

Consortium Agreement

EIT Food

THIS CONSORTIUM AGREEMENT

Is effective from 1 January 2018

BETWEEN:

1. University of Helsinki, Department of Food and Nutrition, Fabianinkatu 33, 00014 Helsingin yliopisto, Finland, who will act as the Project Leader;
2. Aceites del Sur-Coosur;
3. Agencia Estatal Consejo Superior de Investigaciones Científicas, M.P. (CSIC);
4. Herbstreith & Fox;
5. Technion - Israel Institute of Technology;
6. Universidad Autónoma de Madrid;
7. University Hohenheim, Schloß Hohenheim 1, 70599 Stuttgart, Germany; executing department: Department of Food Physics and Meat Science (150g)
8. Valio

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

relating to the Project entitled

FOODIO – Food Solutions Master Class

hereinafter referred to as "Project";

WHEREAS:

The EIT Food ivzw (hereinafter referred to as "KIC LE") has entered into the Framework Partnership Agreement ("FPA") with the European Institute of Innovation and Technology ("EIT") with the effective date of 01.01.2018. establishing a long term cooperation (framework partnership), and setting out its terms and conditions and the general terms and conditions and rights and obligations applicable to the specific grants that may be awarded by the EIT for specific actions under the framework partnership:

The KIC LE has entered into the Specific Agreement ("SGA") with EIT;

The EIT has awarded a Specific Grant to the KIC EIT Food in accordance with and subject to the terms and conditions of the FPA and SGA;

The Parties have acceded to the FPA and the SGA by their signature of the Accession Form, as provided for in Article 62 and Annex 4 to the FPA;

Whereas in this Consortium Agreement the Parties wish to lay down the contractual arrangements between them, regarding the Project in which the Parties are involved, and in respect of the KIC Added

Value Activities (KAVA), that will be performed by the Parties and third parties in accordance with this Consortium Agreement and to further specify certain rights and obligations pertaining to them;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Article 1: Definitions

1.1 Definitions

Words beginning with a capital letter shall have the meaning defined either herein or in the Rules of Participation for Horizon 2020 or in the FPA or SGA including its Annexes.

1.2 Additional Definitions

“Project” shall mean the project to be carried out by the Parties in accordance with the Project Plan.

“Project Plan” shall mean the plan for the Project as integrated in the Annex 1 to the Business Plan, which contains and describes the Party acting as the Project Leader, the other Parties and, if any, Project Partners for that Project, the KIC Added Value Activities, the budgets for the KIC Added Value Activities, the milestones, decision points, deliverables, and KPI’s per KIC Added Value Activity, and other data relevant to such Project. For the Project, also the KIC Complementary Activities’ total value and link to the KIC Added Value Activity for that Project will be mentioned.

“Project Leader” shall mean the Party in the Project that monitors and coordinates progress of the Project in accordance with Article 6.

“EIT” shall mean the European Institute of Innovation and Technology.

“Defaulting Party” shall mean a Party which is in breach of this Consortium Agreement and/or the FPA or SGA as specified in Article 4.2 of this Project Agreement.

“KIC EIT Food” shall mean the autonomous partnership of higher education institutions, research organisations, companies and other stakeholders in the innovation process in the form of a strategic network based on joint mid- to long-term innovation planning to achieve the EIT challenges, in the field of food, comprising the EIT Food ivzw and the KIC EIT Food Partners.

“Affiliated Entity” means any legal entity that is:

- under the direct or indirect control of a participant, or
- under the same direct or indirect control as the participant, or
- directly or indirectly controlling a participant.

‘Control’ may take any of the following forms:

- a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity;
- b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.

However, the following relationships between legal entities shall not in themselves constitute controlling relationships:

a) the same public investment corporation, institutional investor or venture-capital company has a direct or indirect holding of more than 50% of the nominal value of the issued share capital or a majority of voting rights of the shareholders or associates;

b) the legal entities concerned are owned or supervised by the same public body.

“Articles of Association” of the KIC LE shall mean the so-called “Statutes” of the KIC LE (EIT Food ivzw).

“By-Laws” of the KIC LE mean the By-Laws of the KIC LE (EIT Food ivzw).

“Access Rights are Needed” means:

For the implementation of the Project:

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

For exploitation of own Results:

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

“Software” shall mean 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.

“Framework Partnership Agreement” or “FPA” shall mean the agreement establishing the long term cooperation (“framework partnership”) between the EIT and the EIT Food ivzw and the KIC EIT Food Partners, entered into force on the date of 01.01.2018.

“Specific Agreement” or “SGA” shall mean the agreement concluded between the EIT and the KIC LE, if the EIT has decided to award a specific grant to the KIC EIT Food, in accordance with Article 2.2 of the FPA.

“Authorized Representative” shall mean the person or persons duly authorized to sign this Consortium Agreement on behalf of a Party.

“Effective Date” shall mean the date first referenced above.

“Business Plan” shall mean the yearly business plan as approved by the Partner Assembly of the EIT Food IVZW including short, mid and long-term objectives and targets, key performance indicators, and describing the KIC activities which consist of KIC Added Value Activities to be supported by the Specific Grant and KIC complementary activities having a clear link with at least one KIC Added Value Activity and not financed from the EIT contribution.

Article 2: Purpose

The purpose of this Consortium Agreement is to lay down the contractual arrangements between the Parties, regarding the Project in which the Parties are involved, in respect of the KIC Added Value Activities that will be performed by the Parties and third parties, including Project Partners in accordance with this Consortium Agreement and to further specify certain rights and obligations pertaining to them in respect thereof concerning inter alia governance of the Project, liability, Access Rights and dispute resolution.

Article 3: Entry into force, duration and termination

3.1 Entry into force

A Party becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by an Authorised Representative(s).

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

An entity becomes a new Party to this Consortium Agreement upon signature of the accession document (Annex 2) by the new Party and the Project Leader. Such accession shall have effect from the date identified in the accession document. A new Party, being a KIC Partner, shall also have the obligation to sign the "Accession Form", attached as Annex 4 to the FPA.

3.2 Duration and termination

This Consortium Agreement shall continue in full force and effect until the Project is finished on 31.12.2018.

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

If the SGA:

- is not entered into by the EIT or the KIC LE for the relevant year, or
 - is terminated by the EIT or the KIC LE,
- or if a Party's participation in the FPA or SGA for the Project is terminated,
- or if a Party's participation in its Internal Grant Agreement is terminated

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

3.3 Survival of rights and obligations

The provisions relating to Access Rights (Article 9), Dissemination and non-disclosure of information (Article 10), for the time period mentioned therein, as well as for liability (Article 5), applicable law (Article 11.7) and settlement of disputes (Article 11.8) shall survive the expiration or termination of this Consortium Agreement.

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

Article 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 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 the Project Leader 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.

4.2 Breach

In the event that a Party is in breach of its obligations under this Consortium Agreement or the FPA or the SGA (e.g. improper implementation of the Project), the Project Leader or, if the Project Leader is in breach of its obligations, the Party appointed by the General Assembly, will give formal notice to such Party requiring that such breach will be remedied within 30 calendar days of this formal notice.

If such breach is substantial and is not remedied within that period or, is not capable of remedy, the respective Project Body 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 the Project.

Article 5: Liability towards each other

5.1 No warranties

In respect of any information or materials (incl. Results and Background) supplied by one Party to another Party 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 Affiliated Entities) 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, lost goodwill, economic loss or turnover of profit, loss of revenue or loss of contracts or other economic loss, provided such damage was not caused by a wilful act or breach of confidentiality or gross negligence.

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 set out in the Project Plan, provided such damage was not caused by a wilful act, gross negligence or breach of confidentiality.

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

5.3 Material Transfer

In case of transfer of material between Parties for the performance of the Project, an agreement based on the model of the Material Transfer Agreement set forth in Attachment 6 shall be used, which may be amended to contain specific conditions regarding liabilities]

5.4 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 their use of Results or Background.

5.5 Force Majeure

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

Each Party will notify the Project Leader 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 affected tasks and grants- if any - shall be decided by the General Assembly.

Article 6: Governance structure

6.1 General structure

The General Assembly is the decision-making body of the Consortium.

The Project Leader is the legal entity acting as the intermediary between the Parties and the KIC LE. The Project Leader shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in this Project Agreement.

6.2 Members

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

Each Member shall be deemed to be duly authorized to deliberate, negotiate and decide on all matters listed in Article 6.3.6 of this Consortium Agreement.

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

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

This does not prevent the Parties from submitting a dispute for resolution in accordance with the provisions of settlement of disputes in Article 10.8 of this Consortium Agreement.

6.3 Operational procedures for the General Assembly

6.3.1 Representation in meetings

Any Member:

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

6.3.2 Preparation and organisation of meetings

6.3.2.1 Convening meetings:

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

6.3.2.2 Notice of a meeting:

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

6.3.2.3 Sending the agenda:

The chairperson shall send each Member a written original agenda no later than 4 days preceding the meeting.

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

6.3.2.5 Any decision may also be taken without a meeting if the chairperson circulates to all Members a written document which acceptance is then implied by signing the document or otherwise communicated as agreed by the Members (see Article 6.3.3 of this Consortium Agreement).

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

6.3.3 Voting rules and quorum

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

6.3.3.2 Each Member shall have one vote.

6.3.3.3 Defaulting Parties may not vote.

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

6.3.5 Minutes of meetings

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

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

6.3.5.3 The chairperson shall send the accepted minutes to all the Members of the General Assembly, and to the Project Leader, who shall safeguard them. If requested the Project Leader shall provide authenticated duplicates to Parties.

6.3.6 Decisions of the General Assembly

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

The following decisions shall be taken by the General Assembly:

Content, finances and intellectual property rights

- Changes to the Project Plan (including the Project Budget)
- Withdrawals from Attachment 1 (Background included)
- Additions to Attachment 4 (Listed Affiliated Entities)
- Additions to Attachment 3 (List of Third Parties)

Evolution of the Consortium

- Proposal to the KIC LE for entry of a new Party to the Project and approval of the settlement on the conditions of the accession of such a new Party
- Proposal to the KIC LE for withdrawal of a Party from the Project and the approval of the settlement on the conditions of the withdrawal
- Declaration of a Party to be a Defaulting Party
- Remedies to be performed by a Defaulting Party
- Proposal to KIC LE for termination of a Defaulting Party's participation in the Consortium and measures relating thereto
- Proposal to the KIC LE for a change of the Project Leader
- Proposal to the KIC LE for suspension of all or part of the Project
- Proposal to the KIC LE for termination of the Project and the Project Agreement

Appointments

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.

6.4 Project Leader

The Project Leader is the legal entity acting as the intermediary between the Parties and the KIC LE and is the first point of contact for the KIC LE regarding the Project, its progress and its participants.

6.4.1 The Project Leader shall, in addition to its responsibilities as a Party, perform the following tasks:

- monitoring compliance by the Parties with their obligations under this Project Agreement; and in particular
 - o monitoring overall project performance and the execution of decisions taken by the General Assembly of the Project;
 - o monitoring compliance of the Parties with the guidelines issued by the KIC LE's Management Board to provide reports and regular updates on the reports;
- collecting from the Parties each (calendar year):
 - a) information on technical progress; and
 - b) individual financial statements of the period to be reported on, in accordance with the requirements for annual reporting set out in Article 16. 4(b) (i) of the SGA; and
 - c) an explanation of the use of recourses and the use of subcontracting services and in-kind contributions by third parties and from each linked third party, as referred to in Article 16.4 (b) (ii) of the SGA; and
 - d) a certification of the financial statements referred to here above under b), if such financial statements pertain to a request for reimbursement of EUR 325,000 or more;
- reviewing such collected information regarding technical progress reports on consistency,
- monitoring the effective and efficient implementation of the Project;
- submitting reports (including financial statements and related certifications, as well as technical progress reports) and specific requested documents to the KIC LE;
- keeping the address list of the Parties and other contact persons updated and available;
- transmitting promptly documents and information connected with the Project.

- attending the Project review meetings by a representative in person at a time and location specified well in in mutual agreement between KIC LE and the Parties

6.4.2 If one or more of the Parties is late in submission of any of the information referred to in Article 6.2.1, or any other Project deliverable, the Project Leader may nevertheless submit the other Party's Project deliverables and all other documents required by the SGA to the KIC LE in time.

6.5 Replacement of the Project Leader

If the Project Leader fails in its tasks, the Parties may propose to the KIC LE to replace the Project Leader with another Party.

6.6 Acting on behalf of others Parties

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

6.7 Limitation of the Role of the Project Leader

The Project Leader shall not enlarge its role in the Project beyond the tasks specified in this Consortium Agreement.

6.8 Cooperation with the Project Leader

In accordance with the provisions of Article 4.1 of this Consortium Agreement, the Parties shall co-operate with the Project Leader and with the KIC LE to provide all information as is required to fulfil the reporting obligations towards the KIC LE and the EIT.

Article 7: Results

7.0 Ownership of Results

Results are owned by the Party that generates them.

However Parties agree that students may be permitted to retain ownership of their own IP in those institutions where this is standard practice, and the Party concerned shall ensure that rights to such IP is licensed or assigned to such Party.

7.1 Joint ownership

Joint ownership is governed by the FPA Article 32.2 with the following additions:

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research activities and educational purposes on a 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 otherwise Exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given:
 - (a) at least 45 calendar days advance notice; and
 - (b) Fair and Reasonable compensation.

7.2 Transfer of Results

7.2.1 Each Party may transfer ownership of its own Results following the procedures of the FPA article 36.1.

7.2.2 It may identify specific third parties it intends to transfer the ownership of its Results to in Annex 3 to this Consortium Agreement. The other Parties hereby waive their right to prior notice and their right to object to a transfer to listed third parties according to the FPA Article 36.1.

7.2.3 The transferring Party shall, however, at the time of the transfer, inform the other Party of such transfer and shall ensure that the rights of the other Party will not be affected by such transfer.

7.2.4 The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, it may be impossible under applicable EU and national laws on mergers and acquisitions for a Party to give the full 45 calendar days prior notice for the transfer as foreseen in Art. 36.1 FPA.

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

7.3 Dissemination

For the avoidance of doubt, nothing in this Section 7.3 shall have impact on the confidentiality obligations set out in Section 9.

7.3.1 Dissemination of own Results

7.3.1.1 During the Project and for a period of 1 year after the end of the Project, the dissemination of own Results by one or several Parties including but not restricted to publications and presentations, shall be governed by the procedure of Article 35.1 of the FPA subject to the following provisions.

Prior notice of any planned publication shall be given to the other Parties at least 45 calendar days before the publication. Any objection to the planned publication shall be made in accordance with the FPA in writing to the Project Leader and to the Party or Parties proposing the dissemination within 30 calendar days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted. The objection has to include a precise request for necessary modifications.

7.3.1.2 An objection is justified if

- (a) the protection of the objecting Party's Results or Background would be adversely affected
- (b) the objecting Party's legitimate academic or commercial interests in relation to the Results or Background would be significantly harmed.

7.3.1.3 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 measures are taken following the discussion.

The objecting Party can request a publication delay of not more than 90 calendar days from the time it raises such an objection. After 90 calendar days the publication is permitted, provided that Confidential Information of the objecting Party has been removed from the Publication as indicated by the objecting Party.

7.3.2 Dissemination of another Party's unpublished Results or Background

A Party shall not include in any dissemination activity another Party's Results or Background without obtaining the owning Party's prior written approval, unless they are already published. The mere absence of an objection according to Section 8.3.1.1 of this Consortium Agreement is not considered as an approval.

7.3.3 Cooperation obligations

8.3.3.1 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 Results or Background subject to the confidentiality and publication provisions agreed in this Consortium Agreement.

7.3.4 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.

7.3.5 Exclusive licenses

Where a Party wishes to grant an exclusive licence to its Results and seeks the written waiver of the other Parties, the other Parties shall respond in writing to the requesting Party within 45 calendar days of the request. Any Party's failure to respond (whether in the negative or the positive) to the request within such 45 calendar days shall be deemed to constitute written approval of the waiver by the non-responding Party.

Article 8: Access Rights

8.1 Background included

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

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

8.1.2 Any Party may add further Background to Annex 1 during the Project by written notice to the other Parties. However, approval of the General Assembly is needed should a Party wish to modify or withdraw its Background in Annex 1.

8.2 General Principles

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

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

8.2.3 Access Rights shall be free of any administrative transfer costs.

8.2.4 Access Rights are granted to and by Parties on a non-exclusive basis.

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

8.2.6 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.

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

8.3 Access Rights for implementation

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

8.4 Access Rights for Exploitation

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

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

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

8.4.3 A request for Access Rights may be made up to twelve months after the end of the Project or, in the case of Article 8.7.2.1.2, after the termination of the requesting Party's participation in the Project.

8.5 Access Rights for Affiliated Entities

Affiliated Entities have Access Rights under the conditions of the Article 37.5 FPA.

Such Access Rights must be requested by the Affiliated Entity from the Party that holds the Background or Results. Alternatively, the Party granting the Access Rights may individually agree with the Party requesting the Access Rights to have the Access Rights include the right to sublicense to the latter's Affiliated Entities listed in Annex 4. 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 fulfil all confidentiality and other obligations accepted by the Parties under the FPA and SGA or this Consortium Agreement as if such Affiliated Entities were Parties.

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

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.

8.6 Access Rights to Results generated by Third Parties

If third parties (including but not limited subgrantees) are involved in the Project and the third parties (including personnel) may claim rights to Results, the Party concerned must ensure that it complies with its obligations under the FPA und SGA.

If a third party generates Results, the Party concerned must obtain all necessary rights (transfer, co-ownership, licences or other) from the third party, in order to be able to respect its obligations as if those Results were generated by the Party itself, especially to grant Access Rights provided for in section 8 of this Agreement.

8.7 Additional Access Rights

For the avoidance of doubt any grant of Access Rights not covered by the FPA or this Project 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.

8.8 Access Rights for Parties entering or leaving the Project

8.8.1 New Parties entering the Project

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

8.8.2 Parties leaving the Project

8.8.2.1 Access Rights granted to a leaving Party

8.8.2.1.1 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 Project.

8.8.2.1.2 Non-defaulting Party

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

It may request Access Rights within the period of time specified in Article 8.4.3.

8.8.2.2 Access Rights to be granted by any leaving Party

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

8.9 Specific Provisions for Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in this Article 8 are applicable also to Software.

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

Article 9: Non-disclosure of information

9.1 All information in whatever form or mode of communication, which is disclosed by a Party (the "Disclosing Party") to any other Party (the "Recipient") in connection with the Project during its implementation and which has been explicitly marked as "confidential" at the time of disclosure, or when disclosed orally or visually has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within thirty (30) calendar days from oral or visual disclosure at the latest as confidential information by the Disclosing Party, is "Confidential Information".

9.2 The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the FPA and SGA, for a period of 4 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. The Recipients may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations.

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

9.4 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 to the best knowledge of the Recipient 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 FPA or SGA;
- 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 9.7 hereunder.

9.5 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.

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

9.7 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.

Article 10: Miscellaneous

10.1 Annexes, inconsistencies and severability

This Project Agreement consists of this core text and

Annex 1 (Background included)

Annex 2 (Accession document)

Annex 3 (List of Third Parties for simplified transfer according to Article 8.2.2)

Annex 4 (Identified Affiliated Entities according to Article 9.5)

Annex 5 (Material Transfer Agreement)

In case the terms of this Project Agreement on the one hand are in conflict with the terms of the FPA and SGA on the other hand, the terms of the latter shall prevail. In case of conflicts between the attachments and the core text of this Project Agreement, the latter shall prevail.

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

10.2 No representation, partnership or agency

No Party shall be entitled to act or to make legally binding declarations on behalf of any other Party. Nothing in this Project 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.

10.3 Notices and other communication

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

Formal notices:

If it is required in this Project Agreement that a formal notice, consent or approval shall be given, such notice shall be signed by a Party's Authorised Representative(s) 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 Project Leader. The address list shall be accessible to all concerned.

10.4 Assignment and amendments

Except as set out in Article 8.2, no rights or obligations of the Parties arising from this Project 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 Project Agreement require a separate written agreement to be signed by a Party's Authorised Representative(s).

10.5 Mandatory national law

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

10.6 Language

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

10.7 Applicable law

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

10.8 Settlement of disputes

The Parties shall endeavour to settle their disputes amicably.

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

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 calendar days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 60 calendar days, either Party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, the Parties concerned shall submit the matter for final resolution by the courts of Brussels which shall have exclusive jurisdiction.

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

Article 11: Signatures

AS WITNESS:

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

UNIVERSITY OF HELSINKI

Signature(s)

Name(s)	Marina Heinonen	Kirsi Mikkonen
Title(s)	Professor, Head of Department	Assistant Professor
Date		

ACEITES DEL SUR-COOSUR

Signature(s)

Name(s)

Title(s)

Date

CSIC

Signature(s)

Name Jesús Marco de Lucas

Title Vice-President for Scientific and Technical Research

Date

HERBSTREITH & FOX

Signature(s)

Name(s)

Title(s)

Date

TECHNION - ISRAEL INSTITUTE OF TECHNOLOGY

Signature(s)

Name(s)

Title(s)

Date

UNIVERSIDAD AUTÓNOMA DE MADRID

Signature(s)

Name(s)

Title(s)

Date

UNIVERSITY HOHENHEIM

Signature(s)

Name(s) Prof. Dr. Stephan Dabbert;

Prof. Dr. Jochen Weiss

Title(s) President

Technically responsible person

Date

VALIO

Signature(s)

Name(s)

Title(s)

Date

[Annex 1: Background included]

According to the Framework Partnership Agreement (Article 30.1) Background is defined as “data, know-how or information that is needed to implement the Project or exploit the results”. Because of this need, Access Rights have to be granted in principle, but Parties must identify and agree amongst them on the Background for the project. This is the purpose of this annex.

PARTY 8

As to Valio, it is agreed between the Parties that, to the best of their knowledge (*please choose*),

Option 1: The following background is hereby identified and agreed upon for the Project. Specific limitations and/or conditions, shall be as mentioned hereunder:

Describe Background	Specific limitations and/or conditions for implementation (Article 31.2 FPA)	Specific limitations and/or conditions for exploitation
All the data, know-how and information received during the visit at Valio Pitäjänmäki) (orally, in writing or by observation)		Background may be used solely for the purpose of execution this Project
Other material (written and oral) provided by Valio		Background may be used solely for the purpose of execution this Project

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

PARTY 4

As to Herbstreith & Fox, it is agreed between the parties that, to the best of their knowledge

No data, know-how or information of Herbstreith & Fox shall be Needed by another Party's for implementation of the Project (Article 31.2 FPA) or exploitation of that other Party's Results.

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

PARTY 5

As to TECHNION - ISRAEL INSTITUTE OF TECHNOLOGY, it is agreed between the parties that, to the best of their knowledge (*please choose*)

No data, know-how or information of TECHNION - ISRAEL INSTITUTE OF TECHNOLOGY shall be Needed by another Party's for implementation of the Project (Article 31.2 FPA) or exploitation of that other Party's Results.

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

[Annex 2: Accession document]

ACCESSION

of a new Party to

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

[OFFICIAL NAME OF THE NEW PARTY]

hereby consents to become a Party to the Project Agreement identified above and accepts all the rights and obligations of a Party 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]

Project Leader

Signature(s)

Name(s)

Title(s)

[Annex 3: List of Third Parties for simplified transfer according to Article 7.2.2.]

As to TECHNION - ISRAEL INSTITUTE OF TECHNOLOGY:

Technion Research and Development Foundation Ltd.

[Option: Annex 4: Identified Affiliated Entities according to Article 8.5]

University of Helsinki: Helsinki Innovation Services Oy, Vuorikatu 7, 00100 Helsinki, Finland

As to TECHNION - ISRAEL INSTITUTE OF TECHNOLOGY: Technion Research and Development Foundation Ltd.

Option: Annex 5: Material Transfer Agreement

Simple Letter Agreement for the Transfer of Materials concluded under and subject to the terms and conditions of the [insert acronym] Project Agreement, which is based upon Regulation (EU) No 1290/2013 of the European Parliament and of the Council of 11 December 2013 laying down the rules for the participation and dissemination in “Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)”, the Framework Partnership Agreement with the European Institute of Technology with the effective date of 01.01.2018 and the Specific Agreement entered into by the KIC LE.

In response to the RECIPIENT's request for [insert description] (the MATERIAL). The PROVIDER asks that the RECIPIENT and the RECIPIENT SCIENTIST agree to the following before the RECIPIENT receives the MATERIAL:

1. The above MATERIAL is the property of the PROVIDER and is made available solely within the frame of the project entitled “[insert full project title]”, acronym “[insert acronym]” (hereinafter the “[acronym] Project”).
2. If and to the extent that the MATERIAL constitutes a genetic resource and any associated Confidential Information constitutes traditional knowledge associated with such genetic resource, PROVIDER declares that to the best of its knowledge:
 - (i) the MATERIAL and any associated Confidential Information has been obtained, exported and imported in accordance with all applicable statutory legislation and regulations, with special consideration to the Convention on Biological Diversity, the Nagoya Protocol and any applicable access and benefit-sharing legislation or regulatory requirements;
 - (ii) it is not aware of any third party rights in the MATERIAL and any associated Confidential Information that would preclude it from supplying the MATERIAL and such associated Confidential Information to the RECIPIENT in accordance with this Material Transfer Agreement; and
 - (iii) the information contained in the Genetic Resource and/or Traditional Knowledge Form attached hereto is correct, up to date, complete and accurate.

The PROVIDER undertakes to provide the RECIPIENT with any and all information required for the RECIPIENT to fulfil its own obligations towards the country of origin, the provider country, and indigenous and local communities pursuant to the Convention on Biological Diversity, the Nagoya Protocol and any applicable access and benefit-sharing legislation or regulatory requirements.

3. THIS MATERIAL IS NOT FOR USE IN HUMAN SUBJECTS.
4. The RECIPIENT agrees not to analyze the MATERIAL beyond the purpose of the implementation of its action tasks under the Project, including analyses determining the composition, chemical properties or method of production of the MATERIAL.
5. The MATERIAL will be exclusively and restrictedly be used in the RECIPIENT's laboratory for [specify] for not-for-profit research purposes related to the [insert acronym] Project only. The MATERIAL will not be further distributed to others, either within or outside the RECIPIENT's organisation, without the PROVIDER's prior written consent.

6. The RECIPIENT agrees to acknowledge or properly refer to the source of the MATERIAL in any publications reporting use of it, unless the PROVIDER expressly indicated otherwise. In the latter case, the RECIPIENT's publications should not refer to or be linked in any way with the PROVIDER's name, or any variation, adaption or abbreviation thereof, or any trademark owned by the PROVIDER or any of its Affiliated Entities.

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

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

9. [Optional: The MATERIAL is provided at no cost.]

10. Upon completion of the Project, the RECIPIENT shall immediately cease (i) the use of the MATERIAL and (ii) return any remaining MATERIAL to PROVIDER. At the PROVIDER's request, the RECIPIENT shall destroy all materials which contain or are based on or derived from the MATERIAL or any part thereof in accordance with all applicable laws and regulations.

The PROVIDER, RECIPIENT and RECIPIENT SCIENTIST must sign both copies of this letter and return one signed copy to the PROVIDER. The PROVIDER hereby expressly waives any right it may have to litigate against the RECIPIENT SCIENTIST. The PROVIDER will then send the MATERIAL.

PROVIDER INFORMATION and AUTHORISED SIGNATURE

Provider Scientist:

Provider Organisation:

Address:

Name of Authorised Official:

Title of Authorised Official:

Signature of Authorised Official

Date

RECIPIENT INFORMATION and AUTHORISED SIGNATURE

Provider Scientist:

Provider Organisation:

Address:

Name of Authorised Official:

Title of Authorised Official:

Signature of Authorised Official:

Date:

Certification of Recipient Scientist: I have read and understood the conditions outlined in this Agreement and I agree to abide by them in the receipt and use of the MATERIAL, but I do not take any personal liability vis-à-vis the PROVIDER.

Signature of Recipient Scientist ... and Date ...