**Confidential Disclosure Agreement**

A06/0148This agreement is made and entered into by and between:

and

AND

AND

Where appropriate each of these Parties will hereinafter individually be referred to as “Party”, “Disclosing Party” or “Receiving Party”, and collectively be referred to as the “Parties”.

**RECITALS**

Whereas XXX and XXX have submitted a proposal entitled “*XXXX*“ to the Belgian Federal Science Policy Office in the framework of S4Policy research programme;

Whereas the Belgian Federal Science Policy Office has decided to support the above mentioned project (hereinafter referred to as the “Project”) and has concluded a contract (S4P/XX/XXX) with XXX and XXX (hereinafter collectively referred to as the “Network”);

Whereas in furtherance of the Project a follow-up committee is constituted which is aimed at the exchange of data and information in the scope of the Project and advice regarding the results obtained and work to be performed under the Project on the one hand and the evaluation of possible valorisation of such results on the other hand;

Whereas XXXXXX have accepted to seat as a member of the follow-up committee;

Whereas Parties may disclose during discussions among them certain confidential information to each other;

Whereas Parties further desire to protect such confidential information from unauthorized disclosure and limit the use of such information to the objectives described in the third ‘whereas’ clause and the Project (“Purpose”);

## **ACCORDINGLY, the following is agreed upon:**

# Definition of Confidential Information

## For the purpose of this agreement, Information means all technical, financial, commercial and other information (including knowledge, data, documents, software and models) disclosed by or made available between the Parties in written, electronic, oral or any other form.

## For the purpose of this agreement, Confidential Information means all Information which is disclosed or made available by one Party (the Disclosing Party) to an other Party (the Receiving Party) in connection with the Purpose and is clearly identified as such. The Information which is not identified as confidential shall nevertheless be treated as Confidential Information by the Receiving Party, if he knows or should reasonably be expected to know about the secret and confidential nature of such Information. All results obtained in the course of the execution of the Project will be considered Confidential Information.

# Non-disclosure and limited use of Confidential Information

## The Receiving Party accepts the Disclosing Party’s Confidential Information only for the Purpose. The Receiving Party shall not:

## use or exploit the Disclosing Party’s Confidential Information for any purpose other than the Purpose, except pursuant to a future agreement between the Parties under the conditions thereof; nor

## publish or disclose to any third party the Disclosing Party’s Confidential Information to any third party without the written prior consent of the Disclosing Party.

## It is recognised that the Receiving Party may be required to disclose Disclosing Party’s Confidential Information to employees for the Purpose. The Receiving Party will exercise reasonable care in the selection of such employees and will fully advise all such persons of the confidentiality of the Disclosing Party’s Confidential Information.

## The Receiving Party is entitled to make copies of the Disclosing Party’s Confidential Information only as necessary for the Purpose. All such authorized copies shall contain all references to the relevant ownership rights.

## The Receiving Party shall protect the Disclosing Party’s Confidential Information with the same degree of care as it applies to protect its own, but in no event less than with a reasonable degree of care.

# Exceptions

## Notwithstanding the above, none of the Parties shall have the obligation hereunder to refrain from disclosing or using the Information for which it can reasonably prove that:

(a) the Information is generally available to the public at the time of its disclosure;

(b) the Information became part of the public domain or publicly known or available by publication or otherwise, not due to any unauthorised act or omission on the part of the Receiving Party;

(c) the Information was disclosed to the Receiving Party by third parties as a matter of right;

* 1. the Information was at the time of disclosure already known to the Receiving Party other than from the Disclosing Party;
	2. the Information is subsequently developed by or on behalf of the Receiving Party, without use of the Disclosing Party’s Confidential Information.

The Receiving Party shall inform the Disclosing Party in writing within thirty (30) days of receipt of such Information.

## For the purpose of this article, no Information which is specific shall be deemed to be within any of the foregoing exceptions, merely because it is embraced by more general Information which falls within any one of the foregoing exceptions. In addition, any combination of features shall not be deemed to be within any of the foregoing exceptions, merely because individual features fall within any one or more of the foregoing exceptions, but only if the combination itself falls within any one of the foregoing exceptions.

## The Party invoking one of the above mentioned exceptions shall have the burden of proof that such exception is applicable.

# Property and Return of Confidential Information

## The Receiving Party agrees that all Confidential Information received from the Disclosing Party hereunder (and copies thereof) remains property of the Disclosing Party. Within thirty (30) days after the Disclosing Party’s written request, the Receiving Party will return all originals, copies, reproductions, summaries and other tangible forms of Confidential Information, to the Disclosing Party, or, at the Disclosing Party's option, will certify to its destruction.

# Rights, warranties and liability

## Neither this agreement nor any receipt of Confidential Information hereunder shall be construed as granting, or as an undertaking to subsequently grant, to the Receiving Party any license, right, title or interest in or to any present or future patent, patent application, know-how or any other proprietary right, and the Receiving Party will not assert any rights of prior use with respect to said Confidential Information.

## The Parties agree that any Confidential Information is provided “as is” and no warranties, express or implied, are given or liabilities of any kind are assumed with respect to such Information, including, but not limited to, accuracy, reliability, novelty, completeness, correctness, fitness for any particular purpose or non-infringement of third party’s rights.

# Term

This agreement shall enter into force on [complete date of signature of the network agreement] (“the Effective Date”) for a period of four (4) years. The obligations of confidentiality and non-use set forth herein shall survive the termination or expiration of this Agreement or any extension thereof for a period of ten (10) years.

# Governing Law and Dispute Settlement

The Parties shall attempt to settle any dispute arising out of or relating to this agreement in an amicable way. In the event that such attempts should fail, then the Parties agree to submit any such dispute or litigation in any way related to this agreement exclusively to the Commercial Courts of Brussels, Belgium. All questions related to the construction, interpretation or execution of this agreement and to all matters pertaining or related thereto shall be subject to Belgian law, without giving effect to its conflict of law rules.

# Miscellaneous

## This agreement constitutes the entire agreement between the Parties with respect to the subject matters hereof. This agreement may not be modified in any respect by any verbal statement, representation, or agreement made by any employee, officer, or representative of one of the Parties, nor by any written documents unless it is signed by a dully authorized officer of each of the Parties.

## This agreement shall not be assignable by either Party without the prior written and unambiguous consent of the other Party, except to the legal successor of the entire business, provided that the Assignee shall assume all the duties and obligations of the assigning Party. Such consent shall not be unreasonably withheld. The assigning Party shall give notice to the other Party of the assignment and shall continue to be bound after assignment by the provisions of this agreement.

## The disclosure of any Confidential Information hereunder will not be considered a "publication" thereof for patent or copyright purposes, nor will it constitute release of said Information into the public domain.

## Nothing herein shall be construed as obligating either Party to enter into any further agreement and/or any business arrangement with the other Party.

In witness whereof, the Parties hereto have caused this agreement to be executed by their duly authorised representatives in XXX on the Effective Date in eleven original copies.