

STAR II CONSORTIUM AGREEMENT

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CONSORTIUM AGREEMENT

For the Project
Support small And medium enterprises on the data protection Reform II — STAR II
Grant Agreement number: 814775 — STAR II

This AGREEMENT is made on **1st August 2018**, hereinafter referred to as the Effective Date

BETWEEN:

Nemzeti Adatvédelmi és Információszabadság Hatóság (NAIH), established in Szilágyi E. fasor 22/c, Budapest 1125, Hungary, VAT number: 15795771-2-43, represented for the purposes of signing the Agreement by Hon. Univ. Prof. Attila Péterfalvi, President.

the Co-ordinator

AND

1. **VRIJE UNIVERSITEIT BRUSSEL (VUB)**, established in Pleinlaan 2, Brussels 1050, Belgium, VAT number: BE0449012406, represented for the purpose of signing the Agreement by Prof. Dr. Caroline Pauwels, Rector.
2. **TRILATERAL RESEARCH LTD (TRI)**, established in FDW House, Blackthorn Business Park, Coes Road, Dundalk, Co. Lout, Dublin, Ireland, VAT number: IE3530641CH, represented for the purpose of signing the Agreement by David Wright, Director.

hereinafter, jointly or individually, referred to as “Parties” or “Party” relating to the Action entitled ‘Support small And medium enterprises on the data protection Reform II – in short STAR II, hereinafter referred to as “Project”

WHEREAS:

(A) The Parties, having considerable experience in the field concerned, have submitted a Proposal for the Project to the European Commission.

(B) The *Parties* wish to specify or supplement, between themselves, the provisions of the GRANT AGREEMENT NUMBER — 814775 — STAR II—*signed by the Parties and the Funding Authority (hereinafter “Grant Agreement”)*, in line with Article 25.3 of the *Grant Agreement* and wish to lay down general rules related to the management of the *Project* and define the rights and obligations of the *Parties*.

NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Section: Definitions

Definitions

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

Additional Definitions

“Background”

Any information or materials supplied by one Party to one or more of the other Parties to this Agreement not arising directly from this Project but of relevance to this Project, e.g., a previously established contact list or pre-existing training materials.

“Consortium Body”:

Consortium Body means the General Assembly.

“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.

“Defaulting Party”

Defaulting Party means a Party that 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.

"Funding Authority"

Funding Authority means the body awarding the grant for the Project.

“General Assembly”

The General Assembly comprises all parties / partners to this Consortium Agreement. The General Assembly meets in person or by electronic means at least four times a year over the two-year life of the project.

“Needed”

means:

For the implementation of the Project: 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.

2. Section: Purpose

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

3. Section: 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 by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.

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 terminated, or
- 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.

3.3 Survival of rights and obligations

The provisions relating to Access Rights, Dissemination and confidentiality, for the time period mentioned therein, as well as for liability, applicable law and settlement of disputes 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.

4. Section: Responsibilities of Parties

4.1 General principles

4.1.1 Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement, in a manner of good faith and as prescribed by Belgian law.

4.1.2 Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay, including any significant modification of the Party's financial position or change in the internal management structure, likely to affect the Project.

4.1.3 Each Party shall promptly provide all information reasonably required by the General Assembly or by the Co-ordinator to carry out its tasks.

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

4.2 Breach

4.2.1 In the event that the General Assembly identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement (e.g., improper or no implementation of the Project), the Co-ordinator 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.

4.2.2 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. No further Payment will be due to a Defaulting Party.

4.2.3 If the Co-ordinator is in breach of its obligations, the Party appointed by the General Assembly will give formal notice to such Party requiring that such breach be remedied within 30 calendar days from the date of receipt of the written notice by the Party. The breach of the Co-ordinator will be disciplined according to the Grant Agreement.

4.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties in the Project remains responsible for carrying out its relevant part of the Project 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.

5. Section: Liability towards each other

5.1 No warranties

In respect of any information or materials (including Results and Background) supplied by one Party to another under the Project, 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.

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, by a breach of confidentiality or by an intentional breach of information obligations under 4.1.2.

For any remaining contractual liability, a Party's aggregate liability towards the other Parties collectively shall be limited to the Party's share of the total costs of the Project as identified in Annex 2 of the Grant Agreement provided such damage was not caused by a wilful act or gross negligence.

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 General Assembly of any Force Majeure without undue delay. If the consequences of Force Majeure for the Project are not overcome within six weeks after such notification, the transfer of tasks - if any - shall be decided by the General Assembly.

6. Section: Governance structure

6.1 General structure

The General Assembly is the decision-making body of the Consortium.

The Co-ordinator is the legal entity acting as the intermediary between the Parties and the Funding Authority. The Co-ordinator 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 Members

The General Assembly shall consist of one representative of each Party (hereinafter referred to as "Member").

Each Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Section 6.3.6 of this General Assembly Agreement.

The Co-ordinator shall chair all meetings of the General Assembly.

The Parties agree to abide by all decisions of the General Assembly.

This does not prevent the Parties from submitting a dispute for resolution in accordance with the provisions of settlement of disputes in Section 11.11 of this Consortium Agreement.

6.3 Operational procedures for the General Assembly:

6.3.1 Representation in meetings

Any Member:

- should be present or represented at any meeting;
- may appoint a substitute or a proxy to attend and vote at any meeting;
- and shall participate in a co-operative manner in the meetings.

6.3.2 Preparation and organisation of meetings

6.3.2.1 Convening meetings: A meeting will be organised every quarter during the duration of the Project. Extraordinary meetings could be organised at any time upon written request of any Member to the Co-ordinator.

6.3.2.2 Notice of a meeting: The Co-ordinator shall give notice by e-mail of a meeting of the General Assembly to each Member and no later than 14 calendar days preceding an ordinary meeting and seven calendar days preceding an extraordinary meeting.

6.3.2.3 Sending the agenda: The Co-ordinator shall prepare and send by e-mail each Member a written original agenda no later than 14 calendar days preceding the meeting, or seven calendar days before an extraordinary meeting.

6.3.2.4 Adding agenda items: Any agenda item requiring a decision by the Members of the General Assembly must be identified as such on the agenda. Any Member of the General Assembly may add an item to the original agenda by written notification to all of the other Members of the General Assembly no later than seven calendar days preceding the meeting.

6.3.2.5 During a meeting of the General Assembly, the Members present or represented can unanimously agree to add a new item to the original agenda.

6.3.2.6 The General Assembly may also be held by teleconference or other telecommunication means.

6.3.2.7 Decisions will only be binding once the relevant part of the minutes has been accepted.

6.3.2.8 Any decision may also be taken without a meeting if the Co-ordinator circulates to all Members of the General Assembly a written document, which is then agreed by the defined majority of all Members of the General Assembly. 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 6.3.4.4, no Member has sent an objection in writing to the chairperson (the Co-ordinator). The decisions will be binding after the Co-ordinator sends to all Members of the General Assembly a written notification of this acceptance.

6.3.3 Voting rules and quorum

6.3.3.1 The General Assembly shall not deliberate and decide validly unless two-thirds (2/3) of its Members are present or represented (quorum). If the quorum is not reached, the Co-ordinator shall convene another ordinary meeting within 15 calendar days.

6.3.3.2 Each Member present or represented in the meeting shall have one vote.

6.3.3.3 A Party which the General Assembly has declared according to Section 4.2 to be a Defaulting Party may not vote.

6.3.3.4 Decisions shall be taken by a majority of two-thirds (2/3) of the votes cast.

6.3.4 Veto rights

6.3.4.1 A Member who 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 General Assembly may exercise a veto with respect to the corresponding decision or relevant part of the decision.

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

6.3.4.3 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.

6.3.4.4 When a decision has been taken without a meeting, a Member may veto such decision within 15 calendar days after written notification by the Co-ordinator.

6.3.4.5 In case of exercise of veto, the Members shall make every effort to resolve the matter that occasioned the veto to the general satisfaction of all Members.

6.3.4.6 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.

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

6.3.5 Minutes of meetings

6.3.5.1 The Co-ordinator shall produce written minutes of each meeting, which shall be the formal record of all decisions taken. Minutes shall be sent to all Members within 10 calendar days of the meeting.

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

6.3.6 Decisions of the General Assembly

The General Assembly chaired by the Co-ordinator takes decisions in accordance with the procedures set out herein. 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);

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 suspension of all or part of the Project;
- Proposal to the Funding Authority for termination of the Project and the Consortium Agreement;

In the case of abolished tasks as a result of a decision of the General Assembly, Members shall rearrange the tasks of the Parties concerned. Such rearrangement shall take into consideration the legitimate commitments taken prior to the decisions, which cannot be cancelled.

6.4 Co-ordinator

6.4.1 The Co-ordinator 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.

6.4.2 In particular, the Co-ordinator shall be responsible for:

- monitoring compliance by the Parties with their obligations;
- keeping the address list of Members and other contact persons updated and available;
- collecting, reviewing to verify consistency and submitting reports, other deliverables (including financial statements and related certification) and specific requested documents to the Funding Authority;
- preparing the meetings, proposing decisions and preparing the agenda of General Assembly meetings, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings;
- transmitting promptly documents and information connected with the Project to any other Party concerned;
- administering the financial contribution of the Funding Authority and fulfilling the financial tasks described in Section 7.3;
- providing, upon request, the Parties with official copies or originals of documents that are in the sole possession of the Co-ordinator 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 project deliverable, the Co-ordinator may nevertheless submit the other parties' project deliverables and all other documents required by the Grant Agreement to the Funding Authority in time.

6.4.3 The Co-ordinator 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.

6.4.4 The Co-ordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the Grant Agreement.

7. Section: Financial provisions

7.1 General Principles

7.1.1 Distribution of Financial Contribution

The financial contribution of the Funding Authority to the Project shall be distributed by the Co-ordinator according to:

- the Consortium Plan
- the approval of reports by the Funding Authority, and
- the provisions of payment in Section 7.3.

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

7.1.2 Justifying Costs

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 Project towards the Funding Authority.

Neither the Co-ordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the Funding Authority.

7.1.3 Funding Principles

A Party that spends less than its allocated share of the budget as set out in the Consortium Plan or – in case of reimbursement via unit costs – implements fewer units than foreseen in the Consortium Plan will be funded in accordance with its actual duly justified eligible costs only.

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 costs up to an amount not exceeding that share.

7.1.4 Return of excess payments

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

7.1.4.1 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.

7.1.5 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 Budgeting

The budget set out in the Consortium Plan shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties.

7.3 Payments

Payments to Parties are the exclusive task of the Co-ordinator. In particular, the Co-ordinator shall:

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

7.3.1 Funding of costs included in the Consortium Plan and received from the Funding Authority will be paid by the Co-ordinator to the Parties as follows and as indicated in Attachment 2:

- The amount of the pre-financing payment (80% of the maximum grant amount) will be distributed in 5 instalments to each Party, adjusted to the tasks to be performed during the given period. The first payment (20% of the pre-financing payment) shall be made without delay after the signature of this Consortium Agreement. The remaining four payments shall be made in December 2018 (40%), June 2019 (20%), December 2019 (10%), March 2020 (10%).

- The remaining 20% of the maximum grant amount will be distributed only after it arrived to the Co-ordinator.

Costs will be paid under the condition that at the end of the Work Packages the Parties submit to the Co-ordinator evidence of the performance of the tasks under the project as well as a proof of the expenses incurred for the realisation of the said performance. Failure to do so, will result in the suspension of payment of pre-financing for a given period, until the Co-ordinator receives satisfactory evidence of performance and proofs of expenses incurred.

7.3.2 The Co-ordinator is entitled to withhold any payments due to a Party not fulfilling its obligations under 7.3.1 or identified by the General Assembly to be in breach of its obligations under this Consortium Agreement or the Grant Agreement. The Co-ordinator is entitled to recover any payments already paid to a Defaulting Party where the latter has not satisfactorily completed its relevant work. The Co-ordinator is equally entitled to withhold payments to a Party when this is suggested by or agreed with the Funding Authority.

8. Section: Results

8.1 Ownership of Results

Results are owned by the Party that generates them.

8.2 Joint ownership

Results generated by two or more Parties are under the joint ownership of the Parties that generate them and of the Co-ordinator.

Unless otherwise agreed:

- each of the joint owners shall be entitled to use their jointly owned Results 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 licences 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. Section: Access Rights

9.1 Background included

In Attachment 1, the Parties have identified and agreed on the Background rights for the Project 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.

9.2 Any Party may add further own Background to Attachment 1 during the Project 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.

9.3 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 Project do not knowingly infringe third party property rights.

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

9.3.2 Access Rights shall be free of any administrative transfer costs and are granted on a non-exclusive basis.

9.4 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.

9.5 Access Rights for implementation

Access Rights to Results and Background Needed for the performance of the own work of a Party under the Project shall be granted on a royalty-free basis, unless otherwise agreed for Background in Attachment 1.

9.6 Access Rights for Exploitation

Access Rights to Results shall be granted on a royalty-free basis.

9.7 Access Rights for Parties entering or leaving the consortium

9.7.1 New Parties entering the consortium: As 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.

9.7.2 Access Rights granted to a leaving Party

9.7.2.1 Defaulting Party: 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.

9.7.2.2 Non-defaulting Party: 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.

9.7.2.3 Access Rights to be granted by any leaving Party: Any Party leaving the Project 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 Project.

10. Section: Non-disclosure of information

10.1 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 Project during its implementation and which has been explicitly marked as “confidential” at the time of disclosure, or when 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”.

10.2 The Recipients hereby undertake in addition and without prejudice to any commitment on non-disclosure under the Grand Agreement, for a period of four years after the end of the Project:

- Not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information 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 to the Recipients including all copies thereof and to delete all information stored in a machine readable form to the extent 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.

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

10.4 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 has become or 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 confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality 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 10.7 hereunder.

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

10.6 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.

10.7 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.

11. Section: Miscellaneous

11.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and:

Attachment 1 (Background included)

Attachment 2 (STAR II Project payment schedule)

11.2 Severability

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 that fulfils the purpose of the original provision.

11.3 No representation, partnership or agency

Except as otherwise provided, 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.

11.4 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 Co-ordinator.

11.5 Formal notices

If it is required in this Consortium Agreement 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.

11.6 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 Co-ordinator. The address list shall be accessible to all Parties.

11.7 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 6.3.5 require a separate written agreement to be signed between all Parties.

11.8 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.

11.9 Language

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

11.10 Applicable law

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

11.11 Settlement of disputes

The parties shall endeavour to settle their disputes amicably.

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 Budapest unless otherwise agreed. The language to be used in the mediation shall be English unless otherwise agreed.

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. The language to be used in the arbitral proceedings shall be English unless otherwise agreed.

Nothing in this Consortium Agreement shall limit the Parties' right to seek injunctive relief in any applicable competent court.

12. Section 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.

Nemzeti Adatvédelmi és Információszabadság Hatóság (NAIH)

Signature _____

Dr. Péterfalvi Attila
President

Date _____

VRIJE UNIVERSITEIT BRUSSEL (VUB),

Signature _____

Prof. Dr. Caroline Pauwels
Rector

Date _____

TRILATERAL RESEARCH LTD (TRI)

Signature _____

David Wright
Director

Date _____

Attachment 1: Background and access rights to background

According to the Grant Agreement (Article 19.1), “Where industrial and intellectual property rights (including rights of third parties) exist prior to the Agreement, the beneficiaries must establish a list of these pre-existing industrial and intellectual property rights, specifying the owner and any persons that have a right of use.

The Co-ordinator must — before starting the action — submit this list to the Commission.

Each beneficiary must give the other beneficiaries access to any pre-existing industrial and intellectual property rights needed for the implementation of the action and compliance with the obligations under the Agreement.”

This is the purpose of this attachment.

PARTY 1

As to **Nemzeti Adatvédelmi és Információszabadság Hatóság (NAIH)**, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of NAIH shall be Needed by another Party for implementation of the Project or Exploitation of that other Party’s Results.

This represents the status at the time of signature of this Consortium Agreement.

PARTY 2

As to **VRIJE UNIVERSITEIT BRUSSEL (VUB)**, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of VUB shall be Needed by another Party for implementation of the Project or Exploitation of that other Party’s Results.

This represents the status at the time of signature of this Consortium Agreement.

PARTY 3

As to **TRILATERAL RESEARCH LTD (TRI)**, it is agreed between the Parties that, to the best of their knowledge,

No data, know-how or information of Trilateral Research shall be Needed by another Party for implementation of the Project or Exploitation of that other Party’s Results.

This represents the status at the time of signature of this Consortium Agreement.

Attachment 2: Payment schedule plan

Maximum grant amount (€): **448 544**

	<i>1st</i>	<i>2nd</i>	<i>3rd</i>	<i>4th</i>	<i>5th</i>	
Payment date	September 2018	December 2018	June 2019	December 2019	March 2020	pre-financing payment - 80% of the maximum grant amount (€)
Milestone	Sept. - Nov. 2018	Dec. 2018 - May 2019	June - Nov. 2019	Dec. 2019 - March 2020	April 2020 - July 2020	
NAIH	17 531	35 062	17 531	8 765	8 765	87 654
VUB	28 967	57 934	28 967	14 484	14 483	144 835
TRI IE	25 269	50 538	25 269	12 635	12 635	126 345
					Total:	358 835

Remaining 20% of the maximum grant amount (€): **89.709**

NAIH	21 914
VUB	36 209
TRI IE	31 586