**CONFIDENTIALITY AGREEMENT**

In *Place*, (*Country*), *Date (*“Effective Date”)

**BY AND BETWEEN:**

…………………hereinafter referred to as “XXXX“, a legal entity organised and existing under the laws of , with its registered office at , represented by Mr. / Mrs. ………………………...;

**AND:**

COMPANY OR RESEARCH CENTER, hereinafter referred to as NAME, a legal entity organised and existing under the laws of COUNTRY, with its registered office at OFFICE LOCATION , and represented by REPRESENTANT;

referred to herein separately as a "Party" and together as the "Parties".

**WHEREAS:**

1. XXXX is ….
2. DESCRIBE THE COMPANY OR THE RESEARCH CENTER WITH THEIR INTEREST.
3. XXXX possesses certain information, including technical or business information, in relation to the field of …………………………., which is considered to be proprietary or confidential, hereinafter referred to as “Confidential Information”.
4. COMPANY/RESEARCH CENTER possesses certain information, including technical or business information, in relation to the field of FIELD, which is considered to be proprietary or confidential, hereinafter referred to as Confidential Information”.
5. The Parties desire to enter into discussion regarding a possible cooperation in the context of the Collaborative Platform for Simulation and Monitoring (COPLASIMON), an initiative promoted by the Horizon 2020 European Commission funded Research and Innovation project SERENDI-PV, and believe that they may, in course of their discussions, disclose and exchange Confidential Information.
6. The Parties shall transfer each other Confidential Information that shall only be used in the context of its internal evaluation and for the purpose of the analysis and carrying out of a possible cooperation, in the field above-mentioned in whereas V, hereinafter referred to as the “Authorised Purpose”.
7. The Parties wish to define the rules with respect to the disclosure, the use and the protection of the said Confidential Information.

**NOW, THEREFORE THE PARTIES AGREE AS FOLLOWS**:

1. For the purpose of this Agreement, the terms "Confidential Information" shall mean any and all information or data and includes, by way of example, but without limitation, know-how, software, architectures and / or products or parts thereof, formulae, processes, tests results, designs, sketches, photographs, plans, drawings, specifications, samples, reports, customers lists, pricing information, business opportunities, studies, findings, inventions and ideas, disclosed by one Party (the "Disclosing Party") to the other Party (the "Receiving Party") by various means. The disclosure of Confidential Information may be done in writing or orally and/or by means of the delivery of samples, equipment, models, visually or otherwise by means of magnetic support, multi-media and/or photos.
2. The Receiving Party shall in particular:
3. protect and keep strictly confidential any part of/or the whole of any Confidential Information and shall treat and use the Confidential Information with the same degree of care as it applies to its own proprietary information, but in no case with less than reasonable care;
4. protect any part of/or the whole of the Confidential Information from disclosure to anyone other than its employees, beneficiaries, agents and/or affiliated entities who have a need to know regarding the Purpose or the defense of legitimate interests of the Receiving Party and inform them of the confidentiality attached to such Information;
5. not disclose to third parties the Confidential Information without the prior written consent of the Disclosing Party;
6. not copy, nor reproduce totally or partially, unless extremely necessary for Purpose, the Confidential Information without the prior written consent of the Disclosing Party.
7. Use of the Confidential Information by the Receiving Party shall be strictly limited to the Authorised Purpose.
8. The Receiving Party has no confidentiality obligations with respect to any information for which he can give the evidence that such information:
9. is or becomes known to the public before the disclosure or thereafter through no wrongful act of the Receiving Party; or
10. is already known by the Receiving Party; or
11. is received from a third party with no wrongful act of the Receiving Party; or
12. is independently developed by the Receiving Party; or
13. is disclosed to third parties with the prior written approval of the Disclosing Party; or
14. is disclosed pursuant to law, regulation or lawful order or process. In the event Receiving Party is subject to such law, regulation, order or process, Receiving Party will timely notify the Disclosing Party of the disclosure requirement in advance of the disclosure so as to permit the Disclosing Party oppose or limit such disclosure.
15. The disclosure of Confidential Information shall be limited to that which in the Disclosing Party's opinion is necessary for the Purpose.
16. Notwithstanding any provision of this Agreement, the Confidential Information and all rights thereon shall be considered the exclusive property of the Disclosing Party. Nothing contained herein shall be deemed to grant to the Recipient Party any right or license on the Confidential Information other than the rights expressly provided herein.
17. Any Confidential Information is made available "as is" and no warranties of any kind are granted or implied with respect to the quality of Confidential Information, including but not limited to, its fitness for any purpose, non-infringement of third party rights, accuracy, completeness or correctness.
18. The Receiving Party shall not analyse the Confidential Information to determine its chemical composition or formulation, or physical structure, except if it is needed for the Purpose, nor do reverse engineering with any Confidential Information, or allow any third party to do so.
19. This is a Confidentiality Agreement and it has the purpose foreseen in the recitals above. This Agreement or the disclosure of Confidential Information shall not constitute a joint venture or any partnership between the Parties and nothing in this Agreement substitutes a contract in case of further cooperation. Under no circumstances shall a Party be under any legal obligation of any kind whatsoever to enter into any contract with the other Party by virtue of this Agreement or the disclosure of Confidential Information.
20. This Agreement shall only be amended or modified by means of a written agreement signed by the duly authorized representatives of the Parties.
21. This Agreement shall come into effect the Effective Date mentioned first above and shall remain in force for a period of one (1) year. However, the confidentiality obligations contained in the present Agreement shall remain binding upon the Parties for five (5) years after the date of termination of the Agreement, notwithstanding any termination or expiry of this Agreement prior to the end of the abovementioned period. This Agreement may be superseded by the provisions of a cooperation agreement in case of agreement between the Parties for a further collaboration.
22. The Receiving Party shall upon written demand of the Disclosing Party return all Information in its possession in whatever form it may be or destroy or procure the destruction of any copies or reproductions of any materials and things embodying Information and of any notes, analyses and work product derived from or containing any Information including the destruction or erasure thereof from any memory device or medium.
23. When the Agreement implies that any of the Parties processes personal data, the latter shall comply with the provisions of Regulation 2016/679 of the European Parliament and of the Council, of 27 April 2016, regarding the protection of individuals with regard to the processing of personal data and the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR), and any other regulations in force or that substitute and/or modify them in the future.

Each Party hereby commits to:

1. use the personal data which are being processed solely for the purposes of the Agreement, and that they may not in any case use or apply them for different purposes;
2. when it exists a personal data processing order, to process the personal data solely following the instructions from the Data Controller Party;
3. maintain due professional secrecy and confidentiality of the personal data they are processing;
4. guarantee that the persons authorised to process personal data have undertaken to respect the confidentiality thereof and implement the appropriate technical and organizational measures;
5. take all the appropriate technical and organisational measures to guarantee an adequate level of security against processing risk;
6. not contract any other entity as the data processor without prior written authorisation from the Data Controller Parties;
7. help the Data Controller Party, taking into account the nature of the processing, via appropriate technical and organisational measures, so that they can comply with their obligation to respond to the requests from interested parties to exercise their rights;
8. help the Data Controller Party guarantee compliance with the obligations relating to security measures and the impact evaluation, considering the nature of the processing and the information available to them;
9. make available to the Data Controller Party all the information necessary to demonstrate the compliance with obligations regarding processing, as well as allowing and contributing to the implementation of audits, including inspections by the Data Controller Party or an auditor authorized by them;
10. guarantee the necessary personal data protection training for the persons authorised to process personal data;
11. help the Data Controller Party respond to the interested parties exercising their rights to access, rectification, erasure and objection, and limitation of processing, portability of data and not to be the subject of automated individual decisions (including creating profiles);
12. keep a written record of all the processing activity categories;
13. notify, as processor, without further delay, any incident, confirmed or not, related to the protection of data, any process that may be considered illegal or unauthorized, any loss, destruction or damage of the personal data within its responsibility area, and any incident that may be considered an infringement of the security of the personal data, together with all the relevant information that may be relevant for the documentation and communication of the said incident to the authorities or the data subjects affected. Additionally, assist the Data Controller Party in case of security breach of personal data, so that the compliance of the notification obligation is guaranteed according to the GDPR (specifically, articles 33 and 34) as well as any other regulations currently in force or introduced in the future to modify and/or replace it.

The Parties, pursuant to article 32 of the GDPR, declare that they shall apply the appropriate technical and organizational measures to guarantee an adequate level of security of the processed data.

Once the contractual relationship has ended, personal data shall be erased or returned to the Data Controller Party.

The personal data of the legal representatives of each of the Parties in the Agreement, and those that, from now on, the Parties share in the framework of the execution of the Agreement (i.e. name, identification number, address, email, phone number, etc.) shall be processed by each of the Parties as if they are the Data Controllers, individually, with the purpose of facilitating the management and performance of the contractual relationship among them. The personal data shall be stored during the period which is strictly necessary for fitting the purpose of the performance of the Agreement and, whenever it is necessary, for the additional period needed to comply with legal obligations of the Parties, always on the legal basis of the necessity of performance of the Agreement and the fulfilment of legal obligations. Personal data shall be communicated only to third parties and/or public organizations necessary to fulfil legal obligations. Data subjects shall have the right to (i) obtain access to their personal data, rectification of the inaccurate data, erasure, restriction of processing, data portability, object to processing, when appropriate, by written communication to the registered office of each of the Parties; and (ii) to lodge a complaint with the competent supervisory authority, especially when data subjects have not obtained satisfaction in the exercise of their rights. The legal representatives of the Parties hereby declare that the obligation to inform has been fulfilled by the Data Controller Party through the signature of this Agreement.

1. This Agreement shall be governed by and construed in accordance with the Belgian laws. Any dispute arising out of or in connection with this Agreement, which the Parties cannot settle amicably, shall be finally settled in the courts of the city of Brussels.

Done and signed in the above-mentioned place and date in two original copies, one for each Party to this Agreement.

|  |  |
| --- | --- |
| On behalf of XXX: | On behalf of COMPANY/RESEARCH CENTER |
| Mr. / Mrs. ……………….  ……………………………… | RESPONSIBLE NAME  ROLE |