

Revenue Sharing model and Agreement template

KIC driven activities and projects

To uphold the principles of EIT Health financial sustainability, all activities selected in EIT Health's portfolio and receiving funding must commit to contributing to the long-term financial sustainability targets of the KIC (EIT Health) and will be required to enter into a Financial Sustainability agreement. This agreement establishes a framework for responsible financial management, where beneficiaries are obligated to sign the Financial Sustainability agreement, acknowledging their commitment to adhere to the specified EIT Health financial models.

The "Revenue Sharing" model is a revenue distribution plan that shall be primarily contributed by EIT Health, who are expected to be the Industry Partner that commercialise the product or service.

A shared revenue plan will be defined at the full proposal stage submission by EIT Health in agreement with all the partners of the consortium. This must be in alignment with all the following **key principles and conditions** for the Revenue Sharing model:

- **EIT Health' Role in Commercialisation and Revenue Generation:** EIT Health will assume a leadership role in commercialisation for 100% of the activities within the consortium. This proactive involvement is aimed at optimising commercial opportunities and ensuring the long-term viability of the activities. Revenues generated from the final activity will be to sustain the initiatives beyond the funding period.
- **Offsetting 100% of the Grant Prior to revenue distribution:** The Revenue Sharing model is based in the commitment of offsetting 100% of the grant before the revenue sharing kicks in. This ensures that all initial funds are utilised efficiently, and the subsequent revenues generated contribute directly to the sustainability of the activities.
- **Revenues distribution on a 50/50 Basis:** Once the grant has been offset by revenues, an equitable 50/50 revenue distribution arrangement will be implemented. This ensures a fair distribution of financial benefits among the consortium members, fostering a collaborative and mutually beneficial approach to the project's success.

The EIT Health “Revenue Sharing” model is designed to maximise the impact of the consortium activities by combining strategic commercialisation efforts with a fair and transparent revenue-sharing framework, ensuring the continuation of the initiatives and establishing a foundation for sustained success and growth.

If the project is accepted into the portfolio, details of the Revenue Sharing will be agreed prior to the signing of the Project Grant Agreement (PGA) and will be outlined in the agreement. As such, the consortium agrees to commit to the financial sustainability contract to be completed after project approval.

Indeed, the Revenue Sharing mechanism and conditions must be fully defined and agreed upon in writing by both parties before the project starts, i.e., **release of project funding is contingent on a fully executed financial sustainability agreement between EIT Health and the consortium partners.**

EIT Health revenues from these projects will be invested in future innovation opportunities for the network.

EIT Health Education and Training

Financial Sustainability Agreement

relating to
[Programme]

PARTIES

(1) **EIT Health e.V.**, an association registered under the laws of Germany with the commercial register at the local court of Munich, Germany, registration no. VR 206069 with statutory seat in Munich, Germany, having its business address at Mies-van-der-Rohe-Str. 1C, 80807 Munich, Germany

- “EITH” -

(2) [●], a [●] under the laws of [●] with its statutory seat in [●], registered with the commercial register at [●], under registration no. [●], having its business address at [●]

- “[●]” -

(3) [●], a [●] under the laws of [●] with its statutory seat in [●], registered with the commercial register at [●], under registration no. [●], having its business address at [●]

- “[●]” -

(4) [●], a [●] under the laws of [●] with its statutory seat in [●], registered with the commercial register at [●], under registration no. [●], having its business address at [●]

- “[●]” -

(5) [●], a [●] under the laws of [●] with its statutory seat in [●], registered with the commercial register at [●], under registration no. [●], having its business address at [●]

- “[●]” -

- all of (2) through and including (5),
hereinafter collectively the “Partners” or the “Consortium Members” and each a
“Partner” –

- all of (1) through and including (5),
hereinafter collectively the “Parties” and each a “Party” -

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1. Preamble

- 1.1 EITH was established in 2015 within the framework of one of the largest healthcare initiatives worldwide, leveraging the expertise of close to 150 leading organizations and spanning the key areas of the healthcare industry (“**EIT Health Initiative**”). The consortium behind the EIT Health Initiative was chosen by the European Institute of Innovation and Technology (“**EIT**”) to form a Knowledge and Innovation Community (KIC). The EIT Health Initiative’s mission is to accelerate entrepreneurship and innovation in healthy living and active ageing by providing EU top talents with new opportunities and resources, for the benefit of all citizens.
- 1.2 With the programme [please insert name of the programme] (“**Programme**”) the EIT Health Initiative aims to reduce the gap between academia and enterprises to upskill learners on new innovative techniques and provide them with the practical knowledge for an entrepreneurial career. The Programme is / will be realised by the Partners via individual projects (each a “**Project**”).
- 1.3 The products and/or services that will be developed in the context of a Project during the term of the Programme will be commercialized by EITH solely. This proactive involvement is aimed at optimising commercial opportunities and ensuring the long-term viability of the activities.
- 1.4 EITH has entered – inter alia – into the following agreements with the Partners:
 - 1.4.1 Grant Agreement dated on [●] (“**GA**”), which governs the provision of funding by EITH to the Partners for the activities within a Project.
 - 1.4.2 Financial Support Agreement dated on [●] (“**FSA**”), flowing down the provisions of the GA.
- 1.5 To uphold the principles of EITH’s financial sustainability, all activities selected in EITH’s portfolio and receiving funding must commit to contributing to the long-term financial sustainability targets of EITH.
- 1.6 In order to comply with EITH’s financial sustainability strategy, the Parties wish to enter into this Financial Sustainability Agreement (“**Agreement**”).

NOW, THEREFORE, the Parties agree as follows:

2. Definitions

In this Agreement, except where the context requires a different interpretation, the words and expressions set out below shall have the following meanings:

- 2.1 “**Affiliate**” means a business enterprise affiliated with one Party within the meaning of sec. 15 et seqq. of the German Stock Corporation Act (*AktG*).
- 2.2 “**Agreement**” has the meaning as defined in Section 1.6.
- 2.3 “**Auditor**” has the meaning as defined in Section 5.3.1.

- 2.4 **“Business Day”** means any day (other than a Saturday, Sunday or legally recognized public holiday in Munich, Germany) on which banks are open for non-automated business to the general public in Munich, Germany.
- 2.5 **“Confidential Information”** has the meaning as defined in Section 7.1.
- 2.6 **“Consortium Members”** has the meaning as defined under PARTIES.
- 2.7 **“Compensation Period”** shall mean the period during starting on [●] and ending [●].
- 2.8 **“EIT”** has the meaning as defined in Section 1.1.
- 2.9 **“EIT Health Initiative”** has the meaning as defined in Section 1.1.
- 2.10 **“Funding”** is the funding granted by EITH to the Partners under the GA.
- 2.11 **“Funding Amount”** has the meaning as defined in Section 4.1.
- 2.12 **“FSA”** has the meaning as defined in Section 1.4.1.
- 2.13 **“GA”** has the meaning as defined in Section 1.4.2
- 2.14 **“Partner” / “Partners”** has the meaning as defined under PARTIES.
- 2.15 **“Partners’ Revenue Share”** has the meaning as defined in Section 4.2.2.
- 2.16 **“Party” / “Parties”** has the meaning as defined under PARTIES.
- 2.17 **“Programme”** has the meaning as defined in Section 1.2.
- 2.18 **“Project”** has the meaning as defined in Section 1.2.
- 2.19 **“Receiving Party”** has the meaning as defined in Section 7.2.
- 2.20 **“Revenues”** means the revenues (net, i.e., without VAT) earned by EITH during the Compensation Period from selling products and/or services that will be developed in the context of a Project during the term of the Programme.
- 2.21 **“Revenue Share Calculation”** has the meaning as defined in Section 5.1.
- 2.22 **“Revenue Share Data”** means the Revenue Share Calculation together with the Revenue Share Documentation.
- 2.23 **“Revenue Share Documentation”** has the meaning as defined in Section 5.2.
- 2.24 **“Revenue Share Period”** means each calendar year in which the Compensation Period runs.
- 2.25 **“Section”** has the meaning as defined in Section 13.2.

3. Subject Matter of the Agreement

- 3.1 Subject matter of the Agreement is the sharing of Revenues between the Parties.
- 3.2 EITH’s revenue sharing model governed by this Agreement is designed to maximise the impact of the Consortium Members’ activities by combining strategic commercialisation efforts with a fair and transparent revenue-sharing framework, ensuring the continuation of the initiatives and establishing a foundation for sustained success and growth.

3.3 This Agreement complements the FSA.

4. Revenue Share – Financial Sustainability Mechanism

The Parties agree in the following model to share the Revenue:

4.1 First, the Revenues shall be offset against the amount of the Funding until the amount of the Revenues equals the amount of the Funding. In other words, up to the amount of the Funding of EUR [●] (“**Funding Amount**”), the Revenues shall not be subject to sharing between the Parties. Therewith, the initial investment of EITH in form of the Funding shall be compensated.

4.2 All Revenues exceeding the Funding Amount will be shared between the Parties as follows:

4.2.1 To 50% of the Revenues EITH solely is entitled.

4.2.2 50% of the Revenues are allocated proportionally among the Partners (“**Partners’ Revenue Share**”) based on their respective contributions to the Project as mutually determined and agreed upon by the Partners.

The Parties agree that this Revenue share model ensures a fair distribution of financial benefits among the Consortium Members, fostering a collaborative and mutually beneficial approach to the Project’s success.

4.3 EITH’s share of Revenues will be invested by EITH in the EIT Health Initiative ecosystem.

5. Calculation of Partners’ Revenue Share, Terms of Payment

5.1 The Partners’ Revenue Share will be calculated by EITH for each Revenue Share Period within [one (1) month] after the approval of the last financial statement covering the respective Revenue Share Period by the competent body of EITH (“**Revenue Share Calculation**”).

5.2 After calculating the Partners’ Revenue Share for a Revenue Share Period, EITH shall provide each Partner with the Revenue Share Calculation and the corresponding documentation underlying the Revenue Share Calculation (“**Revenue Share Documentation**”).

5.3 If not at least one Partner objects to the Revenue Share Calculation in writing and with a substantiated statement of the material reasons for the objection to EITH within ten (10) Banking Days after EITH has taken the action under Section 5.2, the Revenue Share Data shall become binding for all Parties. If one or more Partner(s) object(s) to the Revenue Share Calculation the following shall apply:

5.3.1 Both EITH and each objecting Partner may send the Revenue Share Data to an auditing company agreed upon by EITH and such Partner (hereinafter “**Auditor**”).

5.3.2 The Auditor shall then review the Revenue Share Data within two (2) months and provide a review report to EITH and the objecting Partner(s). Upon provision by the Auditor, the Revenue Share Data shall become binding for all Parties.

- 5.3.3 EITH and the objecting Partner(s) shall be obliged, in the event that the Auditor is engaged pursuant to Section 5.3.1, to enter into an agreement with the Auditor regarding the Auditor's activities pursuant to Section 5.3.2.
- 5.3.4 The costs of engaging the Auditor shall be borne by EITH if the result of the audit leads to an increase of more than [ten (10)] percent (%) of the Partners' Revenue Share compared to the Revenue Share Calculation provided by EITH, otherwise by the Partner(s) who objected the Revenue Share Calculation provided by EITH.
- 5.3.5 EITH shall ensure that the Auditor receives at all times all information and documents necessary for the purposes of Section 5.3.2.
- 5.4 The Partners' Revenue Share will be paid to the Partners within 30 calendar days after the Revenue Share Data has become binding for the respective Revenue Share Period. The payment will be made to the Partners' accounts listed in **Exhibit 5.4** stating as the reason for payment "*Partner Revenue Share for [●]*".

6. Entry into Force and Term

This Agreement shall enter into force upon signature by all Parties. It shall continue to be in full force and effect until all obligations resulting from this Agreement are fulfilled.

7. Confidentiality

- 7.1 Unless expressly provided otherwise in this Agreement, the Parties are obliged to treat the conclusion, the content and the execution of this Agreement as well as the information obtained in connection with the conclusion or the execution of this Agreement ("**Confidential Information**") as strictly confidential and not to disclose it to third parties. Notwithstanding sentence 1, however, disclosure of information by each Party is permitted as follows:
- 7.1.1 to its board members and board members of its Affiliates, provided that such board members are subject to secrecy duty by law or a contractual confidentiality obligation;
- 7.1.2 to its or its Affiliates employees, attorneys, accountants, tax consultants, or other professional advisors, provided that such employees and advisors are subject to secrecy duty by law or a contractual confidentiality obligation;
- 7.1.3 vis-à-vis future investors who wish to invest directly or indirectly in a Party, provided that they have signed a corresponding confidentiality agreement;
- 7.1.4 to any third party in connection with the acquisition of an interest in the relevant Party, provided that the third party has signed a confidentiality agreement to that effect;
- 7.1.5 to tax and other authorities to the extent required by law;
- 7.1.6 to the direct or indirect shareholders of that Party;
- 7.1.7 if the disclosure is necessary for the consummation of this Agreement, and
- 7.1.8 as otherwise required by law, legal process or capital markets regulations.

- 7.2 The confidentiality obligation does not apply to information if and to the extent that the Party receiving the information (“**Receiving Party**”) proves that (i) the information is generally known or readily available to persons in the circles that ordinarily handle that type of information, (ii) the information was already known to the Receiving Party at the time of disclosure under this Agreement without a breach of an obligation of secrecy, (iii) EITH has waived the protection of the information in writing, (iv) the information was gained or created by the Receiving Party without using the Confidential Information or making reference thereto, or (v) it obtained the information by means other than through this Agreement without the information being subject to a confidentiality obligation.
- 7.3 The obligation to maintain confidentiality pursuant to this Section 7 shall continue to apply for an unlimited period of time after termination of this Agreement. The obligation to maintain confidentiality shall in any case end with respect to a Confidential Information if such Confidential Information ceases to be confidential without a breach of this Agreement or any other violation of law.
- 7.4 Mandatory statutory provisions of the German Business Secrets Act (*GeschGehG*) shall remain unaffected.

8. Notices, Contact Details

- 8.1 Each Party shall, at any time while a party to this Agreement, keep the respective other Party informed of its current mailing address and contact details. As of signing this Agreement, the Parties may direct any and all declarations to be issued under or in connection with this Agreement vis-à-vis another Party, to the addresses set forth in **Exhibit 8.1**, and any declaration directed to such addresses is deemed received by the respective Party, to which such declaration is addressed, if delivered by hand or telefax or e-mail on the same day, and if sent by courier or mail no later than on the third (3rd) day after dispatch.
- 8.2 If any Party wishes to change its contact details, such Party shall inform the other Parties in writing thereof, and such change becomes effective for the purposes of this Agreement, and particularly this Section 8, upon the lapse of five (5) Business Days as of receipt of such information.

9. Assignment

This Agreement may be assigned in whole or in part by EITH to any of its Affiliates. In the case this occurs, each Partner will be notified in writing by EITH.

10. Governing Law, Jurisdiction

- 10.1 This Agreement is governed by and to be construed in accordance with German law without regard to the conflict of laws provisions thereof.
- 10.2 To the extent permitted by law, the regional court (*Landgericht*) of Munich, Germany shall have exclusive jurisdiction to rule on any dispute arising under or in connection with this Agreement.

11. Entire Agreement, Form of Amendments

- 11.1 This Agreement constitutes the entire agreement of the Parties relating to the subject matter hereof and, unless explicitly stated otherwise herein, supersedes all prior agreements, declarations of intent and other arrangements whether written or oral, binding or non-binding that may exist between the Parties in respect of the subject matter of this Agreement or parts thereof. There are no side agreements to this Agreement apart from the Exhibits mentioned herein and the contracts to be concluded on the basis of this Agreement.
- 11.2 Any amendment of, supplement to or termination (*Aufhebung*) of this Agreement, including this Section 11.2, must be made in writing in order to be effective, unless a stricter form (e.g., notarization) is required by mandatory law. This also applies to any waiver of any right or claim under this Agreement.
- 11.3 For the purposes of this Agreement, written form may, in addition to compliance with written form within the meaning of section 126 of the German Civil Code (*BGB*), also be maintained by sending (including via e-mail) a physically or digitally signed document as a PDF or by using DocuSign or Adobe Sign or another common digital signature software approved by EITH for such purposes.

12. Invalid Provisions, Unintended Gaps (*Salvatorische Klausel*)

In the event that one or more provisions of this Agreement is or becomes partly or entirely void, invalid or unenforceable, the validity and enforceability of the remaining provisions of this Agreement is not affected thereby. In such case, the Parties shall replace the partly or entirely void, invalid or unenforceable provision with a valid and enforceable provision, which the Parties would have agreed on had they been aware of the voidness, invalidity or unenforceability of the respective provision. The same applies in the event that this Agreement contains any unintended gaps (*unbeabsichtigte Vertragslücken*). It is the express intention of the Parties that the preceding provisions of this Section 12 do not merely shift the burden of proof (*keine bloße Beweislastumkehr*) but that section 139 German Civil Code (*Bürgerliches Gesetzbuch*) in its entirety does not apply, so that none of the Parties will have to argue (*darlegen*) and prove (*beweisen*) the Parties' intent to uphold this Agreement even without the void, invalid, unenforceable or missing provision.

13. Interpretation, German Terms

- 13.1 The table of contents, headings and sub-headings of this Agreement are inserted for convenience purposes only and do not affect in any way the interpretation of this Agreement.
- 13.2 Unless the context otherwise requires (i) the terms "including" and "in particular" and all forms and derivations thereof always mean "including, without limitation" and "in particular, without limitation", respectively; (ii) the term "through" when describing a range, period, span or scope always means "through and including", (iii) the words "hereof", "herein" and "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular provision of this Agreement; (iv) any reference to a gender includes all other genders and (iv) definitions contained in this Agreement are applicable to the singular as

well as the plural forms of such terms. When reference is made to a “**Section**” within this Agreement, this mean a reference to any section of this Agreement (excluding its exhibits).

- 13.3 Where a German term has been inserted in quotation marks and/or italics it alone (and not the English term to which it relates) is authoritative for the purpose of the interpretation of the relevant English term in this Agreement.
- 13.4 This Agreement is drafted in English for convenience purposes only and the fact that the English language is used is not a reason to refer to the laws, doctrine or case law of any English-speaking jurisdiction in the interpretation of this Agreement.

[signature page follows]

Signatures

EIT Health e.V.

Date:

Date:

Name:

Name:

Position:

Position:

[•]

Date:

Date:

Name:

Name:

Position:

Position:

[•]

Date:

Date:

Name:

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Position:

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