**Model Consortium Agreement**

**for ERA-NET-Cofund actions**

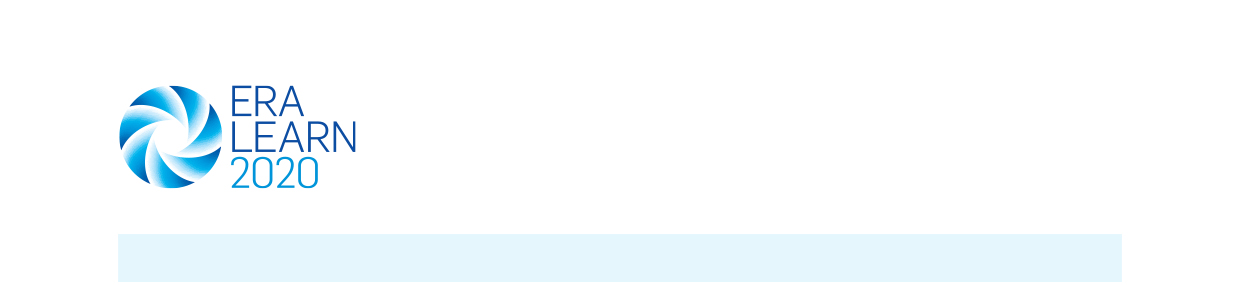
**(based on the DESCA Horizon 2020 Model)**

Title of Cofund-Action

(Acronym)

Third Version

April 2017



ERA-LEARN 2020 is a project funded by Horizon 2020. The project aims toinvestigate trans-national coordination experiences and acquires know-how with a view to identifying good examples and to developing a set of recommended procedures. Based on a comprehensive analysis of existing and already validated procedures, ERA-LEARN facilitates the identification of tools that are suitable for a broad use (see [www.era-learn.eu](http://www.era-learn.eu)).

Part of this set of tools is this Model Consortium Agreement for ERA-Net Cofund-Actions, which is based on the DESCA Horizon 2020 Model Consortium Agreement, Version 1.2, March 2016 (<http://www.desca-2020.eu/>). All parts of the DESCA Model were adapted according to the Cofund needs. In particular the following sections of this Model Consortium Agreement were significantly changed or newly developed: Section 1: Definitions, Section 6: Governance structure, Section 7: Financial provisions, Section 8: Call implementation (new), Section 9: Results, Section 10: Access Rights and Section 12: Data Management (new), Paragraph 13.8 Settlement of disputes. Please have a look on the original DESCA-Model as well.

**Please note that this document is provided as a simple exemplary consortium agreement without assuming any warranty and without assuming any liability or responsibility. The use of the text in total or in part takes place at the user's own risk and does not free users from legal examination to cover their interests and protect their rights.**

In this model, examples are given on how to deal with certain aspects implementing Cofund-Actions. It is compulsory to sign a Consortium Agreement for ERA-NET Cofund-Actions but for example the definitions used, the governance implemented, the payment rules agreed which are described in this particular Model Consortium Agreement are only suggestions and not compulsory. Each consortium has to define its own structures and rules fitting its specific requirements. This model shall only provide an example, to support the preparation of your specific Consortium Agreement. Please note, that the contractual requirements towards the Funding Authority are defined in the Grant Agreement (the Model grant agreement is available at: <http://ec.europa.eu/research/participants/data/ref/h2020/mga/eranet/h2020-mga-eranet-cofund-multi_en.pdf>)

This is the third version of the Model Consortium Agreement, which offers further examples as options and a new paragraph regarding cost of Certificates of the Financial Statement. The options are marked in yellow. In turquoise and in brackets you can find clarifying notes. Red font colour highlights parts of the texts which should be adapted or needs to be discussed in detail in each consortium.

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THIS CONSORTIUM AGREEMENT is based upon REGULATION (EU) No 1290/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2013 laying down the rules for the participation and dissemination in “Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)” (hereinafter referred to as “the Rules”), and the European Commission Model Grant Agreement for ERA-NET Cofund and its Annexes, and is made on <start date of Cofund-Action//other agreed date>, hereinafter referred to as the Effective Date

BETWEEN

* OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE GRANT AGREEMENT (Short Name), country  
  the Coordinator
* OFFICIAL NAME OF THE PARTY AS IDENTIFIED IN THE GRANT AGREEMENT (Short Name), country
* ..

[If you like to distinguish the voting rules or some financial aspects between programme owner and programme manager you should add the specific function after the Party’s country.]

hereinafter, jointly or individually, referred to as ”Parties” or ”Party” relating to the Action entitled

Title of Cofund-Action

in short

Acronym

hereinafter referred to as “Cofund-Action”

WHEREAS:

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Cofund-Action to the Funding Authority[[1]](#footnote-1) as part of Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020).

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the specific Grant Agreement to be signed by the Parties and the Funding Authority (hereinafter“ Grant Agreement”).

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

# Section 1: Definitions

## 1.1 Definitions

Words beginning with a capital letter shall have the meaning defined either herein or in the Rules or in the Grant Agreement including its Annexes.

## 1.2 Additional Definitions

**“Call Secretariat”**

“Call Secretariat” means the Secretariat that has been established by the Consortium for the Joint Call on behalf of all Funding Parties. The Call Secretariat is hosted by [the Agency].

**“Consortium Plan”**

“Consortium Plan” means the description of the action and the related agreed budget as first defined in the Grant Agreement and which may be updated by the General Assembly.

**“Consortium Body”**

“Consortium Body” means any management body described in the Governance Structure section of this Consortium Agreement.

**“Defaulting Party”**

“Defaulting Party” means a Party which the General Assembly has identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Section 4.2 of this Consortium Agreement.

**“EU-Top-Up”**

The “EU-Top-Up” is the financial contribution of the Funding Authority to the Transnational Projects funded within the Joint Call.

**“Expert Panel”**

The Expert Panel is the board of independent experts evaluating proposals of the Joint Call.

**“Funding Agency”**

A “Funding Agency” is a national or regional agency responsible for providing the national share of funding for the Transnational Projects.

[If you like to distinguish the voting rules or some financial aspects between programme owner and programme manager you should adapt/extend the definition and above.]

**"Funding Authority"**

Funding Authority means the body awarding the grant for the Cofund-Action.

**“Funded Project / Transnational Project”**

“Funded Project **/** Transnational Project is a project selected for funding in the Joint Call.

**“Highly Detrimental Situation”**

means a situation that may arise if the funding decision agreed among Parties, and occurring after the Ranking List as established by the Expert Panel leads to the loss of more than 20% of the EC contribution.

[You can distinguish between the cofunded Joint Call and additional Joint Calls.]

**“Joint Call”**

“Joint Call” means the cofunded call for collaborative proposals in [type of research] which is organised jointly in [year] by all Parties and represents the main objective of the Cofund-Action.

**“Needed”**

means:

For the implementation of the Cofund-Action:

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

For exploitation of own Results:

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

# Section 2: Purpose

The purpose of this Consortium Agreement is to specify with respect to the Cofund-Action the relationship among the Parties, in particular concerning the organisation of the work between the Parties, the management of the Cofund-Action and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution, Financial Provisions and Call Implementation.

For the avoidance of doubt, this Consortium Agreement is limited to the “Cofund-Action”. The consortia of the Transnational Funded Projects under the “Cofund-Action” have to execute separate consortium agreements in accordance with their specific needs.

# Section 3: Entry into force, duration and termination

## 3.1 Entry into force

An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by a duly authorised representative.

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

A new entity becomes a Party to the Consortium Agreement upon signature of the accession document (Attachment 2) by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.

A Beneficiary which has not yet signed this Consortium Agreement shall neither be entitled to vote nor to receive any EC contribution.

## 3.2 Duration and termination

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement.

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

If the Grant Agreement

- is not signed by the Funding Authority or a Party, or

- is terminated, or

- if a Party's participation in the Grant Agreement is terminated,

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

If a Party's participation in the Grant Agreement is terminated, the terminating Party shall do its utmost to limit the consequences for the Cofund-Action. Wherever possible, it shall honour all commitments to researchers, including future financial commitments.

## 3.3 Survival of rights and obligations

The provisions relating to Access Rights, Confidentiality, for the time period mentioned therein, as well as for Liability, Applicable law and Settlement of disputes as well as financial rules agreed in 7.5 and 7.7 shall survive the expiration or termination of this Consortium Agreement.

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

# Section 4: Responsibilities of Parties

## 4.1 General principles

Each Party undertakes to take part in the efficient implementation of the Cofund-Action, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.

Each Party undertakes to notify promptly, in accordance with the governance structure of the Cofund-Action, any significant information, fact, problem or delay likely to affect the Cofund-Action.

Each Party shall promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

## 4.2 Breach

In the event that a responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement (e.g. improper implementation of the Cofund-Action), the Coordinator or, if the Coordinator is in breach of its obligations, the Party appointed by the General Assembly, will give formal notice to such Party requiring that such breach will be remedied within 30 calendar days from the date of receipt of the written notice by the Party.

If such breach is substantial and is not remedied within that period or is not capable of remedy, the General Assembly may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof, which may include termination of its participation.

## 4.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Cofund-Action remains responsible for carrying out its relevant part of the Cofund-Action and for such third party’s compliance with the provisions of this Consortium Agreement and of the Grant Agreement. It has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties under this Consortium Agreement and the Grant Agreement.

If a Party enters into a subcontract or otherwise involves third parties to fulfil a task or part of a task described in Annex 1 of the Grant Agreement (excluding e.g. logistics for meetings), this Party must notify such involvement to the other Parties. The notification shall contain at least the name, the address and the activity of the subcontractor or third party.

# Section 5: Liability towards each other

## 5.1 No warranties

In respect of any information or materials (incl. Results and Background) supplied by one Party to another under the Cofund-Action, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials, and

- no Party granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Party (or its Affiliated Entities) exercising its Access Rights.

However, each Party shall promptly inform the other Party/ies of any claims of third parties that come to their knowledge.

## 5.2 Limitations of contractual liability

No Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by a wilful act or by a breach of confidentiality.

For any remaining liability, a Party’s aggregate liability towards the other Parties collectively shall be limited to [once or twice] the Party’s share of the total costs of the Cofund-Action as identified in Annex 2 of the Grant Agreement provided such damage was not caused by a wilful act or gross negligence.

[You can also choose to limit the liability based on the implementation costs planned or received, or to the EC top up received]

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

## 5.3 Damage caused to third parties

Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party’s obligations by it or on its behalf under this Consortium Agreement or from its use of Results or Background.

## 5.4 Force Majeure

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

Each Party will notify the competent Consortium Bodies of any Force Majeure without undue delay. If the consequences of Force Majeure for the Cofund-Action are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

# Section 6: Governance structure

## 6.1 General structure

The organisational structure of the Consortium shall comprise the following Consortium Bodies:

* **General Assembly** as the ultimate decision-making body of the consortium
* **Executive Board** as the supervisory body for the execution of the Cofund-Action which shall report to and be accountable to the General Assembly
* **Call Secretariat** as the body taking care of the coordination of the management activities of the Joint Call
* **The Coordinator** is the legal entity acting as the intermediary between the Parties and the Funding Authority. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Grant Agreement and this Consortium Agreement.

## 6.2 General operational procedures for all Consortium Bodies

### 6.2.1 Representation in meetings

Any Party which is a member of a Consortium Body (hereinafter referred to as "Member"):

* is expected to be present or represented at any meeting of such Consortium Body;
* may appoint a substitute or a proxy to attend and vote at any meeting;
* and shall participate in a cooperative manner in the meetings.

6.2.1.1 Convening meetings:

The chairperson of a Consortium Body shall convene meetings of that Consortium Body.

|  |  |  |
| --- | --- | --- |
|  | Ordinary  meeting | Extraordinary meeting |
| General  Assembly | At least xxx | At any time upon written request of the Executive Board or 1/3 of  the Members of the General Assembly |
| Executive  Board | At least xxx | At any time upon written request of any Member of the  Executive Board |
| Call Secretariat | xxx | xxx |

### 6.2.2 Preparation and organisation of meetings

The chairperson of a Consortium Body shall give notice in writing of a meeting to each Member of that Consortium Body as soon as possible and no later than the minimum number of days preceding the meeting as indicated below.

Ordinary meeting Extraordinary meeting

General Assembly 45 calendar days 15 calendar days

Executive Board 20 calendar days 15 calendar days

Call Secretariat 14 calendar days 7 calendar days

The chairperson of a Consortium Body shall prepare and send each Member of that Consortium Body a written (original) agenda no later than 14 days preceding the meeting (5 days for extraordinary meeting for the Call Secretariat).

In case where the quorum is not reached and the chairperson of a Consortium Body has to convene another meeting (Section 6.2.3), he/she shall give notice in writing of the new meeting to each Member of that Consortium Body as soon as possible but no later than the minimum number of days preceding the meeting as indicated above.

Any agenda item requiring a decision by the Members of a Consortium Body must be identified as such on the agenda.

Any Member of a Consortium Body may add an item to the original agenda by written notification to all of the other Members of that Consortium Body up to 7 days preceding the meeting (2 days for extraordinary meeting for the Call Secretariat).

During a meeting the Members of a Consortium Body present or represented can unanimously agree to add a new item to the original agenda.

Any decision may also be taken without a meeting if the Coordinator circulates to all Members of the Consortium Body a written document which is then agreed by the defined majority (see Section 6.2.3.) of all Members of the Consortium Body. Such document shall include the deadline for responses.

Decisions taken without a meeting shall be considered as accepted if, within the period set out in article 6.2.4, no Member has sent an objection in writing to the chairperson. They will be binding after the chairperson sends to all Members of the Consortium Body and to the Coordinator a written notification of this acceptance.

The agreement may also take the form of an electronic vote. The Coordinator shall immediately inform the Members of the Consortium Body of the outcome of a written procedure.

Meetings of each Consortium Body may also be held by teleconference or other telecommunication means.

Decisions will only be binding once the relevant part of the Minutes has been accepted according to Section 6.2.5.

### 6.2.3 Voting rules and quorum

[If you like to distinguish the voting rules between programme owner and programme manager you should adapt the paragraph below accordingly.]

Each Consortium Body shall not deliberate and decide validly unless Parties of two-thirds (2/3) of its Members are present or represented (quorum).

If the quorum is not reached, the chairperson of the Consortium Body shall convene another ordinary meeting within 15 calendar days. If in this meeting the quorum is not reached once more, the chairperson shall convene an extraordinary meeting, which shall be entitled to decide even if less than the quorum of Members are present or represented.

In case of decisions regarding the budget of the Joint Call, only Funding Agencies shall be entitled to vote. In all other cases, each Member of a Consortium Body present or represented at the meeting shall have one vote. If two partners act as an "institutional couple", i.e. if they come from the same country and manage the same research budget, they shall share one vote.

Defaulting Parties may not vote.

Each Consortium Body shall strive to make decisions by consensus. If consensus cannot be achieved, decisions on proposals shall be taken by a majority of two-thirds (2/3) of the votes cast.

### 6.2.4 Veto rights

A Member which can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of a Consortium Body may exercise a veto with respect to the corresponding decision or relevant part of the decision.

When the decision is foreseen on the original agenda, a Member may veto such a decision during the meeting only.

When a decision has been taken on a new item added to the agenda before or during the meeting, a Member may veto such decision during the meeting and within 15 calendar days after the draft minutes of the meeting are sent.

When a decision has been taken without a meeting a Member may veto such decision within 15 calendar days after written notification of the outcome of the vote cast by the chairperson.

In case of exercise of veto, the Members of the related Consortium Body shall make every effort to resolve the matter which occasioned the veto to the general satisfaction of all its Members.

A Party may neither veto decisions relating to its identification to be in breach of its obligations nor to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the consortium or the consequences of them.

A Party requesting to leave the consortium may not veto decisions relating thereto.

### 6.2.5 Minutes of meetings

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

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

The chairperson shall send the accepted minutes to all the Members of the Consortium Body and to the Coordinator, who shall safeguard them.

If requested the Coordinator shall provide authenticated duplicates to Parties.

## 6.3 Specific operational procedures for the Consortium Bodies

### 6.3.1 General Assembly

In addition to the rules described in Section 6.2, the following rules apply:

#### 6.3.1.1 Members

The General Assembly shall consist of one representative of each Party (hereinafter General Assembly Member).

Each General Assembly Member shall have a mandate of decision-making on behalf of the Party it is representing.

The Coordinator shall chair all meetings of the General Assembly, unless decided otherwise in a meeting of the General Assembly.

The Parties agree to abide by all decisions of the General Assembly. This does not prevent the Parties to submit a dispute to resolution in accordance with the provisions of Settlement of disputes in Section 13.8.

#### 6.3.1.2 Decisions

The General Assembly is responsible for the overall direction and follow-up of the Cofund-Action.

The following decisions shall be taken by the General Assembly:

Content, finances and intellectual property rights

* Proposals for changes to Annexes 1 and 2 of the Grant Agreement to be agreed by the Funding Authority
* Changes to the Consortium Plan
* Modifications to Attachment 1 (Background Included)
* Appointment of the Executive Board

Evolution of the consortium

* Entry of a new Party to the Consortium and approval of the settlement on the conditions of the accession of such a new Party
* Withdrawal of a Party from the Consortium and the approval of the settlement on the conditions of the withdrawal
* Identification of a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement
* Declaration of a Party to be a Defaulting Party
* Remedies to be performed by a Defaulting Party
* Termination of a Defaulting Party’s participation in the Consortium and measures relating thereto
* Proposal to the Funding Authority for a change of the Coordinator
* Proposal to the Funding Authority for suspension of all or part of the Cofund-Action
* Proposal to the Funding Authority for termination of the Cofund-Action and the Consortium Agreement

Decision regarding the Joint Call

* Timelines for the Joint Call
* Approval of call text and call topics
* Guidelines and rules for participation for the Joint Call
* Agreement on the Transnational projects to be funded, according to the ranking list

### 6.3.2 Call Secretariat

In addition to the rules described in Section 6.2 the following rules apply:

#### 6.3.2.1 Members

PARTNER X and PARTNER Y will act as the Call Secretariat for the Joint Call.

#### 6.3.2.2 Tasks

The Call Secretariat is responsible for leading the coordination and management activities regarding the Joint Call. In particular, it is responsible for preparing a suggestion list of fundable Step1-proposals of the Joint Call and for proposing a funding recommendation to the General Assembly.

### 6.3.3 Executive Board

In addition to the rules in Section 6.2, the following rules shall apply:

6.3.3.1 Members

The Executive Board shall consist of the Coordinator and the Parties appointed by the General Assembly (hereinafter Executive Board Members).

The Coordinator shall chair all meetings of the Executive Board, unless decided otherwise by a majority of the Executive Board.

6.3.3.2 Minutes of meetings

Minutes of Executive Board meetings, once accepted, shall be sent by the Coordinator to the General Assembly members for information.

6.3.3.3 Tasks

The Executive Board shall

* prepare the meetings, propose decisions and prepare the agenda of the General Assembly according to Section 6.3.1.2
* seek a consensus among the Parties
* be responsible for the proper execution and implementation of the decisions of the General Assembly
* monitor the effective and efficient implementation of the Cofund-Action
* collect information on the progress of the Cofund-Action at least every 6 months, examine that information to assess the compliance of the Cofund-Action with the Consortium Plan and, if necessary, propose modifications of the Consortium Plan to the General Assembly
* approve the payment of unit costs for additional activities
* agree on the members of the Expert Panel
* support the Coordinator in preparing meetings with the Funding Authority and in preparing related data and deliverables
* prepare the content and timing of press releases and joint publications by the Consortium or proposed by the Funding Authority

### 6.3.4 Coordinator

The Coordinator shall be the intermediary between the Parties and the Funding Authority and shall perform all tasks assigned to it as described in the Grant Agreement and in this Consortium Agreement.

In particular, the Coordinator shall:

* monitor the progress of the Cofund-Action in collaboration with the Executive Board
* monitor compliance by the Parties with their obligations
* convene and chair General Assembly and Executive Board meetings and support the Call Secretariat
* keep the address list of Members and other contact persons updated and available
* collect, review to verify consistency and submit reports, other deliverables (including financial statements and related certifications) and specific requested documents to the Funding Authority
* transmit documents and information connected with the Cofund-Action to any other Parties concerned
* administer the financial contribution of the Funding Authority and fulfil the financial tasks described in Section 7.2.
* provide, upon request, the Parties with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims.

If one or more of the Parties is late in submission of any Cofund-Action deliverable, the Coordinator may nevertheless submit the other parties’ Cofund-Action deliverables and all other documents required by the Grant Agreement to the Funding Authority in time.

If the Coordinator fails in its coordination tasks, the General Assembly may propose to the Funding Authority to change the Coordinator.

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

The Coordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the Grant Agreement.

**[Option: 6.3.5 External Expert Advisory Board (EEAB)**

An External Expert Advisory Board (EEAB) will be appointed and steered by the Executive Board. The EEAB shall assist and facilitate the decisions made by the General Assembly. The Coordinator will ensure that a non-disclosure agreement is executed between all Parties and each EEAB member. Its terms shall be not less stringent than those stipulated in this Consortium Agreement and it shall be concluded no later than 30 days after their nomination or before any confidential information will be exchanged, whichever date is earlier. The Coordinator shall write the minutes of the EEAB meetings and prepare the implementation of the EEAB's suggestions. The EEAB members shall be allowed to participate in General Assembly meetings upon invitation but have not any voting rights.]

# Section 7: Financial provisions

## 7.1 General Principles

### 7.1.1 Overview

As presented in Annex 2 of the Grant Agreement, the financial contribution of the Funding Authority consists of the contribution to the financial support for the Transnational Projects (EU-Top-Up), the direct coordination costs for additional activities (**unit costs**) and the related indirect costs:

(A) The **contributions to support the Transnational Projects** consist of the national/regional contributions as defined in the Annex 2 of the Grant Agreement and EU funding (EU-Top-Up).

(B) The financial support for additional activities (**unit costs)** and the **related indirect costs** are paid by the Funding Authority on the basis of the number of years in which a Party took part in the additional activities.

### 7.1.2 Distribution of the EU Funding

The financial contribution of the Funding Authority to the Cofund-Action shall be distributed by the Coordinator according to:

* the Consortium Plan
* the approval of reports by the Funding Authority, and
* the provisions of payment in Sections 7.2, 7.3 and 7.4.

### 7.1.3 Justifying Costs towards the Funding Authority

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Cofund-Action towards the Funding Authority. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the Funding Authority.

### 7.1.4 Financial Consequences of the termination of the participation of a Party

A Party leaving the consortium shall refund all payments it has received except the amount of contribution accepted by the Funding Authority. Furthermore a Defaulting Party shall, within the limits specified in Section 5.2 of this Consortium Agreement, bear any reasonable and justifiable additional costs occurring to the other Parties in order to perform its and their tasks.

## 7.2 Payments

Payments to Parties are the exclusive tasks of the Coordinator. Related banking and transaction costs are borne by the receiving party.

In particular, the Coordinator shall:

* notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references
* perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts
* undertake to keep the financial contribution of the Funding Authority to the Cofund-Action separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.

With reference to Article 21.2 of the Grant Agreement, no Party shall before the end of the Cofund-Action receive more than its allocated share of the maximum grant amount from which the amounts retained by the Funding Authority for the Guarantee Fund and for the payment of the balance have been deducted.

The payment schedule will be handled in accordance with the provisions of this Consortium Agreement.

## 7.3 Withholding of Payments

The Coordinator is entitled to withhold any payments due to a Party identified by a responsible Consortium Body to be in breach of its obligations under this Consortium Agreement or the Grant Agreement or to a Beneficiary which has not yet signed this Consortium Agreement. The Coordinator is entitled to recover any payments already paid to a Defaulting Party. The Coordinator is equally entitled to withhold payments to a Party when this is suggested by or agreed with the Funding Authority.

## 7.4 Budgeting

[Please choose one of the following options and adapt the text marked in red.]

**[Option 1: Only a defined group of parties may claim implementation costs. The financial contribution of the Funding Authority for Unit costs and the related indirect costs will be paid to each of the Parties according to their involvement in additional activities.]**

The budget should be used as follows:

The Parties agree to use part of the financial contribution of the Funding Authority to fund the Transnational projects selected through the Joint Call. Part of the financial contribution of the Funding Authority will be used to cover the implementation costs. The financial support for additional activities (unit costs) and the related indirect costs will be transferred to the respective party according to the EC eligibility rules.

### 7.4.1 Share of implementation costs (for the Joint Call and for additional activities)

A Party shall be funded only for its tasks carried out in accordance with the Consortium Plan.

The Parties agree on the following allocation of budget for implementation costs:

|  |  |
| --- | --- |
| Party 1 | € xxx |
| Party 2 | € xxx |
| Party 3 | € xxx |
| *Total* | **€ xxx** |

Only the Parties indicated in the table above may claim implementation costs. A Party that spends more than its allocated share will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share. Implementation costs are only eligible for funding if they have incurred between DATE and DATE.

All Parties agree to cover the implementation costs with the EU-Top-Up funding and to increase their national/regional budget of the Joint Call as indicated in section 7.4.6.

### 7.4.2 Justifying implementation costs for the Joint Call towards the General Assembly

Implementation costs for the Joint Call shall be reported to the General Assembly on an annual basis using the following cost categories:

* Personnel costs
* Direct costs of subcontracting
* Other direct cost
* Indirect costs

### 7.4.3 Payment Schedule for implementation costs for the Joint Call

Reimbursement of implementation costs (as indicated in 7.4.1) shall be paid to the Parties 1,2,3 upon approval by the General Assembly in the following separate instalments as agreed below:

* + 30 % on receipt of the first pre-financing payment by the Funding Authority,
  + 30 % in the middle of the action (Month 30),
  + 40 % on receipt of the payment of the Guarantee Fund

A maximum of € xxx will be deducted from the EU-Top-Up to cover the implementation costs.

[You should prepare a liquidity plan considering that only parts of the total financial contribution of the Funding Authority (5% is transferred to the Guarantee Fund) will be transferred to the Coordinators’ bank account as first pre-financing.]

### 7.4.4 Unit Costs

Each partner shall report the number of actual units used according to the provisions of Articles 18 and 20 of the Grant Agreement to the Coordinator.

A Party which implements fewer units than foreseen in the Consortium Plan will be funded in accordance with its actual duly justified eligible units only.

Unit costs are only eligible for Parties actively participating in additional activities beside the Joint Call.

A Party that spends more than its allocated share of the budget as set out in the Consortium Plan will be funded only in respect of duly justified eligible units up to an amount not exceeding that share.

The financial contribution of the Funding Authority for Unit costs and the related indirect costs shall be paid annually (Month 15, Month 27, Month 39, Month 51, Month 63) upon approval by the Executive Board.

### 7.4.5 Funding of Support to Transnational Projects

Support to Transnational Projects shall be paid to Parties funding the respective Transnational projects. The amount to be transferred to Parties shall be determined after deducting the implementation costs for the Joint Call specified in 7.4.1. The support shall be paid in separate instalments as agreed below:

* + 80 % on receipt of the second pre-financing payment by the Commission,
  + 15 % on receipt of the payment of the balance
  + 5 % on receipt of the payment of the Guarantee Fund

The support to the Transnational Projects shall be paid by the respective Party. The Coordinator shall not transfer any funds directly to the Transnational Projects.

### 7.4.6 National/regional budget of the Joint Call

The budget of the Joint Call shall be at least xxxx €. Each Funding Agency will endeavour to fund a minimum of xxx involvements in Transnational Projects with their regional/national financial contribution.

The following table indicates the funding commitments of each Funding Agency (FA):

|  |  |  |
| --- | --- | --- |
| **Short name** | **Country / FA** | **National/regional financial contribution to the Cofund-Action Joint Call = Funding commitments [EUR]** |
| xxx | xx | xxxx |
| yyy | yy |  |
|  | **Total** | **xxx** |

**[Option 2: Costs of each Party (Personnel costs, Other direct costs, Subcontracting, Indirect costs) are calculated. From the financial contribution of the Funding Authority these costs are subtracted.]**

The budget should be used as follows:

The Parties shall use part of the financial contribution of the Funding Authority to fund the Transnational Projects selected through the Joint Call and another part to feed the Network Fund. Furthermore, the financial support for additional activities (unit costs and the related indirect costs) will feed the Network Fund.

The Network Fund is the global budget for implementation and execution of the project. The costs of each Party were calculated according to the involvement in the project based on the following cost categories:

* Personnel costs
* Direct costs of subcontracting
* Other direct cost
* Indirect Costs

The initial global budget of the Cofund-Action per tasks and per Parties can be found in Annex x.

[Please add a budget table to this consortium agreement]

### 7.4.1 Share of the Parties in the Network Fund

A Party shall be reimbursed only for its tasks carried out in accordance with the Consortium Plan. The Parties agree on the allocation of budget for each Party as shown in Annex x :

A Party that spends more than its allocated share will be reimbursed only in respect of duly justified eligible costs up to an amount not exceeding that share. Costs are only eligible for funding if they have incurred between DATE and DATE.

All Parties agree to cover the Network Fund from the financial contribution of the Funding Authority and to increase their national/regional budget of the Joint Call as indicated in section 7.4.6.

### 7.4.2 Justifying costs towards the General Assembly

Cost shall be reported to the General Assembly on an annual basis using the following cost categories:

* Personnel costs
* Direct costs of subcontracting
* Other direct cost
* Indirect Costs

### 7.4.3 Payment Schedule

Reimbursement of the costs (as indicated in Annex x) shall be paid to the Parties upon approval by the General Assembly in the following separate instalments as agreed below:

* + 30 % on receipt of the first pre-financing payment by the Funding Authority,
  + 30 % in the middle of the action (Month 30),
  + 40 % on receipt of the payment of the Guarantee Fund

[You should prepare a liquidity plan considering that only parts of the total financial contribution of the Funding Authority (5% is transferred to the Guarantee fund) will be transferred to the Coordinators’ bank account as first pre-financing.]

### 7.4.4 Unit Cost Reporting

Each partner shall report the number of actual units used according to the provisions of Articles 18 and 20 of the Grant Agreement to the Coordinator.

### 7.4.5 Funding of Support to Transnational Projects

Support to Transnational Projects shall be paid to Parties funding the respective Transnational projects. The amount to be transferred to Parties shall be determined after deducting the budget for the Network Fund. The support shall be paid in separate instalments as agreed below:

* + 80 % on receipt of the second pre-financing payment by the Commission,
  + 15 % on receipt of the payment of the balance
  + 5 % on receipt of the payment of the Guarantee Fund

The support to the Transnational projects shall be paid by the respective Party. The Coordinator shall not transfer any funds directly to the Transnational Projects.

### 7.4.6 National/regional budget of the Joint Call

The budget of the Joint Call shall be at least xxxx €. Each Funding Agency will endeavour to fund a minimum of xxx involvements in Transnational Projects with their regional/national financial contribution.

The following table indicates the funding commitments of each Funding Agency (FA):

|  |  |  |
| --- | --- | --- |
| **Short name** | **Country / FA** | **National/regional financial contribution to the Cofund-Action Joint Call = Funding commitments [EUR]** |
| xxx | xx | xxxx |
| yyy | yy |  |
|  | **Total** | **xxx** |

**[Option 3: Each of the Parties contributes with its Unit Costs and a specific additional agreed budget to the implementation costs]**

The budget should be used as follows:

The Parties shall use part of the financial contribution of the Funding Authority to fund the Transnational Projects selected through the Joint Call.

To cover the implementation costs the following resources will be used:

* X % of the financial contribution of the Funding Authority for Unit costs and the related indirect costs
* Xxxx EURO financial Contribution from each Party
* Xxxx EURO additional national contribution from medium to large countries depending on their share of the total Joint Call budget (see section 7.4.5)

### 7.4.1 Share of implementation costs

A Party shall be funded only for its tasks carried out in accordance with the Consortium Plan.

The Parties agree on the following allocation of budget for implementation costs of the project:

|  |  |
| --- | --- |
| Party 1 | € xxx |
| Party 2 | € xxx |
| Party 3 | € xxx |
| *Total* | **€ xxx** |

Only the Parties indicated in the table above may claim implementation costs. A Party that spends more than its allocated share will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share. Implementation costs for the Joint Call are only eligible for funding if they have incurred between DATE and DATE.

### 7.4.2 Justifying implementation costs towards the General Assembly

Implementation costs shall be reported to the General Assembly on an annual basis using the following cost categories:

* Personnel costs
* Direct costs of subcontracting
* Other direct cost
* Indirect costs

### 7.4.3 Payment Schedule for implementation costs

Reimbursement of implementation costs (as indicated in 7.4.1) shall be paid to the Parties 1,2,3 upon approval by the General Assembly in the following separate instalments as agreed below:

* + 30 % on receipt of the first pre-financing payment by the Funding Authority,
  + 30 % in the middle of the action (Month 31),
  + 40 % on receipt of the payment of the Guarantee Fund

[You should prepare a liquidity plan considering that only parts of the total financial contribution of the Funding Authority (5% is transferred to the Guarantee Fund) will be transferred to the Coordinators’ bank account as first pre-financing.]

### 7.4.4 Unit Cost Reporting and Payment

Each partner shall report the number of actual units used according to the provisions of Articles 18 and 20 of the Grant Agreement to the Coordinator.

After the deduction of the Parties share of the implementation costs, the bank transfer will be made on receipt of the first pre-financing payment by the Funding Authority

### 7.4.5 National contribution to implementation costs

Each Party will contribute with a payment of xxxx EURO to the implementation costs. Additionally each party will contribute with xxxx EURO of the financial contribution of the Funding Authority for Unit Costs and the related indirect costs to the implementation costs. Furthermore medium to large countries will contribute with xxxx to xxxx EURO depending on their share of the total Joint Call budget to the implementation cost.

[Please specify in your consortium which party belongs to a large/medium country and indicate this in the table below.]

The following Table indicates the contribution of each party to the implementation costs:

|  |  |  |  |
| --- | --- | --- | --- |
| **Party** | **Initial contribution** | **Contribution via Units Costs** | **Additional national contribution** |
| Party 1 |  |  |  |
| Party 2 |  |  |  |
| Party 3 |  |  |  |
| Party 4 |  |  |  |
| Party 5 |  |  |  |
| Party6 |  |  |  |
| Party 7 |  |  |  |
| Party 8 |  |  |  |
| Party x |  |  |  |
| *Total* |  |  |  |

The national contribution to the implementation cost will be paid in three separate instalments in month 1, month 30 and month 60 to the Coordinator.

### 7.4.6 Funding of Support to Transnational Projects

Support to Transnational Projects shall be paid to Parties funding the respective Transnational projects. The support shall be paid in separate instalments as agreed below:

* + 80 % on receipt of the second pre-financing payment by the Commission,
  + 15 % on receipt of the payment of the balance
  + 5 % on receipt of the payment of the Guarantee Fund

The support to the Transnational projects shall be paid by the respective Party. The Coordinator shall not transfer any funds directly to the Transnational Projects.

**[Option 4: Implementation costs are covered with the financial contribution of the Funding Authority (Unit costs and EU-Top-Up), Travel/subsistence budget is foreseen for attending network meetings; Reserve fund for additional activities]**

The budget should be used as follows:

The Parties shall use part of the financial contribution of the Funding Authority to fund the Transnational projects selected through the Joint Call. A budget of xxx EURO from the financial contribution of the Funding Authority has been set aside to partially cover the cost of the network meetings (travel/subsistence costs). Another part of the financial contribution of the Funding Authority will be used to cover the implementation costs of the Cofund-Action. Furthermore a reserve fund is formed to cover additional costs encountered while implementing additional activities that go beyond the cofunded call.

### 7.4.1 Share of implementation costs (for the Joint Call and for additional activities)

A Party shall be funded only for its tasks carried out in accordance with the Consortium Plan.

The Parties agree on the following allocation of budget for implementation costs:

|  |  |
| --- | --- |
| Party 1 | € xxx |
| Party 2 | € xxx |
| Party 3 | € xxx |
| *Total* | **€ xxx** |

Only the Parties indicated in the table above may claim implementation costs. A Party that spends more than its allocated share will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share. Implementation costs are only eligible for funding if they have incurred between DATE and DATE.

All Parties agree to cover the implementation costs with the financial contribution of the Funding Authority and to increase their transnational call budgets as indicated in section 7.4.8.

### 7.4.2 Justifying implementation costs for the Joint Call towards the General Assembly

Implementation costs for the Joint Call shall be reported to the General Assembly on an annual basis using the following cost categories:

* Personnel costs
* Direct costs of subcontracting
* Other direct cost
* Indirect costs

### 7.4.3 Payment Schedule for implementation costs for the Joint Call

Reimbursement of implementation costs for the Joint Call (as indicated in 7.4.1) shall be paid to the Parties 1,2,3 upon approval by the General Assembly in the following separate instalments as agreed below:

* + 30 % on receipt of the first pre-financing payment by the Funding Authority,
  + 30 % in the middle of the action (Month 30),
  + 40 % on receipt of the payment of the Guarantee Fund

[You should prepare a liquidity plan considering that only parts of the total financial contribution of the Funding Authority (5% is transferred to the Guarantee Fund) will be transferred to the Coordinators’ bank account as first pre-financing.]

### 7.4.4 Unit Costs Reporting

Each partner shall report the number of actual units used according to the provisions of Articles 18 and 20 of the Grant Agreement to the Coordinator.

### 7.4.5 Travel/Subsistence costs for Network Meetings

A budget of xxxx EURO from the financial contribution of the Funding Authority has been set aside to partially cover cost of network meetings (travel/subsistence costs). This budget will be distributed by the Coordinator to the Parties as a pre-financing as shown in Annex x. The maximum costs per Party for all network meetings (travel and subsistence) are detailed in Annex x.

[Please add a table concerning the travel/subsistence costs for network meetings to this consortium agreement]

### 7.4.6 Reserve Fund

The Parties have agreed about a budget of xxx EURO as “Reserve funds”. This budget will be used to cover additional costs encountered while implementing additional activities that go beyond the cofunded call.

Any Party may apply for this reserve funds during a meeting of the General Assembly in order to implement an activity. The Party shall present this activity and the budget required from the reserve funds to implement this activity. The General Assembly decides whether this Party may implement this activity with the help of the agreed budget.

### 7.4.7 Funding of Support to Transnational Projects

Support to Transnational Projects shall be paid to Parties funding the respective Transnational projects. The amount to be transferred to Parties shall be determined after deducting the implementation costs specified in 7.4.1. The support shall be paid in separate instalments as agreed below:

* + 80 % on receipt of the second pre-financing payment by the Commission,
  + 15 % on receipt of the payment of the balance
  + 5 % on receipt of the payment of the Guarantee Fund

The support to the Transnational projects shall be paid by the respective Party. The Coordinator shall not transfer any funds directly to the Transnational Projects.

### 7.4.8 National/regional budget of the Joint Call

The budget of the Joint Call shall be at least xxxx EURO. Each Funding Agency will endeavour to fund a minimum of xxx involvements in Transnational Projects with their regional/national financial contribution.

The following table indicates the funding commitments of each Funding Agency (FA):

|  |  |  |
| --- | --- | --- |
| **Short name** | **Country / FA** | **National/regional financial contribution to the Cofund-Action Joint Call = Funding commitments [EUR]** |
| xxx | xx | xxxx |
| yyy | yy |  |
|  | **Total** | **xxx** |

## 7.5 Return of excess payments; receipts

In any case of a Party having received excess payments, the Party has to return the relevant amount to the Coordinator without undue delay.

In case a Party earns any receipt that is deductible from the total funding as set out in the Consortium Plan, the deduction is only directed toward the Party earning such income. The other Parties' financial share of the budget shall not be affected by one Party's receipt. In case the relevant receipt is more than the allocated share of the Party as set out in the Consortium Plan, the Party shall reimburse the funding reduction suffered by other Parties.

## 7.6 Cost of Certificates of the Financial Statement

[If a Party is eligible for requesting a total financial contribution of the Funding Authority of 325.000 EURO or more as reimbursement for „direct costs related to transnational projects“, a Certificate on the Financial Statement is obligatory. This means that a Party has to provide the Certificate on the Financial Statement when the total direct cost for its Transnational Projects is more than 984.849 EURO, regardless if it actually receives 325.000 EURO financial contribution of the Funding Authority, as the consortium can agree to spend the financial contribution of the Funding Authority differently.]

[Please choose one of the following options and adapt the text marked in red.]

**[Option 1 each party covers the related costs for the Certificate of the Financial Statement]**

Each Party shall cover the cost for its own Certificate of the Financial Statement it has to provide according to the Grant Agreement.

**[Option 2 Reserve Fund for Certificates of the Financial Statement]**

All Parties agree to cover the costs for the Certificates of the Financial Statements by the financial contribution of the Funding Authority. A reserve fund budget will be used to cover these costs. The Coordinator shall suggest a budget for the “reserve fund” according to the distribution of direct costs related to Trans-national Projects. This budget shall be decided upon in the meeting of the General Assembly for the selection of the Transnational Projects of the Joint call.

## 7.7 Insufficient financial contribution of the Funding Authority

In the unlikely case that the financial contribution of the Funding Authority is not sufficient to contribute to the costs of the Cofund-Action in the planned way the parties agree to use the procedure described in the following paragraphs.

## 7.7.1 Less EU-Top-Up than foreseen for the Joint Call

The financial contribution of the Funding Authority for the Joint Call is based on actual costs. The fixed reimbursement for direct costs of providing financial support to third parties implementing Transnational projects is 33%. If these costs are less than planned in the Grant Agreement, the financial contribution of the Funding Authority will be less as well.

The following cases might occur:

Case 1: Less eligible cost and therefore less funding for one or more selected Transnational projects

The respective Funding Agency shall endeavour to avoid such situation by allowing the respective Transnational projects to exchange for example a bankrupt consortium member.

If this situation cannot be avoided and the respective Party already received the related EU-Top-Up the respective Party has to return the related EU-Top-Up to the Coordinator.

If the above mentioned is not sufficient, each Party contributes proportionally to its share of the EU-Top-Up agreed after defining the final ranking list of the Joint Call to cover the funding gap by increasing their national budgets for the Transnational projects and reducing the EU-Top-Up share.

Case 2: A Funding Agency has to revoke after the ranking list is fixed.

In case that a Funding Agency has to revoke and cannot fund its respective national share of the related Transnational projects of the Joint Call the other Parties shall:

1. Convene a meeting of the General Assembly to discuss the possibility to replace and fund the respective consortium members of the concerned Transnational projects.
2. If a replacement is not possible and a funding gap appears each Party contributes proportionally to its share of the EU-Top-Up agreed after defining the final ranking list of the Joint Call to cover the funding gap by increasing their national budgets for the Transnational projects and reducing the EU-Top-Up share.
3. If the management costs of the Cofund-Actions are reimbursed by using part of the EU-Top-Up and the funding gap cannot be closed by reducing the EU-Top-Up share, the Parties agree to contribute with payments to cover the management costs. The management costs shall be covered as planned. The share of each Party will be calculated pro rate to the real national funding budget in the Joint Call after the agreed ranking list and after deducting the amount of the Funding Agency which revoked. The Payments will be made to the Coordinator without unjustified delay.

[An internal national/regional agreement between programme owner and programme manager of each programme involved might be important to follow the above mentioned. Possibly not only programme owners are involved in your Cofund-Action. However each Party has to ensure that these rules can be followed.]

## 7.7.2 Fewer Units than foreseen in the Consortium Plan

In case that the actual number of eligible units is fewer as in the Consortium Plan the Financial contribution of the Funding Authority will be reduced.

The actual number of eligible units is related to the involvement of the Parties in the specified additional activities indicated in the Consortium Plan.

If a Party is involved in less additional units than foreseen in the Consortium Plan and it was agreed that the Unit Cost and the related indirect costs are used to cover parts of the management costs a funding gap appears. Therefore the respective Party has to replace the missing contribution of the Funding Authority with an equal payment to the coordinator.

## 7.7.3 No financial contribution of the Funding Authority

In the unlikely case that the Cofund-Action is terminated and no financial contribution is paid by the Funding Authority, the Parties agree to cover the management costs incurred up to the time of the termination.

Regardless of the question of responsibility, the Parties shall pay their share of the management cost proportionally to their share of the total indicative Joint Call budget. The Payments shall be made to the Coordinator without unjustified delay.

[Please make sure that each Party agrees on a national/regional level on ways to cover potential losses. Possibly not only programme owners are involved in your Cofund-Action. However each Party have to ensure that this rules can be followed.]

# Section 8: Call Implementation

## 8.1. Selection Process

[You can distinguish between the cofunded Joint Call and additional none-cofunded Joint Calls.]

### 8.1.1 Pre-Proposal Stage

[Please choose one of the following options.]

**Option 1: Central Scientific Evaluation of Pre-Proposals**

A single international peer review shall be accomplished after the national and transnational eligibility checks to evaluate the submitted pre-proposals. Only those pre-proposals which are eligible according to transnational rules shall be evaluated. At least three independent experts shall evaluate each pre-proposal. The result of the peer review shall be a ranking list of pre-proposal suggested for submitting a full proposal.

**Option 2: National Assessment of Pre-Proposals**

The pre-proposals received are selected by means of the following steps:

* Eligibility and content (relevance for national/regional program) approved by the Funding Agencies,
* National/regional prioritisation (1- “must have”, 2-“want to fund”, 3-“can fund”, NO- not eligible, “-“ = “no participant from this country/region”)” done for each pre-proposal
* Combine the national/regional prioritisation in one single ranking list of pre-proposals

### 8.1.2 Limited oversubscription

The Parties shall make their best efforts to match their national funding budget with the expected success of their respective research communities.

[Please choose one of the following options and adapt the numbers marked in red.]

**Option 1: Limited potential oversubscription**

The selected pre-proposals should not exceed the proposed total individual national/regional budget of the Joint Call by more than two times.

The exact cut-off line shall be agreed upon by the General Assembly. Maximum national requested budgets will be decided after the pre-proposals selection.

**Option 2: Best-effort obligation to commit higher national/regional budget**

If the number of pre-proposals submitted is more than 10 times the number of proposals that can be funded, the Funding Agencies shall strive to bring additional national funding to allow for an equivalent distribution of the EU-Top-Up funding.

The exact cut-off line shall be agreed upon by the General Assembly. Maximum national requested budgets will be decided after the pre-proposals selection.

### 8.1.2 Full-Proposal Stage

The Full-Proposal selection shall be accomplished following the rules indicated in Article 15 of the Grant Agreement.

A single international peer review shall be accomplished. Only those full proposals which are eligible shall be evaluated. The expert panel shall rank proposals according to the programme’s evaluation criteria. At least three independent experts shall evaluate each full proposal. The result of the peer review shall be a list of full proposals suggested for funding.

## 8.2 Use of EU-Top-Up Funding for Transnational Projects

The Parties agree to fund as many Transnational Projects as possible following the ranking list.

When the ranking list of projects recommended for funding is set up, the main goal should be first to explore all funding solutions to unblock situations at national level (i.e. national funding agencies shall make all reasonable efforts to match national funding with the success of their respective research communities).

The EU-Top-Up funding for Transnational Projects shall be used in the most efficient way possible. The Parties thus agree that they will not insist on an equal share of the EU-Top-Up funding.

The EU-Top-Up funding for Transnational Projects for each Party shall be limited to its respective financial contribution to the Joint Call.

The General Assembly can re-evaluate the rules for using the EU-Top-Up funding for Transnational Projects if a Highly Detrimental Situation occurs.

[Please choose one of the following options.]

**[Option 1: EU-Top-Up Funding for Transnational Projects in Common Pot]**

The Parties agree that the EU-Top-Up funding for Transnational Projects will be used to fill potential gaps in the ranking list resulting from insufficient national/regional funding. This means that the EU-Top-Up funding for Transnational Projects will be used as a real common pot.

**[Option 2: Defined percentage of EU-Top-Up funding for Trans-national Projects for Gap filling, remaining amount is used proportionally among the parties based on the respective national/regional contributions]**

The Parties agree to use a mixed mode financing system to compensate cases where participating funding agencies have exhausted their budget at different points in the ranking list.

A minimum of 40% of the EU-Top-Up funding for Transnational Projects will be reserved for financial balancing purposes. If more than 40% of the EU-Top-Up funding for Transnational Projects is needed for balancing purposes in order to maximise the number of Transnational Projects that can be funded, this percentage may be further increased by a decision of the General Assembly. The EU-Top-Up funding for Transnational Projects will be used for proportional topping-up of the national/regional funding of the respective Parties.

## 8.3 Ranking List

[You can distinguish between the cofunded Joint Call and additional none-cofunded Joint Calls.]

Based on the ranking by the Expert Panel, and taking into account the available budgets of the Funding Agencies and the EU-Top-Up funding, the Call Secretariat will propose a funding recommendation to the General Assembly, taking into account that it is a requirement of the Cofund-Action to follow the ranking list as suggested.

The General Assembly shall agree on the ranking list based on the suggestion by the Call Secretariat. Projects with scores below the thresholds given in the call text will not be funded even if there is national funding available.

## 8.4 Conflicts of interests

[If other potential conflicts of interest than mentioned below might be possible in your Cofund-Action this paragraph should be adapted.]

Each Party agrees that, in order to avoid any conflict of interest within the call for proposals developed in the Cofund-Action, it will not be involved in the evaluation process (incl. the appointment of the international panel of independent experts), if the Party or its Affiliated Entities (as defined in Article 2 of the Horizon 2020 Rules for Participation) plan to respond themselves to this call.

In selecting the international independent experts for the Expert Panel, the Executive Board shall also endeavour to avoid any possible conflicts of interest.

The Call Secretariat shall prepare a template concerning potential conflicts of interests and a declaration, which has to be signed by each member of the Expert Panel.

## 8.5 Contractual obligations towards the Funding Authority on Selection

The Funding Agencies shall provide to the Coordinator within 10 days after the end of the selection process a formal and duly signed commitment on availability of funds for their selected projects.

After the end of the selection process, the Coordinator shall submit to the Funding Authority the following:

(a) the ranking list(s) of the projects;

(b) the evaluation observers' report on the evaluation;

(c) the joint selection list of the projects to be funded, and

(d) from each Funding Agency participating in the Joint Call, a formal and duly signed commitment on availability of funds for the selected projects.

The Coordinator will furthermore submit to the Funding Authority after the end of the selection process information on each project selected for funding, including data on each participant and abstracts of the project proposal, in a format specified by the Funding Authority, for publication and evaluation purposes.

This information will be updated at the end of the Cofund-Action (information on each Funded Project, including data on each participant and overview on the results).

The Funding Agencies shall inform their national beneficiaries that the above-mentioned data will be submitted to the Funding Authority.

## 8.6 Contractual obligations for projects funded in the Joint Call

[You can distinguish between the cofunded Joint Call and additional none-cofunded Joint Calls.]

The Parties acting as Funding Agencies for projects selected for funding in the Joint Call agree to oblige their project participants in funding contracts to the following:

* to have a signed consortium agreement prior to the start of the project at least addressing the following topics:
  + Internal organisation and management of the consortium
  + Intellectual Property arrangements
  + Settlement of internal disputes
* to prepare popular science summaries of the project contents for programme activities and publications (e.g. for brochures, [digital] newsletters, the website etc)
* to take part in, and contribute with project presentations and/or posters to the foreseen events of the Cofund-Action
* to prepare short annual reports according to a standardised template and to respond to two in-depth monitoring surveys (mid-term and final) to measure project progress and contribution to overall Cofund-Action aims
* to provide the information on their projects, including data on each participant and abstracts of the project proposal, in a format specified by the Funding Authority, for publication and evaluation purposes.

# Section 9: Results

## 9.1 Ownership of Results

For the avoidance of doubt, the term „Results“ in this section refers to the Results generated by the Consortium of the Cofund-Action and does not include the results generated by the Funded Projects.

Results are owned by the Party that generates them. Results where Parties contributed financially or directly shall be jointly owned.

Unless otherwise agreed:

* each of the joint owners shall be entitled to use their jointly owned Results for non-commercial activities on a royalty-free basis, and without requiring the prior consent of the other joint owner(s), and
* each of the joint owners shall be entitled to otherwise exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given:

(a) at least 45 calendar days advance notice; and

(b) Fair and Reasonable compensation.

## 9.2 Dissemination of own Results

For the avoidance of doubt, nothing in this Section 9.2 has impact on the confidentiality obligations set out in Section 11.

During the Cofund-Action and for a period of 1 year after the end of the Cofund-Action, the dissemination of own Results by one or several Parties, including but not restricted to publications and presentations, shall be governed by the procedure of Article 29.1 of the Grant Agreement subject to the following provisions.

Prior notice of any planned publication shall be given to the other Parties at least 45 calendar days before the publication. Any objection to the planned publication shall be made in accordance with the Grant Agreement in writing to the Coordinator and to the Party or Parties proposing the dissemination within 30 calendar days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted.

An objection is justified if

(a) the protection of the objecting Party's Results or Background would be adversely affected

(b) the objecting Party's legitimate academic or commercial interests in relation to the Results or Background would be significantly harmed.

The objection has to include a precise request for necessary modifications.

If an objection has been raised the involved Parties shall discuss how to overcome the justified grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting information before publication) and the objecting Party shall not unreasonably continue the opposition if appropriate measures are taken following the discussion.

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

## 9.3 Dissemination of another Party’s unpublished Results or Background

For the avoidance of doubt, nothing in this Section 9.3 has impact on the confidentiality obligations set out in Section 11.

A Party shall not include in any dissemination activity another Party's Results or Background without obtaining the owning Party's prior written approval, unless they are already published.

## 9.4 Use of names, logos or trademarks

Nothing in this Consortium Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the Parties or any of their logos or trademarks without their prior written approval.

# Section 10: Access Rights

For the avoidance of doubt, this section refers to the Access Rights of the Consortium of the Cofund-Action and does not include the background/results of the Funded Projects.

## 10.1 Background included

In Attachment 1, the Parties have identified and agreed on the Background for the Cofund-Action and have also, where relevant, informed each other that access to specific Background is subject to legal restrictions or limits.

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

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

## 10.2 General Principles

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

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

Access Rights shall be free of any administrative transfer costs.

Access Rights are granted on a non-exclusive basis.

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

All requests for Access Rights shall be made in writing.

The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

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

## 10.3 Access Rights for implementation

Access Rights to Results and Background needed for the performance of the own work of a Party under the Cofund-Action shall be granted on a royalty-free basis.

## 10.4 Access Rights for Exploitation

Access Rights to Results if Needed for Exploitation of a Party's own Results shall be granted on a royalty-free basis.

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

A request for Access Rights may be made up to twelve months after the end of the Cofund-Action or, in the case of a non-defaulting Party leaving voluntarily and with the other Parties' consent, up to twelve months after the termination of the requesting Party’s participation in the Cofund-Action.

## 10.5 Access Rights for Parties entering or leaving the consortium

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

Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the General Assembly to terminate its participation in the Consortium.

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

It may request Access Rights within the period of time specified in Section 10.4.

Any Party leaving the Cofund-Action shall continue to grant Access Rights pursuant to the Grant Agreement and this Consortium Agreement as if it had remained a Party for the whole duration of the Cofund-Action.

# Section 11: Non-disclosure of information and confidentiality

## 11.1 Scope

All information in whatever form or mode of communication, which is disclosed by a Party (the “Disclosing Party”) to any other Party (the “Recipient”) in connection with the Cofund-Action during its implementation and which has been explicitly marked as “confidential” at the time of disclosure, or, in case it was disclosed orally, has been identified as confidential at the time of disclosure, and has been confirmed and designated in writing within 15 calendar days from oral disclosure at the latest as confidential information by the Disclosing Party, is “Confidential Information”.

## 11.2. Approach

The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the Grant Agreement, for a period of 4 years after the end of the Cofund-Action:

* not to use Confidential Information otherwise than for the purpose for which it was disclosed;
* not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party;
* to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
* to return to the Disclosing Party, or destroy on request all Confidential Information that has been disclosed by the Recipients including all copies thereof and to delete all information stored in a machine readable form to the extend practically possible. The Recipients may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations provided that the Recipient comply with the confidentiality obligations herein contained with respect to such copy for as long as the copy is retained.

## 11.3 Range

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

## 11.4 Exception

The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

* the Confidential Information becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;
* the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
* the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
* the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
* the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party;
* the Confidential Information was already known to the Recipient prior to disclosure or
* the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Section 11.7 hereunder.

## 11.5 Handling

The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Cofund-Action as with its own confidential and/or proprietary information, but in no case less than reasonable care.

## 11.6 Unauthorised disclosure

Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

## 11.7 Disclosing Confidential Information in order to comply with applicable laws or regulations

If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure

* notify the Disclosing Party, and
* comply with the Disclosing Party’s reasonable instructions to protect the confidentiality of the information.

The confidentiality obligations under this Consortium Agreement shall not prevent the obligations arising from the GA concerning the communication with the Funding Authority.

## 11.8 Confidentiality for Transnational Projects

[If national rules create a conflict with be paragraph mentioned below, the paragraph should be adapted.]

The content of the proposals received under the Joint Call is deemed to be confidential, except for the lists of applications and lists of projects selected for funding. This obligation shall survive the expiration or termination of the Consortium Agreement.

# Section 12: Data Management

Appropriate and secure use of material and data of Transnational Projects will be enabled according to the application of common standards. Data management guidelines will be developed by the Executive Board in Month xxx and will be applied in the Joint Call. The collected data will be protected and secured, in order to avoid a malevolent use of it.

# Section 13: Miscellaneous

## 13.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and

Attachment 1 (Background included)

Attachment 2 (Accession document)

In case the terms of this Consortium Agreement are in conflict with the terms of the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the attachments and the core text of this Consortium Agreement, the latter shall prevail.

Should any provision of this Consortium Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Consortium Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

## 13.2 No representation, partnership or agency

Except if otherwise provided in Section 6.3.4, no Party shall be entitled to act or to make legally binding declarations on behalf of any other Party or of the Consortium. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

## 13.3 Notices and other communication

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

Formal notices:

If it is required in this Consortium Agreement (e.g. Section 4.2, 13.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party and shall either be served personally or sent by mail with recorded delivery or telefax with receipt acknowledgement.

Other communication:

Other communication between the Parties may also be effected by other means such as e-mail with acknowledgement of receipt, which fulfils the conditions of written form.

Any change of persons or contact details shall be notified immediately by the respective Party to the Coordinator. The address list shall be accessible to all concerned.

## 13.4 Assignment and amendments

No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties’ prior formal approval.

Amendments and modifications to the text of this Consortium Agreement not explicitly listed in Section 6.3.1.2 require a separate written agreement to be signed between all Parties.

## 13.5 Mandatory national law

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

## 13.6 Language

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

## 13.7 Applicable law

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

## 13.8 Settlement of disputes

The parties shall endeavour to settle their disputes amicably.

[Please choose one of the following options.]

**[Option 1: Coordinator and General Assembly]**

In case of a conflict of opinion which cannot be solved within the respective Consortium Body or between the respective Consortium Bodies, the Coordinator shall be approached for advice. He/She may decide to seek a decision of the whole General Assembly in order to come to a solution. If the coordinator is involved in the conflict, partner xxx should take over this role.

**[Option 2: Ad hoc Commission]**

In case of a conflict of opinion which cannot be solved within the respective Consortium Body or between the respective Consortium Bodies an impartial ad hoc commission shall be established by the General Assembly. Parties involved in the dispute cannot take a place in the ad hoc commission to settle the dispute.

The Parties involved in the dispute can state their case to the ad hoc commission.

The ad hoc commission will proceed by vote; each member of the ad hoc commission has one vote. A non-binding recommendation will be issued based on the agreement of a majority of two-thirds.

Should the attempts to settle the dispute within the Consortium fail to bring about a full agreement between the Parties, the Consortium will try to solve it through the following method of dispute resolution.

[Please choose an appropriate method of dispute resolution, possibly one of the options 1 (WIPO), 2 (bMediation) or 3 (ICC), and within these options between 1.1. and 1.2 or 2.1 and 2.2]

**[Option 1: WIPO Mediation Followed, in the Absence of a Settlement, by WIPO Expedited Arbitration or by Court Litigation]**

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

[Please choose one of the following options.]

[Option 1.1. WIPO Mediation Followed, in the Absence of a Settlement, by WIPO Expedited

Arbitration] If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 calendar days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 60 calendar days, either Party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other Party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be Brussels unless otherwise agreed upon. The language to be used in the arbitral proceedings shall be English unless otherwise agreed upon.

[Option 1.2. WIPO Mediation Followed, in the Absence of a Settlement, by Court Litigation]

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 calendar days of the commencement of the mediation, the courts of Brussels shall have exclusive jurisdiction. Acronym of the Project Consortium Agreement, version ……., YYYY-MM-DD

**[Option 2: ICC Arbitration]**

All disputes arising out of or in connection with this Consortium Agreement, which cannot be solved amicably, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Brussels if not otherwise agreed by the conflicting Parties. The award of the arbitration will be final and binding upon the Parties. Nothing in this Consortium Agreement shall limit the Parties' right to seek injunctive relief in any applicable competent court.

# Section 14: Signatures

**AS WITNESS:**

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

[INSERT NAME OF PARTY]

Signature(s)

Name(s)

Title(s)

|  |
| --- |
| [Attachment 1: Background included] |
| According to the Grant Agreement (Article 24) Background is defined as “data, know-how or information (…) that is needed to implement the action or exploit the results”. Because of this need, Access Rights have to be granted in principle, but parties must identify and agree amongst them on the Background for the Cofund-Action. This is the purpose of this attachment.  PARTY 1  As to [NAME OF THE PARTY], it is agreed between the parties that, to the best of their knowledge (*please choose)*,  Option 1: The following background is hereby identified and agreed upon for the Cofund-Action. Specific limitations and/or conditions, shall be as mentioned hereunder:   |  |  |  | | --- | --- | --- | | Describe Background | Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement) | Specific limitations and/or conditions for exploitation (Article 25.3 Grant Agreement) | | … | … | .. | | .. | … | .. |   Option 2: No data, know-how or information of [NAME OF THE PARTY] shall be Needed by another Party for implementation of the Cofund-Action (Article 25.2 Grant Agreement) or exploitation of that other Party’s Results (Article 25.3 Grant Agreement).  This represents the status at the time of signature of this Consortium Agreement.  PARTY 2.  As to [NAME OF THE PARTY], it is agreed between the parties that, to the best of their knowledge (*please choose)*  Option 1: The following background is hereby identified and agreed upon for the Cofund-Action. Specific limitations and/or conditions, shall be as mentioned hereunder:   |  |  |  | | --- | --- | --- | | Describe Background | Specific limitations and/or conditions for implementation (Article 25.2 Grant Agreement) | Specific limitations and/or conditions for exploitation (Article 25.3 Grant Agreement) | | … | … | .. | | .. | … | .. |   Option 2: No data, know-how or information of [NAME OF THE PARTY] shall be Needed by another Party for implementation of the Cofund-Action (Article 25.2 Grant Agreement) or exploitation of that other Party’s Results (Article 25.3 Grant Agreement).  This represents the status at the time of signature of this Consortium Agreement.  Etc. |

|  |  |
| --- | --- |
| **[Attachment 2: Accession document]** |  |
| ACCESSION  **of a new Party to**  **[Acronym of the Cofund-Action] Consortium Agreement, version […, YYYY-MM-DD]**  [OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE **Grant Agreement**]  hereby consents to become a Party to the Consortium Agreement identified above and accepts all the rights and obligations of a Party starting [date].  [OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE **Grant Agreement**]  hereby certifies that the consortium has accepted in the meeting held on [date] the accession of [the name of the new Party] to the consortium starting [date].  This Accession document has been done in 2 originals to be duly signed by the undersigned authorised representatives.  [Date and Place]  [INSERT NAME OF THE NEW PARTY]  Signature(s) Name(s) Title(s)  [Date and Place]  [INSERT NAME OF THE COORDINATOR]  Signature(s) Name(s) Title(s) |  |

1. It is expected that the European Commission will act as the Funding Authority in most ERA-NET Cofund Actions. [↑](#footnote-ref-1)