must not be exceeded. If the **Principal** extends the term of the option, it shall pay adequate compensation to the **Research Institute**. Exercising the option shall require a letter by registered mail addressed to the **Research Institute**.

7.4.2.2. The granting of a **Non-Exclusive License** shall be deemed covered by the compensation for the assignment. For the avoidance of doubt, the **Research Institute** shall be under no obligation to register or maintain an IP right.

7.4.2.3. To the extent that the **Research Institute** grants the **Principal** an **Exclusive License** in the **Foreground**, the **Principal** shall, in addition to the compensation for the assignment, pay the following compensation:

#### A one-off non-refundable flat-rate license fee in the amount of EUR \_\_\_\_ (excluding VAT), due and payable within \_\_\_\_ days after submission of the final project report, and a license fee in the amount of \_\_\_\_% of the **Principal’s** **Turnover** [and the **Turnover** of its sublicensees] upon exploitation of the **Foreground**,in any event, however, an amount of at least EUR\_\_\_\_ (excluding VAT) annually, per calendar year, payable at the beginning of the subsequent calendar year. [additional option or alternative: Moreover, depending on the realisation of defined milestones pursuant to **Annex ./7.4.2.3.**, compensation in the amount of EUR\_\_\_\_ shall become due when milestone 1 is achieved, EUR\_\_\_\_ when milestone \_\_\_\_(number) is achieved, payable within \_\_\_\_\_\_\_\_(e.g. 14 (fourteen)) days after the relevant milestone has been achieved.] In such an event, the **Principal** shall also bear all costs incurred for the registration of IP rights carried out by the **Principal** by mutual consent of the **Principal** and the **Research Institute**.

Variant (with reference to the 3 preceding paragraphs 7.4.2.1. - 7.4.2.3.):

[7.4.2.1. If the **Foreground** includes **IP Rights** or **Results** eligible for protection (including, but not limited to, patentable inventions), the **Research Institute** shall grant the **Principal** an **Exclusive** [worldwide] **License** in the **Foreground** [for the countries (countries)] [for the field of application (field of application)].

7.4.2.2. To the extent that the **Research Institute** grants the **Principal** an **Exclusive License** in the **Foreground**, the **Principal** shall, in addition to the compensation for the assignment, pay the following compensation: A one-off non-refundable flat-rate license fee in the amount of EUR \_\_\_\_ (excluding VAT), due and payable within \_\_\_\_\_\_\_\_(e.g. 14 (fourteen) days after submission of the final project report, and a license fee in the amount of \_\_\_\_% of the **Principal’s** **Turnover** [and the **Turnover** of its sublicensees] upon exploitation of the **Foreground**,in any event, however, an amount of EUR\_\_\_\_ (excluding VAT) annually, per calendar year, payable at the beginning of the subsequent calendar year. [additional option or alternative: Moreover, depending on the realisation of defined milestones pursuant to **Annex ./7.4.2.3.**, compensation in the amount of EUR\_\_\_\_ shall become due when milestone 1 is achieved, EUR\_\_\_\_ when milestone \_\_\_\_(number) is achieved, payable within \_\_\_\_\_\_\_\_(e.g. 14 (fourteen)) days after the relevant milestone has been achieved.] In such an event, the **Principal** shall also bear all costs incurred for the registration of IP rights carried out by the **Principal** by mutual consent of the **Principal** and the **Research Institute**.

7.4.2.3. The **Research Institute** shall have the right, without any restrictions, to commercially exploit **Foreground** for any field of application as \_\_\_\_(field of application) as well as any knowledge and insights gained generally during the course of **Project** implementation, and methods and procedures for obtaining **Results**, provided, however, that the **Principal’s** justified confidentiality interests are safeguarded.

7.4.2.4. If the **Principal** waives its right to make use of an **IP Right** or an invention and if the **Principal** does indeed not so use it, the **Research Institute** may decide, at its sole discretion, whether to exploit it itself, cooperate with **Third Parties** for the purpose of exploiting the invention, or to return the invention to the inventor or not claim it.

Optional clause: The **Principal** shall have a free, **Non-Exclusive**, world-wide, sublicensable **License** to commercially exploit such **IP Rights** or inventions.]

## **Joint IP Rights**

7.4.3.1. In the event of joint inventions, the **Parties** shall, by mutual consent, reach a separate agreement regarding the allocation of inventor’s shares. The **Parties** shall register the joint invention as well as any other **Joint IP Rights** as co-owners.

The **Principal** shall bear the cost of registration and be responsible for the registration itself as well as the related maintenance and defence of the invention or the **IP Right**. The **Research Institute** shall be named as co-registering party.

7.4.3.2. The **Joint IP Right** shall be exploited exclusively by the **Principal**, and the **Research Institute** shall grant the **Principal** a worldwide **Exclusive License** therein [for the field of application \_\_\_\_(field of application)]. Accordingly, the **Principal** shall pay the following compensation to the **Research Institute**:

A one-off non-refundable flat-rate license fee in the amount of EUR\_\_\_\_ (excluding VAT), due and payable within \_\_\_\_ days after notification of the arising of the IP right or the invention, and a license fee in the amount of \_\_\_\_% of the **Principal’s** **Turnover** [and the **Turnover** of its sublicensees],in any event, however, an amount of at least EUR\_\_\_\_ (excluding VAT) annually, per calendar year, payable at the beginning of the subsequent calendar year. [Alternative for minimum license: Should the **Principal**, through the use of the **Joint IP Right**, attain less than EUR \_\_\_\_ **Turnover** per calendar year in two consecutive calendar years, the **Exclusive License** granted to the **Principal** with respect to the **Research Institute’s** share in the **Joint IP Right** shall be converted to a **Non-Exclusive License**, and the **Research Institute** shall be free to exploit the **IP Right** by granting corresponding **Non-Exclusive Licenses**.]

7.4.3.3. The **Research Institute** shall also grant to the **Principal**, with respect to its share in the joint invention or the **Joint IP Right**, an option for conclusion of a purchase agreement [subject to terms and conditions that conform to market practice and shall be agreed on a case-by-case basis] [for the field of application defined in this **Project** and to the extent required for the agreed purpose] (choose alternative). The option shall be limited to a period of \_\_\_\_(e.g. 6 (six)) weeks from receipt, by the **Principal**, of the notification of the arising of the IP right or the invention and may, upon written request by the **Principal**, be extended once by \_\_\_\_(e.g. 4 (four)) weeks. However, in this context, the maximum period of time available to the **Research Institute** for claiming inventions shall have to be taken into account, as such period, taken in total, must not be exceeded. If the **Principal** extends the term of the option, it shall pay adequate compensation to the **Research Institute**. Exercising the option shall require a letter by registered mail addressed to the **Research Institute**.

If, within \_\_\_\_(e.g. 6 (six)) weeks after the option has been exercised, the **Parties** cannot agree on the terms of the transfer of the co-ownership share, in particular with respect to compensation, patent attorney \_\_\_\_ shall be appointed to act as expert arbitrator and the patent attorney‘s expert opinion shall be binding on both **Parties**. The fees of the expert arbitrator shall be borne by the **Principal**. [Alternative: The fees of the expert arbitrator shall be shared equally between the **Parties**.]

7.4.3.4. If, after the registration of a **Joint IP Right**, the **Principal** no longer intends to maintain the **IP right** in total or just in individual countries, the **Principal** shall inform the **Research Institute** thereof in writing at least 6 (six) weeks before any notice period or deadline applicable for a legal action within the scope of the registration procedure and/or declaration required related to such registered **IP Rights** was set or expires. In such an event, the **Research Institute** shall be entitled to take over the co-ownership share. The **Research Institute** shall bear the cost of such transfer as well as the costs for maintaining and continuing the IP right in question. The **Principal** undertakes to take and issue all reasonably required legal actions and declarations in this context.

## **Signatures**

In connection with the granting of rights of use in **Foreground** or the transfer of **Foreground**, the **Research Institute** shall provide the signatures required for granting such rights – in notarised form, where applicable – at the **Principal’s** expense.

[additional clause:

To the extent legally possible, the **Research Institute** shall instruct its employees to report any employee’s inventions as promptly as possible. If inventions are transferred to the **Principal**, all documents and information relevant for filing a patent application shall be handed over to the **Principal** as promptly as possible. Furthermore, the **Research Institute** shall take adequate steps to ensure that its employees will provide all the support needed for a patent application. Separate remuneration may be agreed on a case-by-case basis.

Project staff members shall have to sign the Undertaking to Maintain Confidentiality and Lend Support enclosed in **Annex ./7.4.4.**]

## **Accounting and auditing**

If compensation is dependent on **Turnover**, the **Principal** shall submit all necessary accounting documents to the **Research Institute**. In the case of license fees depending on **Turnover**, the **Research Institute** is entitled, once a year, to have the correctness of the book-keeping and accounting records checked, at its own expense, by auditors, chartered accountants or tax advisers bound to professional secrecy, where applicable consulting a court-certified technical expert. If the **Principal’s** accounting varies from the audit result to the detriment of the **Research Institute**, provided that a variance of more than 3 (three)% to the detriment of the **Research Institute** is uncovered, the costs for auditing the accounts shall be borne by the **Principal**.

## **Free license for research and teaching**

The **Research Institute** shall in any case remain entitled to use all **Foreground** free of charge for research and teaching purposes [as well as patient care] and shall receive a free, worldwide, irrevocable, non-exclusive license to that extent.

[alternative clause:

The **Research Institute** shall in any case remain entitled to use all **Foreground** free of charge for academic, non-commercial research and teaching purposes [as well as patient care] and shall receive a free, worldwide, irrevocable, non-exclusive license to that extent, without, however, being entitled to produce products itself within this framework.]

## **Designation of inventor**

In all events, the right of inventors to be designated as inventors shall remain unaffected.

## **Inventor’s royalties**

7.4.8.1. To the extent that the **Foreground** includes inventions eligible for IP right protection which are claimed by the **Research Institute** and transferred to the **Principal** or in which rights of use are granted to the **Principal**, any and all obligations to pay statutory inventor’s royalties to its employees shall be incumbent upon the **Research Institute**.

7.4.8.2. However, the **Principal** shall indemnify and hold harmless the **Research Institute** with respect to the payment of any inventor’s royalties if and to the extent that the **Research Institute** would be required to pay the inventor’s royalties due to exploitation of such invention eligible for IP right registration that does not conform to market practice vis-à-vis the **Principal**. To the extent that such inventions are transferred to the **Principal** free of charge or that a license is granted free of charge, the **Principal** shall in any event indemnify and hold harmless the **Research Institute** for the statutory inventor’s royalties. In cases where a free **Non-Exclusive License** is granted, such indemnification shall apply only in so far as the inventor’s claims refer to such **Non-Exclusive License**.

# 8. PubliCationS, CONFIDENTIALITY

8.1. The **Principal** acknowledges the task of a **University/**the **Research Institute** and its staff to regularly publish information on the nature, object and results of its research activities.

8.2. The **University/**the **Research Institute** and/or its employees shall have the right to independently publish information on the **Project** in the form of academic publications subject to the following provisions. In light of the justified interests in academic publications, the registration of **IP Rights** and claiming of employee inventions should be arranged in a timely manner prior to publication. The **Parties** shall refrain from any action which might be prejudicial to the patentability of an invention representing **Foreground**, in particular, they shall keep the invention confidential until IP right registration has been applied for.

8.3. The **University**/the **Research Institute** shall notify the **Principal** in writing [e-mail shall be deemed sufficient] of the planned **Publication**. If the **Principal** fails to comment, within a period of \_\_\_\_ (e.g. 2 (two) weeks from receipt of the notification on the planned **Publication**, consent to the relevant **Publication** shall be deemed to have been given after expiry of the \_\_\_\_ (e.g. 2 (two)-)week period. If the **Principal** raises justified and well-founded objections within these (e.g. 2 (two) weeks, the **Parties** shall immediately look for a joint solution that takes these well-founded objections into consideration (e.g. immediate registration of an IP Right, adjustment of the content of the **Publication**, withholding of access to diploma, master’s or doctoral theses). Upon expiry of a period of \_\_\_\_ (e.g. 3 (three)) months from becoming aware of the objections, the **Publication** can be published in any case.

[Variant 1 for 8.3.:

During the term of this **Project** and up to\_\_\_\_(e.g. 3 (three)) months] After the end of this **Project**, the **University/**the **Research Institute** shall require the **Principal‘s** prior written consent to make publications which are directly related to the **Project** and in which data of immediate relevance to products or procedures belonging to the **Principal** are used. Any publications planned shall be submitted to the **Principal** for its information. If the **Principal** fails to respond, within a period of \_\_\_\_ (e.g. 2 (two) weeks, consent to the relevant **Publication** shall be deemed to have been given. The **Principal** may, upon submission of well-founded proposals for change, request that the **University/**the **Research Institute** remove details that are commercially relevant for the **Principal** from the publication or modify them accordingly. The **Principal** shall not unreasonably withhold consent to publication. In particular, it shall not be allowed to delay or prevent the preparation, completion and evaluation of diploma, master’s or doctoral theses.]

8.4. Apart from the right of publication, the **Parties** shall use any and all informationsecret technical knowledge and know-how contributed to the **Project** by the other **Parties** [marked as confidential or, if not marked as such (e.g. if disclosed verbally or visually), referred to as confidential at the time of its disclosure and confirmed as such and specified in detail in writing within a period of \_\_\_\_(e.g. 30 (thirty)) days], and any **Foreground** generated in the course of the **Project,** in particular patentable inventions, but also materials, tasks and business processes only for the purposes of this **Project** and shall treat them confidentially – also beyond the term of this **Agreement** – [for the duration of \_\_\_\_(e.g. 5 (five)) years] also in the event this **Agreement** is terminated for good cause – and shall disclose them to **Third Parties** only upon written consent by the other **Party**.

8.5. The **Parties** shall further ensure that the employees they have entrusted with the implementation of the **Project** or any subcontractors, **Third Parties**, including students, used are also[, verifiably and in writing,] bound by this confidentiality obligation.

## 8.6. This confidentiality obligation shall not apply to information

* with which the recipient was already verifiably familiar prior to disclosure by the contracting **Party** without any confidentiality obligation, or
* which is or becomes generally known without the recipient’s responsibility, or
* which the recipient learns of or receives from a **Third Party** that is not bound by any confidentiality obligation, or
* which were verifiably developed by the recipient in an independent manner, or
* which must be disclosed to authorities due to legal provisions, or
* whose publication was authorised in writing by the contractingparty who initially provided this information.

[additional clause:

**Forground** shall be confidential information only for that **Party** which does not have any rights in the **Foreground**, or for all **Parties** as long and insofar as such rights have not been clarified.]

# 9. WARRANTY AND LIABILITY

9.1. The **Parties** are aware of the success risks associated with a research and development project.

9.2. The **Research Institute** shall carry out its work on the basis of recognised rules, with the diligence that is reasonable in line with the state-of-the-art knowledge they possess at the time they carry out the work, and shall endeavour to promote the realisation of the project objective and the desired **Results**, without assuming any further guarantee, liability or warranty for the realisation of the project objective and the desired **Results** or the latter’s industrial and commercial exploitability.

[additional clause:

The **Research Institute** shall carry out the **Assignment** on the basis of recognised rules in line with the state of the art and shall endeavour to promote the realisation of the project objective and the desired **Results**.]

9.3. The **Research Institute** does not warrant that the **Foreground** achieved in the course of this **Project** will be free from any rights of **Third Parties**. The **Research Institute** shall, where applicable, immediately inform the **Principal** of any **IP Rights** of **Third Parties** already known to, or, in the course of the **Project** becoming known to, the **Research Institute** that are relevant for the **Project**.

[alternative clause:

The **Research Institute** confirms that to [the best of] its knowledge at the time this **Agreement** becomes effective – as established in the course of customary research into the state of the art [in the course of searches in \_\_\_\_\_\_\_\_\_\_\_\_\_(description of databases) databases] on relevant documents published by \_\_\_\_\_\_\_\_(date), laid out in **Annex 9./3.**, no conflicting **IP Rights** exist. The **Research Institute** shall inform the **Principal** without delay of any of any **IP Rights** of **Third Parties** already known to, or, in the course of the **Project** becoming known to, the **Research Institute** that are relevant for the **Project**.]

9.4. The **Research Institute** shall not be liable in cases of slight negligence, except in cases of personal injury. The liability ofthe **Research Institute** shall be limited to the amount payable for the assignment. Under no circumstances shall the **Research Institute** be liable for indirect damage and loss of profit.

9.5. The **Parties** shall not assume any liability for damage incurred by a **Party** in connection with the use of **Foreground** or **Background Technology**. The **Parties** exclude any liability and warranty for the completeness and correctness or fitness of any information and materials they make available to another **Party** within the framework of the **Project**.

9.6. The warranty period shall be 6 (six) months from the end of the **Project**. Claims for damages shall become time-barred 6 (six) months after the end of the **Project**.

[supplemental clause:

9.7. The **Research Institute** does not accept any liability for the economic and commercial exploitability or producibility or suitability for manufacture or applicability of the **Foreground** ; the **Research Institute** does, however, warrant the practicability and reproducibility of the invention.]

# 10. DURATION AND TERMINATION of the agreement

## **10.1. Duration**

This **Agreement** shall end on the day the **Contractor** submits the final **Project** report to the **Principal**.

[alternative:

This **Agreement** shall end on \_\_\_\_ (date).]

[alternative clause:

This Agreement shall end on the day the **Principal** finally accepts the final **Project** report submitted by the **Contractor**. Unless otherwise expressly agreed, the **Principal** after receipt of the final report may request in written form changes to the final report within a period of 30 (thirty) days upon receipt. The final report shall in any case be deemed accepted if the 30 (thirty) days period expires and the **Principal** did not provide any request at all.

Notwithstanding the above, the **Principal** may terminate this **Agreement** with effect from the end of each quarter by giving \_\_\_\_(e.g. 5 (five)) months’ notice.]

The **Agreement** shall likewise be deemed duly terminated by the **Contractor** if the desired **Result**, in spite of the **Contractor‘s** best efforts, was not achieved within the agreed timeframe and the **Principal** does not want the **Project** to be continued once a cost limit as defined in **Annex ./2** has been reached.

The **Research Institute** shall in any event be compensated for the services rendered up to the termination of the **Agreement**.

## **10.2. Termination for good cause**

The contractual relationship can be terminated with immediate effect for good cause by any **Party**. Good cause shall include, without limitation, if one of the **Parties** violates material provisions of this **Agreement**, or if intermediate results clearly show that it will not be possible to realise the objective of the **Project** [in spite of a reasonable period of grace being granted], or certain milestones in spite of a reasonable period of grace being granted], or if the **Research Institute** is no longer able to complete this **Assignment**.

In the event of termination of the **Agreement** for good cause, the **Research Institute** shall determine the costs incurred up to this point in time. Unless such costs are covered by the payments made up to that point in accordance with the payment schedule, the **Principal** shall remit to the **Research Institute** the difference in amounts within 6 (six) weeks. Repayment of any amounts already used for the designated purposes by the **Research Institute** shall be excluded.

## **10.3. Continued effect of rights and obligations**

If the **Agreement** is terminated, the obligations that came into existence prior to termination (including, without limitation, **Access Rights** to **Background Technology** and **Foreground Technology**) for the benefit of the **Party** that did not provide cause for termination making it impossible to continue the **Project** shall remain in effect.

The **Foreground** developed prior to termination shall be granted or transferred to the **Principal** pursuant to Article 7.

# 11. Compensation for the assignment

11.1. As consideration for implementing the **Project**, the **Principal** shall pay to the **Contractor** an amount of EUR \_\_\_\_, due and payable within \_\_\_\_(e.g. 2 (two)) weeks [pursuant to the Work, Time and Financial Schedule **Annex ./2**] [pursuant to the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date)**Annex ./2.**]

[alternative clause

As consideration for implementing the **Project**, the **Principal** shall pay to the **Research Institute** an amount of EUR \_\_\_\_ plus statutory VAT, provided that such tax applies.

This amount shall become due as follows:

EUR \_\_\_\_ upon the **Effective Date of the Agreement**;

EUR \_\_\_\_ upon acceptance of the \_\_\_\_report in accordance with [the Work, Time and Financial Schedule **Annex ./2**] [the offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date)**Annex ./2.**] (choose alternative);

EUR \_\_\_\_ upon successful acceptance of the final report.

All amounts due shall be paid into an account to be designated by the **Research Institute** within 30 (thirty days) of receipt of the corresponding invoice. The invoice shall meet the following requirements, which are subject to modification in the event of relevant changes in legislation:

-Name and address of the company providing the goods or services

-Name and address of the recipient of the goods or services

-VAT registration number or tax number

-Date of invoice

-Consecutive invoice and contract number of the company issuing the invoice or credit note

-Type and quantity of goods or services

-Time of delivery or time of service provision

-Compensation (= agreed amount to be paid), broken down by tax rates and specific tax exemptions

-Tax rate

-Amount of tax]

11.2.[The above amount does not include the costs of any travels made by **Research Institute** staff members necessary in connection with the implementation of the **Project**. Such travel expenses shall be accounted for separately and shall be borne by the **Principal**.]

11.3. As a matter of principle, services shall be charged exclusive of VAT. If it turns out that a service provided by the **Contractor** or part of it is subject to VAT after all, the **Contractor** may charge such VAT in arrears. The **Principal** agrees to pay such VAT in arrears.

11.4. Should the **Principal** default on payment, default interest shall be charged in the amount of [8 (eight)% above the relevant marginal lending rate of the European Central Bank][of the 3-month EURIBOR plus 4 (four) %] (choose alternative).

# 12. PLACE OF JURISDICTION, APPLICABLE LAW

## The [exclusive] place of jurisdiction for any and all disputes arising from and in connection with this **Agreement**, including disputes as to its existence and disputes arising after its termination, shall be the court competent for commercial matters in \_\_\_\_\_\_\_(place). The **Agreement** shall be governed by Austrian law, excluding the conflict-of-law rules. Application of the United Nations Convention on Contracts for the International Sale of Goods shall be explicitly excluded.

[Alternative: Arbitration]

## Any dispute, controversy or claim arising under, out of or relating to this **Agreement** and any subsequent amendments of this **Agreement**, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules.

## The arbitral tribunal shall consist of a sole arbitrator. The place of arbitration shall be \_\_\_\_\_\_\_(place). The language to be used in the arbitral proceedings shall be \_\_\_\_\_\_\_(e.g. German). The dispute, controversy or claim shall be decided in accordance with the law of \_\_\_\_\_(country).

[Alternative: Arbitration and Mediation]

Any dispute, controversy or claim arising under, out of or relating to this **Agreement** and any subsequent amendments of this **Agreement**, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be \_\_\_\_\_\_\_(place). The language to be used in the mediation shall be \_\_\_\_\_\_\_(e.g. German).

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 (sixty) 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 (sixty) 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 arbitral tribunal shall consist of a sole arbitrator. The place of arbitration shall be \_\_\_\_\_\_\_(place). The language to be used in the arbitral proceedings shall be \_\_\_\_\_\_\_(e.g. German). The dispute, controversy or claim referred to arbitration shall be decided in accordance with the law of \_\_\_\_\_(country).

# 13. Final Provisions

## 13.1. Any and all rights and obligations arising from this **Agreement** must not be transferred to **Third Parties** without theconsent of the respective other **Party**.

## 13.2. This **Agreement** shall constitute the entire agreement between the **Parties** regarding the object of the **Agreement**. There are no supplementary arrangements. Drafts, correspondence exchanged prior to signing, etc. may not form the basis for interpreting this **Agreement**.

## 13.3. Any changes or amendments of this **Agreement** must be made in writing (transmission via fax or e-mail shall not suffice) in order to take effect. This shall also apply to any waiver of this requirement of written form.

## 13.4. Should individual provisions of this **Agreement** be or become invalid, void, illegal or unenforceable, this shall not affect the validity of the remaining provisions of this **Agreement**. The invalid, void, illegal or unenforceable provision(s) shall be replaced by (an) alternative provision(s) which most closely correspond(s) to the original intent of the **Parties** to the extent that this is legally possible and whose economic effect best correspond(s) to the effect intended by the invalid, void, illegal or unenforceable provision(s).

## 13.5. Without the other **Party’s** prior consent, no **Party** may inform any **Third Parties** of this **Agreement**, any parts thereof or any related matter, unless such **Party** is obliged to do so based on statutory provisions. This shall not apply to the fact of the conclusion of this **Agreement**.

13.6. 2 (two) copies of this **Agreement** shall be signed and each shall be deemed an original, with one being handed out to each of the **Parties**.

# 14. DATA PROTECTION

14.1 If – within the ambit of this **Agreement** – a **Party** (**Disclosing Party**) discloses to the other **Party** (**Receiving Party**) personal data pursuant to Article 4 Sec 1 of the General Data Protection Regulation (GDPR) or the **Receiving Party** got otherwise knowledge of personal data of the **Disclosing Party** and – provided the personal data are not processed by the **Receiving Party** as a data processor – these personal data may exclusively processed in performance of this **Agreement** and not processed for any other purposes, except as provided by the law. Specifically, these personal data may not be disclosed to third parties nor analysed for own purposes or used for profiling purposes.

14.2 The **Receiving Party** ensures that personal data of the **Disclosing Party** are only provided to those of his employees who have a need to know them in the performance of this Agreement.

14.3 The **Receiving Party** establishes its internal organisation in a way that it can ensure compliance with the applicable data protection laws, including but not limited to technical and organisational measures taken to prevent personal data from misuse or loss. Employees that have access to personal data must be made subject to a confidentiality obligation that continues to apply after termination of the employment.

14.4 The **Receiving Party** establishes its internal organisation in a way that it can ensure compliance with the applicable data protection laws, including but not limited to technical and organisational measures taken to prevent personal data from misuse or loss. Employees that have access to personal data must be made subject to a confidentiality obligation that continues to apply after termination of the employment.

# 15. CONTACT PERSONS

Contact person with the **Principal**:

Name:\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_

E-mail:\_\_\_\_\_\_\_\_\_\_\_\_

Telephone:\_\_\_\_\_\_\_\_\_\_\_\_

Contact person with the **Contractor**:

Name:\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_

E-mail:\_\_\_\_\_\_\_\_\_\_\_\_

Telephone:\_\_\_\_\_\_\_\_\_\_\_\_

Any change of contact persons is to be communicated to the respective other **Party** without delay; otherwise any and all declarations, statements, notices and communications made shall be deemed duly served.

# 16. SIGNATURES

For the **Principal**

Date: \_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[Name and title/position] [Signature]*

For the **Contractor**

Date \_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[Name and title/position] [Signature]*

# 17. AnnexES

All annexes form an integral part of this **Agreement**.

**Annex ./2.**: Works, Time and Financial Schedule [Offer of \_\_\_\_\_\_\_\_\_\_\_\_\_(date)]

**Annex ./7.1.**: Background List

**Annex ./7.4.2.3.**: Milestones

**Annex ./7.4.4.** Undertaking to Maintain Confidentiality and Lend Support

**Annex ./9.3.** List of documents

**Annex ./2.**

work, time and financial schedule

[*Insert details:*]

**Annex ./7.1.**

**Background at the time the research assignment is concluded**

Background **Contractor**:

Background **Principal**:

The following **Background** shall in any event be excluded from access and exploitation within the scope of this **Project**:

1. Any **Background** originating from institutes other than the institute for/of \_\_\_\_\_\_\_\_\_\_\_\_\_(institute).
2. Any **Background** originating from the institute for/of \_\_\_\_\_\_\_\_\_\_\_\_\_(institute) that is not covered by the **Project**.

The following rights of **Third Parties** refer to **Background**:

**Annex ./7.4.4.**

**UNDERTAKING TO MAINTAIN CONFIDENTIALITY AND LEND SUPPORT BY THE PROJECT STAFF MEMBER**

I was apprised of the content of the agreement concluded between \_\_\_\_\_\_\_\_\_\_\_\_\_(insert) on \_\_\_\_\_\_\_\_\_\_\_\_\_(date). In particular, but without limitation, I undertake to maintain confidentiality in line with the confidentiality obligation laid down therein. This obligation shall survive the duration of my employment relationship.

I undertake to make any and all signatures required for the registration of IP rights, also beyond the duration of my employment relationship. For this purpose, I shall continue to provide my employer with my valid contact data.

[*In the event of diploma, master’s or doctoral theses*] Where the necessity arises due to reasons of confidentiality and/or for exploitation purposes, I will apply for access to my diploma, master’s or doctoral theses to be withheld or to be continued to be withheld pursuant to § 86 of the Universities Act of 2002 and the internal rules of the University.

[Signature of the project staff member]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[*Signature of the Research Institute*

1 Annex: Research Assignment

**Annex ./7.4.4.**

**UNDERTAKING TO MAINTAIN CONFIDENTIALITY AND LEND SUPPORT**

**BY THE PROJECT STAFF MEMBER**

|  |
| --- |
| The **Principal** awarded a research assignment (“**Agreement**”) to the **Research Institute** on \_\_\_\_\_\_\_\_\_\_\_\_\_(date). The undersigned is scheduled to participate in the implementation of the **Project** under the **Agreement**. The undersigned has seen the **Agreement** and is aware of its provisions.  The undersigned herewith undertakes to disclose to the **Research Institute**, without delay, any inventions generated with his/her participation within the framework of the **Project**. If such invention constitutes an employee’s invention, the **Research Institute** may claim it and assign it to the **Principal**. If such invention does not constitute an employee’s invention, the undersigned herewith assigns to the full extent and without any restriction, all rights in and relating to such invention as well as any **Results**, to the extent that they were generated with his/her participation, directly to the **Research Institute**.  The undersigned shall provide support and assistance to the **Principal** in registering and maintaining IP rights and, where necessary, provide the statements and declarations necessary for this purpose.  Any manuscripts or copies thereof shall be submitted to the **Principal** for approval at least \_\_\_\_(e.g. 20 (twenty)) days prior to the intended publication date. In general, the **Principal** shall not unreasonably withhold consent to publication. However, the **Principal** shall have the right to refuse publication where the filing of patents or the protection of know-how or trade secrets is at issue. It shall also be ensured that such publication does not contain any confidential information of the **Principal**. The **Parties** are agreed that steps shall also be taken to prevent the filing of patents in other countries to be jeopardised.  The undersigned expressly agrees to the transfer of any inventions by the **Research Institute** to the **Principal**, as governed by Article \_\_\_\_ of the **Agreement**. |
| The **Agreement’s** confidentiality provisions as set forth in Article \_\_\_\_ shall apply analogously to the undersigned.  [In the event of diploma, master’s or doctoral theses]: The undersigned undertakes not to disclose his/her diploma, master’s or doctoral thesis to any **Third Party**, except to his/her thesis supervisor, for a period of 5 (five) years from the signing of this declaration, and (where applicable) to apply for access to his/her diploma, master’s or doctoral thesis to be limited or to be continued to be limited pursuant to § 86 of the Universities Act of 2002 and similar internal rules of the University for a period of 5 (five) years, and to submit such application, once approved, to the **Principal**.  Place], [DATE]  Name: [the undersigned]  seen and approved by the **Research Institute** as employer  [signature/**Research Institute**] |