

## **SERVICE AGREEMENT**

**This Service Agreement (“Agreement”) is hereby made by and between:**

**EIT Health InnoStars e.V.**, an association having its registered seat at Mies-van-der-Rohe-Strasse 1C, 80807 München, Germany, with tax registration number DE308252541, legally represented herein by Balázs Fürjes, acting as managing director; hereinafter referred to as: **‘InnoStars’**;

and

**[Company name]**, a private limited company, having its registered office and place of business at **[Company’s address]**, with company registration number **[Company’s registration number]** and VAT number **[Company’s VAT number]**, legally represented herein by **[name of representative]**, acting as **[position of the representative]**; hereinafter referred to as: the **‘Supplier’**;

Hereinafter jointly referred to as: the ‘Parties’ or individually as a “Party”;

### **WHEREAS:**

InnoStars is an association whose funds are used to promote innovation, entrepreneurship and education in the field of health;

InnoStars has launched a procurement procedure of services (“Services”) described in Annex 1 to this Agreement via a request for proposal (Request”) and Supplier has been selected as service provider for InnoStars for the Services, based on the Supplier’s offer (“Offer”) annexed to this Agreement as part of Annex 1. The terms and conditions of the legal relationship between the Parties shall be interpreted as set in the Request and the Offer accepted by InnoStars.

Supplier has knowledge and experience in performing the Services, on the basis of a temporary engagement (hereinafter: the ‘Services’);

Supplier is willing and able to provide the Services to InnoStars, as further provided for in this Agreement.

### **NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:**

#### **Article 1: Structure of the Agreement and precedence**

- 1.1 This Agreement consists of the body of this Agreement and Annex 1 attached to this Agreement.
- 1.2 The body contains standard general provisions applicable to all Services purchased by InnoStars from Supplier under this Agreement.
- 1.3 Annex 1 contains the description of the Services and the time schedule for the delivery of such Services (extracted from Supplier’s Offer), as well as additional specific conditions and details adapted to the type of Services purchased by InnoStars from Supplier under this Agreement.
- 1.4 Both the body of this Agreement and Annex 1, as well as the InnoStars Request (as referred to in Annex 1) form the Agreement.

- 1.5 In case of discrepancy between the description of Services and time schedule in the InnoStars Request and the description of Services and time schedule in Annex 1, the InnoStars Request shall prevail. In case of discrepancy between a provision in the body and a provision in Annex 1, the provision in the body shall prevail unless the deviating provision in Annex 1 states expressly that it is specifically agreed by both Parties as being in deviation of a specific provision of the body and refers clearly to the provision of the body concerned.

**Article 2: Ordering of Services, non-applicability of Supplier's (standard) terms and conditions**

- 2.1 Supplier does not commit to provide the Services exclusively to InnoStars, and Supplier is not exclusively hired by InnoStars, unless and to the extent provided in Annex 1 as such for certain specific types of Services.
- 2.2 The contractual relationship between InnoStars and Supplier shall solely be governed by the terms and conditions of this Agreement and its Annexes. InnoStars is therefore not bound by and expressly rejects Supplier's general conditions of services and any additional or different terms or provisions that may appear on any proposal, quotation, price list, acknowledgment, invoice, packing slip or the like used by Supplier.

**Article 3: Performance of the Services, organization, quality, timely delivery, subcontracting, reporting of progress, acceptance, changes**

- 3.1 With due observance of the other provisions of the Agreement, Supplier shall perform the Services specified under Annex 1 for InnoStars under this Agreement, within the time schedule specified under Annex 1.
- 3.2 Supplier agrees to perform the Services by exercising due skill, speed and care, at a level generally required of well-reputed Suppliers in the same field as the one covered by this Agreement and shall make every effort to the best of Supplier's abilities to serve the interests of InnoStars as much as possible.
- 3.3 Supplier is free to organise the way it provides the Services and the timing thereof autonomously and at its own discretion without supervision or authority of InnoStars provided, (i) the Services are performed accurately and diligently and in accordance with the requirements of this Agreement, including the timely delivery of the Services as specified by InnoStars, and (ii) subject to specific requirements as may be stated in Annex 1 or determined by InnoStars regarding the way the Services shall be provided. Supplier may conduct its business activities from its own premises but may be requested to operate from InnoStars's premises whenever it is necessary for the performance of the Services. When performing the Services, Service Provider shall use its own tools and materials, work forces. Supplier shall be fully responsible for the proper execution of this Agreement in all respects.
- 3.4 Supplier shall arrange its personnel's own travel, should the Supplier's personnel need to travel in order to perform the Services. These costs are generally shall be covered by the Supplier as part of the service price, unless otherwise specifically provided in Annex 1.
- 3.5 Supplier shall use personnel who possess the qualifications and experience necessary for the performance of the Services. Additional requirements relating to personnel may be provided in Annex 1, as the case may be.
- 3.6 Unless otherwise specifically provided under Annex 1, Supplier may subcontract part of the provision of the Services to subcontractors, provided such subcontractors are contractually bound by similar obligations as under this Agreement, and provided Supplier has disclosed

the elements of the Agreement to be subcontracted and the identity of the relevant subcontractor to InnoStars. Supplier remains at all times responsible for the work performed by its subcontractors and for the acts, defaults and negligence of such subcontractors, and no subcontract shall create any contractual relationship between any subcontractor and InnoStars. Additional requirements relating to subcontracting may be provided in Annex 1, as the case may be.

- 3.7 In order for InnoStars and Supplier to monitor the proper performance of the Services throughout the Term of the Agreement, Supplier shall report to InnoStars progress of the performance of the Services, in writing, at intervals and under conditions specified by InnoStars.
- 3.8 If, for whatever reason, Supplier is not able to perform the agreed Services, or is not able to meet the deadlines agreed in Annex 1, Supplier shall notify InnoStars hereof promptly in writing, and shall take any reasonable measure to mitigate the consequences of such situation, in agreement with InnoStars.
- 3.9 Services delivered are subject to the acceptance of InnoStars. InnoStars shall issue a Performance certificate after completion of Services. Should InnoStars fails to reject part or all of the Services provided within 15 (or other deadline set forth in Annex 1) calendar days as from such delivery or shall not set a warranty claim during or after delivering the services, on the grounds of a lack of quantity, quality or compliance, or because of late delivery, Services shall be considered as accepted; if a Service is accepted, it does not limit InnoStars's warranty rights and Supplier's warranty obligations arising from late or defective performance. Should InnoStars reject a Service (within the above deadline) because of lack of quantity, quality or compliance, and such failure is capable of remedy, Supplier shall re-perform the rejected (part of the) Service promptly (but no later than 5 days in absence of any further instructions) at no additional charge for InnoStars. Should such failure be not capable of remedy (given the type of Service and/or the extent of the failure) or should the delivery have occurred after an essential delivery deadline which renders the Service irrelevant or useless, the Services at stake shall be considered as rescinded, and InnoStars is not obliged to provide any compensation to Supplier for such Services. If Services are partly accepted by InnoStars, the Parties shall agree on the reduced Service fee.
- 3.10 Modifications to the Services and/or other provisions of this Agreement may only be agreed by the Parties if:
- (a) mutually agreed in writing, and
  - (b) the need for modification has been brought about by circumstances which a diligent contracting entity could not foresee; and
  - (c) the modification does not alter the overall nature of the Agreement and the key terms included in the Request; and
  - (d) any increase in price is not higher than 50% of the original value of the Agreement (annual value, if the term spans over 1 year). In addition, if several successive increases in price would be agreed, the total cumulating of such successive increases shall not exceed 50% of the original (annual) value of the Agreement; and
  - (e) modifications above 10% of the original value of the Agreement should only amend specific conditions of the Agreement and be made by way of an amendment to this Agreement signed by both Parties.
- 3.11 The Parties designate the following contact persons for communication with respect to this Agreement:
- |                |                       |
|----------------|-----------------------|
| For InnoStars: | For Service Provider: |
| Name:          | Name:                 |

Phone:  
E-mail:

Phone:  
E-mail:

#### **Article 4: Compensation, invoicing and payment, expenses**

- 4.1 Supplier is entitled to charge, in respect of Supplier's Services as described under Annex 1, the compensation specified in Annex 1 for each Service.
- 4.2 Supplier may only charge the amounts under Section 4.1. corresponding to the delivered Services, after acceptance of such Services by InnoStars.
- 4.3 Further, Supplier may only charge the amounts under 4.1. subject to (i) InnoStars having received a correct invoice bearing the essential elements below, or required by law, (ii) all relevant Services and Progress Reports relating to the delivered Services so invoiced having been properly delivered to InnoStars in a timely manner (on due time) and fully accepted by InnoStars in writing (as the case may be). If the Service is partly accepted by InnoStars, Supplier shall invoice only the reduced amount as agreed by the Parties.
- 4.4 An invoice shall be considered as correct when containing the following essential elements:
- (i) the name and address of Supplier
  - (ii) the VAT identification number of Supplier
  - (iii) the VAT identification number of InnoStars
  - (iv) the name and address of InnoStars
  - (v) the invoice number
  - (vi) the invoice date
  - (vii) the date on which the Services were supplied (provided InnoStars S has accepted them pursuant to this Agreement)
  - (viii) the quantity and type of goods supplied (if applicable)
  - (ix) the nature and type of Services supplied
  - (x) the following data for every VAT tariff or exemption:
  - (xi) the price per piece or unit, excluding VAT
  - (xii) any reductions that are not included in the price
  - (xiii) the VAT tariff that has been applied
  - (xiv) the cost (the price excluding VAT)
  - (xv) in case of advance payment: the date of payment, if this is different from the invoice date
  - (xvi) the amount of VAT (with reference to 5.2).
- 4.5 By deviation to Section 4.2., Supplier may charge the amounts under Section 4.1., at the beginning of each (quarterly, monthly or other) period specified in Annex 1, if such alternative is specifically agreed by InnoStars in Annex 1. In such a case, requirements of Section 4.3. shall apply to each regular invoice.
- 4.6 The payment term applying to Supplier invoices fulfilling the requirements of this Section 4 is fixed in Annex 1.
- 4.7 All amounts corresponding to the compensation per Service, as fixed in Annex 1, shall be fixed tariffs, which may not be revised during the Term of this Agreement, unless specifically provided otherwise in Annex 1 (and within the limits of the price revision mechanisms authorised under the procurement procedure).
- 4.8 Supplier may charge expenses to InnoStars, to the extent Annex 1 provides for such possibility. Expenses shall only be paid if InnoStars has given its written approval prior to Supplier incurring said costs

- 4.9 If Supplier fails to fulfil any of its obligations under the Agreement, InnoStars may suspend payment to Supplier, upon notice to Supplier.
- 4.10 Supplier hereby unconditionally accepts that InnoStars has the right to set off any amount that InnoStars owes to Supplier under this Agreement, with any amount Supplier owes to InnoStars under this Agreement or any other agreement.

#### **Article 5: Taxes, other contributions, no employment agreement and related indemnification**

- 5.1 All tariffs are exclusive of any value added tax (VAT).
- 5.2 In the case of cross-border invoicing, and if the services under this Agreement are subject to VAT, the VAT is payable in Germany through reverse charge mechanism by InnoStars. The supplier shall invoice amount net of VAT. The invoice shall contain the following note: VAT reverse charged, DE308252541
- 5.3 In addition to Section 5.1. and 5.2., all social security, fiscal charges or taxation of any kind and contributions of any kind including but not limited to value added, levies, withholdings, unemployment, medical insurance and insurance of any kind, pensions, national insurance contributions and social security benefits, as imposed by any law, accommodation and travel costs, living expenses, or other expenses and charges arising from this Agreement, will be the exclusive responsibility of Supplier, who must pay such taxes, charges, any kind of expenses and contributions directly to the competent authorities or employees (as the case may be) (altogether called “**Contributions**”).
- 5.4 Supplier shall perform the Services hereunder as an independent contractor and not as an agent of InnoStars and nothing contained in the Agreement is intended to create a partnership, joint venture or employment relationship between the Parties irrespective of the extent of economic dependency of Supplier on InnoStars.
- 5.5 Supplier shall indemnify and keep InnoStars harmless from any claims from any authority for payment of any Contributions, including all interest charged in respect thereof, surcharges and possible administrative fines in connection with the Services performed by Supplier on the basis of the Agreement.

#### **Article 6: Intellectual property, ownership and licensing, IP infringement indemnification**

- 6.1 “**Intellectual Property Rights**” or “**IP**” shall mean patents, utility certificates, utility models, (industrial) design rights, copyrights, database rights, trademarks, trade names and trade secrets, including moral rights and any applications, renewals, extensions, combinations, divisions, discontinuations or re-issues of the foregoing.
- 6.2 Unless expressly specified otherwise in Annex 1, should the performance of the Services entail the delivery of (written) advice, reports or any other materials or results (“**Deliverables**”), the ownership of any Intellectual Property Rights in such Deliverables shall be vested in InnoStars, upon delivery.
- 6.3 In addition to Section 6.1., any item provided by InnoStars (or by a third party designated by InnoStars on behalf of InnoStars) and used to perform the Services and/or embedded in the delivered Services, shall at all times remain the ownership of InnoStars. Supplier shall have no right, title or interest in any of these items nor any trademark or trade name from InnoStars.

- 6.4 By exception to Section 6.1., Intellectual Property Rights owned or controlled by Supplier before the start of the performance of the Services shall remain the ownership of Supplier (“**Background IP**”), unless Annex 1 orders otherwise, ie. if transfer of ownership is included in the Services.
- 6.5 In the lack of transfer of ownership of IP or Background IP Supplier hereby grant a non-exclusive, royalty-free and/or fully paid-up, worldwide, irrevocable and perpetual license under the IP or its Background IP used for the performance of the Services, to InnoStars, with the right to sublicense, for the use, copy, make, have made, build-in, adapt, market, sell, lease, license distribute and/or otherwise dispose of the Services and/or Deliverables. Unless otherwise agreed by the Parties the Service fee fully covers the consideration of these rights.
- 6.6 Supplier shall not, without InnoStars’ prior written consent, publicly make any reference to InnoStars, whether in press releases, advertisements, sales literature or otherwise.
- 6.7 Unless expressly specified otherwise in Annex 1,
- 6.7.1. Supplier shall indemnify and hold harmless InnoStars, its Affiliates, partners, contractors and employees in respect of any and all claims, damages, costs and expenses (including but not limited to loss of profit and reasonable attorneys’ fees) in connection with any third-party claim that any of the Services alone or in any combination or their use infringes any third party IPRs, or, if so directed by InnoStars, shall defend any such claim at Supplier’s own expense. By “Affiliate” is meant any and all companies, firms and legal entities with respect to which now or hereafter InnoStars, directly or indirectly holds 50% or more of the nominal value of the issued share capital or 50% or more of the voting power at general meetings or has the power to appoint a majority of directors or otherwise to direct the activities of such company, firm or legal entity, including but not limitedly through a domination agreement.
- 6.7.2. InnoStars shall give Supplier prompt written notice of any such claim, provided, however, any delay in notice shall not relieve Supplier of its obligations hereunder except to the extent it is prejudiced by such delay. Supplier shall provide all assistance in connection with any such claim as InnoStars may reasonably require.
- 6.7.3. If any Services alone or in any combination, provided under the Agreement are held to constitute an infringement or if their use is enjoined, Supplier shall, as directed by InnoStars, but at its own expense: either 1) procure for InnoStars or its users the right to continue using the Services alone or in any combination; or 2) replace or modify the Services alone or in any combination with a functional, non- infringing equivalent.
- 6.7.4. If Supplier is unable either to procure for InnoStars the right to continue to use the Services alone or in any combination or to replace or modify the Services alone or in any combination in accordance with the above, InnoStars may terminate the Agreement and upon such termination, Supplier shall reimburse to InnoStars the price paid, without prejudice to Supplier’s obligation to indemnify InnoStars as set forth herein.

## Article 7: Confidentiality, documents

- 7.1 Confidential Information means any and all proprietary and/or confidential data and information, such as but not limited to commercial and/or technical information, that InnoStars, its Affiliates or representatives may disclose directly or indirectly, whether in writing or any other form, to Supplier that is related to the Service, which (a) is marked as “confidential” or “proprietary” or words of similar import when disclosed, and (b) is orally disclosed and is summarized and described as confidential in a writing that is delivered to Supplier within fifteen (15) days of disclosure.



- 7.2 During the period beginning on the Effective Date and continuing for a period of five (5) years thereafter (the “**Confidentiality Period**”), Supplier agrees not to: (i) use InnoStars’ Confidential Information for any purpose other than for the Service; and (ii) disclose InnoStars Confidential Information to any third party, except to its employees and other persons under its supervision that are operating within its organization, including without limitation, its Partners’ employees who (A) have a legitimate “need to know” to accomplish the Service, and (B) are obligated to protect such Confidential Information pursuant to terms and conditions not less restrictive than those contained in this Agreement. Supplier shall protect InnoStars’ Confidential Information as required hereunder using the same degree of care, but no less than a reasonable degree of care, as Supplier uses to protect its own confidential information of a like nature.
- 7.3 Supplier’s obligations above shall not apply to any data or information that it can prove: (a) is lawfully available to Supplier, prior to the time of receipt from InnoStars as verified by written records; (b) is or becomes publicly available without violation of this Agreement or any other obligation of confidentiality and through no act or omission of Supplier; (c) is lawfully furnished to Supplier by a third party without use or disclosure restrictions; or (d) is developed by Supplier without use of or reference to any of InnoStars’ Confidential Information. Furthermore, a disclosure by Supplier that is required pursuant to any judicial or governmental proceeding shall not be considered a breach of this Agreement, provided that Supplier promptly after learning of such action shall notify, to the extent permitted by applicable law, InnoStars thereof to give Supplier the opportunity to contest disclosure or to seek any available legal remedies to maintain such information in confidence.
- 7.4 Supplier is not permitted - alone or with or through others – to remove, dispatch, transmit or allow any third parties to inspect, use or otherwise have access to any property belonging to InnoStars or any of its Affiliates, including but not limited to any notes, drawings, letters, formulas, recipes, other documents and/or any copies thereof, tools, designs, products manufactured or (copies of) computer files or other data carriers, unless InnoStars has given its prior written permission to any such action.
- 7.5 InnoStars shall remain the owner of all property it has made available to Supplier in connection with this Agreement.
- 7.6 Supplier shall make all property belonging to InnoStars (or its Affiliates) such as, but not limited to any notes, drawings, letters, formulas, recipes, other documents and/or copies of such matters, tools, models, finished products, (copies of) automated files or other data carriers, which come into its possession during the term of this Agreement, available to InnoStars in good condition immediately upon initial request, but in any case on the day on which the Agreement ends.

## Article 8: **Personal data**

- 8.1 For the purpose of this Agreement
- ‘**Personal Data**’ shall mean any and all information relating to an identified or identifiable individual, including but not limited to InnoStars current or former employees, employee family members, dependents or beneficiaries, customers, consumers, suppliers, business partners or contractors;
  - ‘**Processing**’ shall mean any operation or set of operations performed or to be performed upon Personal Data, whether or not by automatic means, such as creation, access, collection, recording, organization, storage, loading, employing, adaptation or alteration, retrieval, consultation, displaying, use, disclosure, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

- 8.2 Where Supplier in the performance of the Tasks processes Personal Data received from InnoStars, for such data processing the Data Processing Agreement attached to and being part of this Agreement as *Annex 2 'Data Processing Agreement'* (hereinafter referred to as '**DPA**') shall apply. Parties expressly provide that the DPA shall be concluded by the Parties upon and by signature of this Agreement.

## **Article 9: Liability, indemnification, insurance**

- 9.1 Supplier shall indemnify and hold harmless InnoStars, its Affiliates, agents and employees, from and against all suits, actions, legal or administrative proceedings, claims, demands, damages, judgments, liabilities, interest, attorneys' fees, costs and expenses of whatsoever kind or nature (including but not limited to special, indirect, incidental, consequential damages), whether arising before or after completion of the performance of the Services covered by the Agreement, in any manner caused or claimed to be caused by the acts, omissions, faults, breach of express or implied warranty, breach of any of the provisions of this Agreement, or negligence of Supplier, or of anyone acting under its direction or control or on its behalf, in connection with Services or any other information furnished by Supplier to InnoStars under the Agreement.
- 9.2 Supplier warrants that it has taken out sufficient insurance against damage, costs and interest, or has made a sufficient provision for this purpose and is obliged to fully disclose to InnoStars immediately upon initial request all the (policy conditions of the) aforementioned insurance(s) and/or provisions. Supplier shall indemnify InnoStars and shall pay its insurance proceeds to InnoStars and furthermore indemnify for the excess amount of the total claim of damages that is not covered by the insurance of Supplier or any other insurance. InnoStars shall be entitled to take legal action against Supplier.
- 9.3 Neither Party excludes or limits its liability for death or personal injury arising from its own negligence, fraud, breach of confidentiality or for any liability that cannot by law be excluded or limited.
- 9.4 Neither Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue, loss of contracts or business opportunities or loss of data, provided such damage was not caused by a wilful act or by a breach of confidentiality. InnoStars' liability towards Supplier is limited to the amount due to Supplier for completed performance under the Agreement.
- 9.5 Subject always to Section 9.3., depending on the nature of the Services and the liability risk associated therewith, a cap to the liability of Supplier under this Agreement may apply only if expressly mutually agreed in writing in Annex 1.

## **Article 10: Suspension, termination of the Agreement**

- 10.1 The Agreement is entered into as from the Effective Date specified in Annex 1 and shall end by operation of law, without the requirement of prior notice of termination, on the date the last of the Services have been delivered by Supplier, accepted and paid by InnoStars ("**Term**"). The deadline for delivering the last Services is determined in Annex 1.
- 10.2 InnoStars may terminate this Agreement without reason fully or partially with 14 calendar days notice period.
- 10.3 InnoStars may suspend, withdraw, dissolve or terminate this Agreement fully or partially with immediate effect without Supplier incurring any penalty or compensation claims (extraordinary termination notice) if and as soon as:



- (a) InnoStars, in its reasonable discretion, determines that Supplier is not able to perform the Services as required; or
  - (b) Supplier fails to provide InnoStars with adequate assurance of performance following request by InnoStars; or
  - (c) Supplier files a petition for bankruptcy or is declared bankrupt; or
  - (d) Supplier has become unable to pay its debts as they fall due or make any special arrangement(s) or composition with its creditors;
  - (e) Supplier enters into voluntary or judicial liquidation;
  - (f) the business of Supplier ceases to exist or control or ownership is taken over by a third party;
  - (g) as a result of the termination of the European Programme(s) which requested InnoStars to enter into this Agreement (as the case may be);
  - (h) Supplier is subject to a Conflict of Interest;
  - (i) the Parties cannot reach a common understanding on any issues to be decided during performance under this Agreement.
- 10.4 As from receipt of a termination notice from InnoStars (under any legal ground), Supplier shall suspend all of its Services and agree with InnoStars whether to bring part of the terminated Services to a closure. If InnoStars require part of the terminated Services to be completed, Supplier has to finish them in a prompt and orderly manner and to reduce expenditure to a minimum. InnoStars is not obliged to pay for any Services that were not approved by InnoStars.
- 10.5 Supplier may, after giving 14 calendar days written notice to InnoStars, terminate the Agreement if InnoStars:
- (a) fails for more than 120 calendar days to pay Supplier the amounts due after the expiration of the payment term stated in Section 4; or
  - (b) consistently fails to meet its material obligations after repeated reminders; or
  - (c) suspends the progress of the Services or any part thereof for more than 90 calendar days for reasons not specified in the Agreement, or not attributable to Supplier's breach or default.

#### **Article 11: Safeguarding of EU's financial interest and conflict of interest**

- 11.1 Supplier accepts without reservation that during the implementation of the Agreement and for four (4) years after the completion of the Agreement, InnoStars has the right for the purposes of safeguarding the EU's financial interests, the Request, the Offer and the Agreement with Supplier may be transferred to internal audit services, the EIT, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office ('safeguarding the EU's financial interests').
- 11.2 Supplier confirms that it shall take all measures to prevent any situation where the impartial and objective implementation of the Agreement is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest ('Conflict of interests'). The contractor is obliged to inform InnoStars immediately if there is any change in the above circumstances at any stage during the implementation of the tasks under the Agreement.

#### **Article 12: Miscellaneous**

- 12.1 All notices given under this Agreement shall be given in writing. Any communication to be served on either Party by the other party shall be delivered by hand or sent by first class post

or recorded delivery or by e-mail. It shall be deemed to have been delivered: (i) if delivered by hand: on the day of delivery; (ii) if sent by post to the correct address: on the day of delivery, if the delivery fails due to any reason, on the 3<sup>rd</sup> day after posting; (iii) if sent by e-mail to the address indicated or generally used by the receiving party during normal operation on the date indicated in the delivery receipt or in the reply mail if the delivery is acknowledged or replied to, or on the 3<sup>rd</sup> day after sending the e-mail if no delivery receipt or reply received by the sender. Any subsequent change of address shall be promptly notified by the Party concerned to the other Party and embodied in an amendment to the preamble of this Agreement.

- 12.2 In the event that Supplier is prevented from performing any of its obligations under the Agreement for reason of force majeure (being an event unforeseeable and beyond the control of Supplier) and Supplier has provided sufficient proof for the existence of the force majeure, the performance of the obligation concerned shall be suspended for the duration of the force majeure. InnoStars shall be entitled to terminate the Agreement with immediate effect by written notice to Supplier, immediately if the context of the non-performance justifies immediate termination, and in any event if the circumstance constituting force majeure endures for more than thirty (30) days and, upon such notice, Supplier shall not be entitled to any form of compensation in relation to the termination. Force majeure on the part of Supplier shall in any event not include shortage of personnel or production materials or resources, strikes, epidemic or pandemic, breach of contract by third parties contracted by Supplier, financial problems of Supplier, nor the inability of Supplier to secure the necessary licenses in respect of software to be supplied or the necessary legal or administrative permits or authorizations in relation to the Services to be supplied.
- 12.3 Supplier shall not transfer, pledge or assign any of its rights or obligations under the Agreement without the prior written consent of InnoStars. Any such pre-approved, transfer, pledge or assignment shall be null and void and have no effect vis-à-vis such third party.
- 12.4 The rights and remedies reserved to InnoStars are cumulative and are in addition to any other or future rights and remedies available under the Agreement, at law or in equity.
- 12.5 Neither the failure nor the delay of InnoStars to enforce any provision of the Agreement shall constitute a waiver of such provision or of the right of InnoStars to enforce each and every provision of the Agreement.
- 12.6 No course or prior dealings between the Parties, no course of performance, and no usage of the trade shall be relevant to determine the meaning of the Agreement and to modify the provisions of this Agreement.
- 12.7 No waiver, consent, modification or amendment of the terms of the Agreement shall be binding unless made in writing specifically referring to the Agreement signed by InnoStars and Supplier.
- 12.8 In the event that any provision(s) of this Agreement shall be held invalid, unlawful or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions of the Agreement. Any such provision held invalid, unlawful or unenforceable, shall be substituted by a provision of similar import reflecting the original intent of the clause to the extent permissible under applicable law.
- 12.9 All terms and conditions of the Agreement which are destined, whether express or implied, to survive the termination or the expiration of the Agreement, including but not limited to Intellectual Property, Confidentiality and Personal Data, shall survive.

- 12.10 The Agreement shall be governed by and construed in accordance with the laws of the country or state in which the InnoStars back office is located; at the time of signing this Agreement, the back office is located in Budapest, so the Hungarian law shall be applied.
- 12.11 Supplier and InnoStars each consents to the exclusive jurisdiction of the competent courts in (i) the country or state in which the InnoStars back office is located; or (ii) at the option of InnoStars, the jurisdiction of the entity of Supplier to which the order was placed. The court proceeds in accordance with procedural rules of the country or state of competent court(s). Supplier hereby waives all defences of lack of personal jurisdiction and forum non-convenience.
- 12.12 The United Nations Convention on International Sale of Goods shall not apply to the Agreement.
- 12.13 The signature of a Party by means of a scan or digitization of the original signature (e.g. a scan in PDF format) or an electronic signature (e.g. via AdobeSign), counts as an original signature with the same validity, enforceability and permissibility. Each Party receives a fully signed copy of the Agreement. The transfer of this copy by e-mail or via an electronic signature system will have the same legal force and legal effect as the transfer of the original copy of the Agreement.

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EIT Health InnoStars e.V.

Balázs Fürjes

Managing Director

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Company name

Name of legal representative

Position

## Annex 1 to the Service Agreement

In addition to the general terms and conditions specified in the body of the Service Agreement, the Parties hereby agree on the following specific conditions and details:

1. Description and timing of the Services subject to the Request and the body of the Agreement and detailed description of the types of Services and Deliverables (as per Section 6.2 of the Agreement) covered by the Agreement:

**Description of tasks:**

**Deliverables:**

2. Price of the Services (as per Section 4 of the Agreement):

In application of Section 4.1. of the Agreement, the following Services shall be remunerated on the basis of a fixed fee, as follows:

Services	Price
[subject of the services]	[(unit) price of the services]

\* Due to cross-border invoicing, the VAT is payable in Germany through reverse charge mechanism by InnoStars. The supplier shall invoice amount net of VAT. The invoice shall contain the following: VAT reverse charged: DE308252541

3. Billing schedule (as per Section 4. of the Agreement)

Supplier may issue its invoices not earlier than as follows:

Payment 1 – [description]	[date or milestone]
Payment 2 - [description]	[date or milestone]
Payment 3 - [description]	[date or milestone]

Payment shall be made upon the acceptance of the services and the deliverables.

4. Payment term applying to Supplier invoices (as per Section 4 of the Agreement):

Payment term (expressed in calendar days)	30 days
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5. Term of the Agreement (as per Section 10 of the Agreement):

In application of Section 10.1. of the Agreement, the Effective Date on which the Agreement starts and the Termination Date on which the Agreement shall terminate automatically are set forth below:

Effective Date (start of the Agreement)	Termination Date (i.e., date on which the last Service is expected to be delivered)
[starting date of the Agreement]	[end date of the Agreement]

## Annex 2 to the Service Agreement

### DATA PROCESSING AGREEMENT (‘DPA’)

#### entered into by and between

**InnoStars** as it has been defined in the body of the Agreement

and

the **Supplier** as it has been defined in the body of the Agreement,

related to the Service Agreement (hereinafter referred to as: ‘**Agreement**’) concluded by the Parties.

This DPA covers the data processing operations performed by the Supplier as Data Processor, on the personal data transmitted or made available by InnoStars as the Data Controller to the Supplier during and for the performance of the service provided by the Supplier to InnoStars. Hereinafter InnoStars act as a Data Controller and Supplier act as a Data Processor.

Parties enter into this DPA for the purpose of determining the conditions for the processing of personal data provided by InnoStars to the Supplier.

#### I. Preliminary Provisions

1.1. Parties declare that during the performance of the Agreement personal data shall become available to Supplier considering that

- processing of certain personal data is handled by Supplier in the name and on behalf of InnoStars, or
- during performance of its own service and the performance of its tasks, Supplier may have access to personal data processed by InnoStars too.

1.2. Provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Regulation (EC) No 95/46 (hereinafter referred to as: **GDPR**) is applied to the Parties’ relationship.

1.3. Terms of Use in this DPA:

**‘Processing’**: any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

**“Data Controller”**: determines purposes and means of the processing of personal data;

**“Data Processor”**: processing personal data in the name and on behalf of the Data Controller.

1.4. Unless the circumstances clearly indicate otherwise, terms used in this DPA but are not defined shall have the same meaning as in determined by GDPR.

1.5. The legal relationship between the Parties is also governed by the instructions issued by InnoStars at its own discretion and the required security measures.

- 1.6. In case of any inconsistency or conflict between the provisions of this DPA and the other documents related to the data processing, the special provisions shall prevail and enjoy priority, unless otherwise expressly set forth in this DPA.
- 1.7. The Supplier shall, to the extent required under applicable data protection laws in accordance with InnoStars' written and communicated instructions in each case, assist InnoStars in fulfilling its legal obligations under such laws. The Supplier shall be obliged to provide such assistance only insofar that InnoStars' obligation cannot be met by InnoStars through other means.
- 1.8. The Supplier shall immediately inform InnoStars if, in its opinion, an instruction provided under this DPA infringes applicable data protection laws.
- 1.9. If data subjects, competent authorities or any other third parties request information from Supplier regarding the processing of personal data, Supplier shall refer such request to InnoStars.
- 1.10. Supplier may not and is also not obliged to in any way act on behalf of or as a representative of InnoStars and may not, without prior instructions or consent from InnoStars, transfer or in any other way disclose personal data or any other information relating to the processing of personal data to any third party.
- 1.11. This DPA is concluded by the Parties for the duration of the DPA. In the event of termination of the Agreement, this DPA shall also terminate automatically; this DPA shall otherwise remain in force as long as Supplier handles personal data on behalf of InnoStars and the Parties' legal relationship related to data processing is closed, the personal data processed will be deleted or returned.
- 1.12. At the choice of InnoStars, the Supplier is obliged to delete or return all the personal data to InnoStars after finishing the provision of services relating to the Agreement, and deletes existing copies unless Union or Member State law requires storage of the personal data.

## II. Main features of data processing

- 2.1. The processing of personal data is ordered by InnoStars by ordering the service under the Agreement and providing personal data. The purpose of data processing is solely to properly perform the duties of the Supplier as specified in the Agreement.
- 2.2. The subject of data processing, the data processing operations, the purpose, location and means(s) of the data processing, scope of data processed (data categories) and the data subjects whose data are affected by the processing (hereinafter referred to as: **Data Subjects**) are determined as follows:
- 2.2.1. The description of data handling process (operations):
- assessing applications for funding (including tenders)
  - evaluating proposals received in response to a Call for Proposals when selecting beneficiaries for a competition/programme
  - evaluating the annual Business Plans and pitch decks prepared by start-ups
  - supporting InnoStars' partners in developing business plan proposals
  - evaluating the business plan proposals prepared by partners
  - participating as a jury member in various competitions organised by InnoStars
  - mentoring, training, and coaching
  - moderators, facilitators, and speakers for online or offline events workshops, 1:1 meetings, webinars for beneficiaries, partners or start-up teams
  - receive Supplier opinions and advice on specific issues.
- 2.2.2. Scope of the data processed (data categories): name and contact details of persons (e-mail address, phone number, address).
- 2.2.3. Data subjects (Data Subjects): applicants, partners and their contact persons.
- 2.2.4. Purpose of data processing operations: In order to perform the above activities, Supplier receives documents and inquiries containing personal data of applicants, partners, members of jury, and therefore has access to personal data, keeps in touch with the persons and uses their data in preparation of further materials.



- 2.2.5. Location and means(s) of the data processing operations: Site and IT equipment used by the Supplier.
- 2.3. The duration of data processing related to the data provided shall be determined by InnoStars, which may extend up to the termination of the Agreement.
- 2.4. During data processing, the Supplier shall perform only data management operations necessary for the performance of tasks specified in the Agreement on personal data provided by InnoStars.
- 2.5. Supplier undertakes to process personal data on InnoStars' behalf and according to its orders for the purpose of fulfilling its contractual obligations and under conditions determined by InnoStars and personal data shall not be used for any other purposes including that it may not give access to the data or may not transfer the data to third parties.

### III. Sub-Processors

- 3.1. The Supplier shall not engage another processor (hereinafter referred to as: **Sub-Processor**) without prior specific or general written authorisation of the controller. In the case of general written authorisation, the Supplier shall inform InnoStars of any intended changes concerning the addition or replacement of other Sub-Processors, thereby giving the controller the opportunity to object to such changes. The engagement of the Sub-Processor may be subject to reasonable conditions determined by the Supplier.
- 3.2. Supplier, as the Data Processor shall ensure that sub-processors are bound by a contract that requires it to comply with substantially the same data processing obligations to those contained in this DPA (considering the scope of data processing by the respective sub-processor).
- 3.3. Sub-Processor is obliged to provide sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of GDPR. Where that Sub-Processor fails to fulfil its data protection obligations, the Data-Processor shall remain fully liable to the Data Controller for the performance of Sub-Processor's obligations.

### IV. Information security and confidentiality

- 4.1. During its operation, Supplier is responsible for the security of the data and ensures that only those employees and contributors who have the task of contributing to the performance of the service provided to InnoStars have access to the data and perform data processing operations.
- 4.2. The Supplier shall take measures related to the security of data processing, especially be obliged to take such technical and organizational measures to protect the personal data which the Parties deem appropriate considering
- (i) existing technical possibilities;
  - (ii) costs for carrying out the measures;
  - (iii) particular risks associated with the processing of personal data; and
  - (iv) sensitivity of the personal data which is processed.
- 4.3. The minimum technical and organizational conditions of InnoStars related to data process:
- 4.3.1. The transmission of personal data may be carried out on paper or electronically, in the latter case only through encrypted channels protected by a firewall.
  - 4.3.2. The communication channel between the data storage devices, the server and the server-Data Processor must be protected against unauthorized intrusion at several levels.
  - 4.3.3. Devices and servers need strong firewalls and installed software to protect them from malicious viruses.
  - 4.3.4. Parties are obliged to store all transferred data and all copies of them in a safe place and to ensure that they are not accessible to third parties.

- 4.3.5. Parties shall select and operate the IT tools used to process personal data in such a way that the data processed:
- accessible to those entitled to it (availability);
  - authenticity and authentication are guaranteed (authenticity);
  - its invariability can be verified (data integrity);
  - be protected against unauthorized access (confidentiality).
- 4.3.6. Parties shall take appropriate measures to protect the data and the data media containing them against unauthorized access, alteration, transmission, disclosure, deletion or destruction, and accidental destruction.
- 4.3.7. Data stored electronically must be backed up on a weekly basis and stored on an external storage device. The parties are obliged to ensure the storage, safe storage and, if necessary, closure of the data storage devices containing the data.
- 4.3.8. Documents may only be printed from the storage media if necessary and handled with the utmost care, and may only be handed over to the person authorized to do so.
- 4.3.9. The means of protection are technical, organizational, programming and legal measures in accordance with the current technical development, which facilitate or ensure the protection of the subject of protection against the harmful effects and intentions of various sources of protection and provide a level of protection appropriate to data management risks.
- 4.3.10. The Supplier during data management
- maintains
    - confidentiality: protects information so that only those who have access to it can access it;
    - integrity: protects the accuracy and completeness of the information and the method of processing;
  - ensures availability: ensures that when an authorized user needs it, they can actually access the information they need and have the tools to do so.
- 4.3.11. The data is stored and managed using Microsoft office applications, which are protected by access passwords and a screen saver. The computer systems and other data storage locations of the Parties shall be located at their headquarters, premises or branches, or on computer equipment and other devices owned or lawfully in their possession, no data processing shall take place elsewhere.
- 4.4. The Supplier shall notify InnoStars of any accidental or unauthorized access to the personal data processed on behalf of InnoStars or any other data protection incidents involving personal data processed on behalf of InnoStars within 24 (twenty-four) hours of becoming aware of such incidents.
- 4.5. The notification related to the data protection incident shall to the extent the information is available to the Supplier:
- describe the nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
  - communicate the name and contact details of the data protection officer or other contact point where more information can be obtained;
  - describe the likely consequences of the personal data breach;
  - describe the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects;
  - include any other information available to the Supplier which InnoStars is required to notify to the data protection authorities and/or the data subjects.
- 4.6. Parties intend to record that a data protection incident is a breach of security that results in the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or unauthorized access to, personal data transmitted, stored, or otherwise handled or processed.

- 4.7. Supplier will provide reasonable assistance requested by InnoStars in order to investigate security breach.
- 4.8. Supplier shall ensure that staff who have access to the data is bound by a confidentiality statement or are under an appropriate statutory obligation of confidentiality.
- 4.9. Duties of confidentiality related to data processing shall survive the term of this DPA.

## **V. Audit rights**

- 5.1. Upon InnoStars' written request, Supplier may, at its own discretion, in order to fulfil the audit requirements according to applicable data protection law, choose to provide InnoStars with the most recent certifications and/or audit report(s) concerning the security measures for the services or environment used to provide the services. Supplier will reasonably cooperate with InnoStars and provides available additional information to help InnoStars better understand such security measures.
- 5.2. To the extent it is not possible to otherwise satisfy an audit obligation mandated by applicable law, InnoStars (by itself or another auditor bound by a confidentiality obligation and not being a competitor of the Supplier) may conduct an onsite audit of the facilities used to provide the services, and only in a manner that causes minimal disruption to the Supplier's business and in accordance with Supplier's security policies to reduce any risk to Supplier's other customers.
- 5.3. Audits shall be conducted at InnoStars' expense and may be conducted subject to the following terms and conditions:
  - (i) the audits shall not include access to any systems, data or information relating to other customers of the Supplier;
  - (ii) InnoStars' audit shall be restricted to such information, material and data which are relevant and connected to the Supplier's processing data on behalf of InnoStars; and
  - (iii) audits shall not exceed three (3) business days in duration unless the Parties otherwise agree in writing in advance or specific circumstances calls for a longer audit (for example if InnoStars has reason to believe that a security breach has occurred or may occur).

## **VI. Liability and indemnification**

- 6.1. The Supplier is obliged to assist in the exercise of the rights of the Data Subject and to co-operate with InnoStars in this, and taking into account the nature of the processing, assists InnoStars by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of InnoStars' obligation to respond to requests for exercising the Data Subject's rights. At the request of InnoStars, the Supplier is obliged to correct, delete or process the personal data concerning the Data Subject at his/her request.
- 6.2. InnoStars undertakes that if it becomes aware that the Data Subject objects in any way to the processing or transmission of his/her data in connection with the processed data, InnoStars shall immediately communicate its information to the Supplier, who shall perform its duties accordingly, if the Data Subject's request for data processing allows the performance of the tasks.
- 6.3. If the Supplier receives a request or complaint directly from the Data Subject concerning the processing of personal data or the exercise of his/her rights, the Supplier is obliged to forward the request or complaint to InnoStars without delay and in as much detail as possible. The Supplier may not process such a request or complaint without the instructions of InnoStars.
- 6.4. The Supplier makes available to InnoStars all information necessary to demonstrate compliance with the obligations determined by the Parties' legal relation and allow for and contribute to audits, including inspections, conducted by InnoStars or another auditor mandated by InnoStars.
- 6.5. The Parties will defend, indemnify, and hold harmless the other Party and the Party's officers, directors, employees, successors, and agents from all claims, damages, liabilities, assessments, losses, costs, administrative fines and other expenses (including, without limitation, reasonable

attorneys' fees and legal expenses) arising out of or resulting from any claim, allegation, demand, suit, action, order or any other proceeding by a third party (including supervisory authorities) that arises out of or relates to the violation of obligations under this DPA and/or applicable data protection law or is in connection with these and which is attributable to the other Party.

## **VII. Miscellaneous**

- 7.1. No waiver, consent, modification or amendment of the terms of this DPA shall be binding unless made in writing.
- 7.2. In the event that any provision(s) of this DPA shall be held invalid, unlawful or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, such holding or action shall not negate the validity or enforceability of any other provisions of this DPA. Any such provision held invalid, unlawful or unenforceable, shall be substituted by a provision of similar import reflecting the original intent of the clause up to the extent permissible under the applicable law.
- 7.3. Neither the failure nor the delay to enforce any provision of this DPA shall constitute a waiver of such provision or of the right to enforce each and every provision of this DPA.
- 7.4. For the applicable law and jurisdiction the relevant regulations of the Agreement shall be applied.
- 7.5. The foregoing has been approved by the Parties through their legal and authorized representatives in accordance with their will.