

## GENERAL TERMS AND CONDITIONS FOR RESEARCH PROJECTS OF ETH ZURICH („GTC Research ETHZ“)

### 1. Scope

These GTC Research ETHZ govern the performance of a research project of ETH Zurich for/with the Partner as defined in the agreement (“Partner”).

### 2. Performance and Organization

2.1 ETH Zurich will conduct the project as described in the agreement (“Project”). The parties will coordinate the performance of the Project and will, to the extent needed, support each other to the best of their abilities. Project meetings will take place as required. ETH Zurich will report to the Partner on the progress of the Project.

2.2 All correspondence relating to this agreement must be addressed to the Project managers. Legal and intellectual property matters shall be directed to ETH Zurich, Research Contracts, Rämistrasse 101, 8092 Zurich, Switzerland, Tel +41 (0)44 632 07 00, E-mail [research\\_contracts@ethz.ch](mailto:research_contracts@ethz.ch). Changes in the person of Project manager will be notified to the other party (email sufficient).

### 3. Remuneration

3.1 The Partner shall pay ETH Zurich the remuneration as stipulated in the agreement, plus Swiss VAT, where applicable.

3.2 The Partner is aware that the Project might cause travel costs, additional hardware and/or consumables on ETH Zurich's part. Such expenses shall be remunerated by the Partner if approved, whereas such approval shall not be unreasonably withheld.

3.3 The installments are due as set forth in the agreement. In the absence of an installment schedule, the total remuneration for the Project is due upon termination of the agreement. The Partner shall pay the invoices within thirty (30) days upon receipt to an account nominated by ETH Zurich.

### 4. Project Results

4.1 The rights of the parties to any intellectual property that has been generated previously, after or outside of the Project (“Background IP”) shall not be affected by the agreement.

4.2 All results generated in performance of the Project (“Project Results”) by one party solely shall belong to such generating party. Project Results that are generated by both parties jointly and that are inseparable from each other shall be jointly owned by such parties. Entitlement to such joint ownership in Project Results is determined in accordance with applicable law and each parties ownership share is determined in accordance with its respective contribution to such Project Results.

4.3 For tangible Project Results to be provided by ETH Zurich pursuant to the agreement (e.g. prototypes and reports), ownership is assigned to Partner upon delivery. The Partner agrees that the tangible Project Results are neither intended to be sold nor to be applied in vivo. The Partner shall remove any reference to ETH Zurich attached or contained in the tangible Project Results before using or furnishing any tangible Project Results to third parties.

4.4 With the exception of Project Results consisting of statutory intellectual property rights (“Foreground IPR”) and subject to the provisions on confidentiality in Section 5, on publications in Section 6, and on Data Protection & Export Control in Section 10, the Parties shall be free to use the Project Results without accounting or reporting to each other.

4.5 Subject to any contradicting open source license which might apply to certain Foreground IPR and subject to copyrights in publications, ETH Zurich grants to the Partner a non-exclusive, royalty-free, fully paid-up, worldwide license to use Foreground IPR solely owned by ETH Zurich including the right to sublicense to its Affiliates. “Affiliates” shall mean any legal entity which is

controlled by, has control over or is under common control with Partner whereby “control” shall mean the holding of more than fifty (50) percent of the capital stock or participating shares entitled to vote for the election of directors.

4.6 To the extent the parties decide to protect joint Foreground IPR by filing a patent application, the parties shall keep such joint Foreground IPR confidential until filing but not longer than six (6) months from the creation of such joint Foreground IPR. In such case, the parties shall agree in writing on patent prosecution, defense and costs prior to filing. If no patent application is filed within this six (6) month period, ETH Zurich shall be free to publish such joint Foreground IPR subject to Section 6.

4.7 Except as provided otherwise in writing between the parties and subject to any contradicting open source license which might apply to certain joint Foreground IPR and subject to copyrights in publications, each party is entitled to use and grant non-exclusive license in its own name including the right to grant sublicenses for jointly owned Foreground IPR without reporting to the other party or remunerating each other.

### 5. Confidentiality

5.1 “Confidential Information” is to be understood as any information of any kind irrespective of whether it is provided in writing, orally, electronically, or in the form of samples, models, products or equipment etc., which is labeled as confidential and exchanged in any form and to which access is given by the disclosing party to the receiving party for the purpose of the Project. Receiving party will maintain secrecy with respect to Confidential Information and will use it solely for the performance of the Project. If Confidential Information is communicated in a non-written form, the disclosing party must provide to receiving party within ten (10) days from disclosure a written reproduction of the information that needs to be treated as confidential. The obligation of confidentiality ends five (5) years after the termination of the agreement.

5.2 Confidentiality obligations shall not apply to such information for which the receiving party can prove that such information (i) was already in the public domain before its disclosure by the disclosing party or is afterwards made public through no fault of the receiving party, (ii) was disclosed to the receiving party by a third party free of any obligation of confidentiality (iii) was already known to the receiving party before its disclosure or (iv) was developed by the receiving party independently. In the event that a party is required by law or a regulatory body to disclose Confidential Information, such party shall, wherever practicable, give to the other party reasonable advance notice of the intended disclosure.

5.3 Except for copies on routine information technology backups, copies for the purpose of monitoring compliance with its obligations hereunder and copies for the scientific verification of Project Results and subject to mandatory laws, the receiving party will destroy and/or delete any Confidential Information of the disclosing party upon termination of the Project.

### 6. Scientific Publication

6.1 ETH Zurich shall be entitled to publish all Project Results. Prior to publication, ETH Zurich shall submit a substantive draft (or in case of a planned presentation at scientific conferences a written summary of the intended disclosure) to the Partner for review. The Partner shall then have one (1) month to a) notify ETH Zurich of any objection concerning its Confidential Information whereas the parties shall find acceptable modification within one month to allow publication, and/or b) request the postponed-

ment, for no more than three (3) months to file patents for joint Foreground IPR. Failure to respond within the abovementioned notification period is considered as approval of the publication.

6.2 In the event that the Partner wants to publish Project Results, he needs the prior written consent of ETH Zurich. Such consent shall not be unreasonably denied.

## **7. Warranty**

7.1 ETH Zurich shall perform the Project to the best of its scientific knowledge exercising due care and taking into account recognized scientific standards. ETH Zurich will endeavor to achieve the goals of the Project.

7.2 By its nature research involves the risk of unforeseen consequences. ETH Zurich therefore does not guarantee that the intended goals and Project Results will be reached. ETH Zurich makes no warranties, neither express nor implied, regarding the Project Results, Background IP and other information and items exchanged under this agreement, including but not limited to warranties of non-infringement of third party rights. There is no duty to conduct searches with regard to existing intellectual property rights.

## **8. Liability**

Subject to a breach of Section 5 and subject to Section 9 and to the extent permitted by the applicable law, ETH Zurich excludes any liability for any damages, including but not limited to any indirect damages or consequential loss or similar damage (e.g. loss of profit) suffered by Partner in connection with the agreement, provided such damage was not caused by ETH Zurich's willful intent or act of gross negligence.

## **9. Indemnification**

The parties use the Project Results at their own risk. Notwithstanding Section 8, a party using any of the Project Results shall, to the fullest extent permitted by the applicable law, indemnify the other party against third party claims which are based on the party's use of the Project Results.

## **10. Data Protection and Export Control**

10.1 The parties agree to comply with all applicable data protection laws and regulations. For personal data provided by ETH Zurich, the Partner shall (i) use such data only for research purposes not related to specific persons; (ii) protect such data by suitable technical and organizational measures, in particular against unauthorized processing; (iii) render such data anonymous as soon as the purpose of the processing permits; (iv) only disclose such data to a third party with the prior written consent of ETH Zurich (Email sufficient) and in compliance with any requirements imposed by ETH Zurich; and (v) publish such data only in a manner that the data subjects may not be identified.

10.2 Any export-controlled items such as goods, technology or software shall be provided solely to ETH Zurich's Project manager and only i) after the Partner informed ETH Zurich's Project manager in writing of any export-relevant restrictions pursuant to the applicable laws (including but not limited to U.S. export laws for items with U.S. origin) and of the respective export control classification, and ii) after the receipt of ETH Zurich's written consent, which may be provided at ETH Zurich's sole discretion.

## **11. Term and Termination**

11.1 The agreement enters into force upon signature by both parties.

11.2 Subject to 11.3, the agreement shall terminate upon the completion of the Project. The provisions which, by their nature are intended to survive the expiry or termination of the agreement shall continue to apply.

11.3 Each party may prematurely terminate this agreement only in the event of a fundamental contractual breach by the other

party but shall first give the other party thirty (30) days to remedy the breach.

11.4 In the event of premature termination, the Partner shall compensate ETH Zurich for all costs that were incurred until effective termination.

## **12 Miscellaneous**

12.1 The agreement governs the contractual relationship of the parties in relation to the Project solely and exclusively. Any earlier agreements between the parties governing the same subject matter, including previously signed confidentiality agreements referring thereto, are hereby terminated and replaced by this agreement. Any changes to the agreement shall be agreed upon in writing. Any general terms and conditions of the Partner are excluded. Nullity of individual provisions shall not affect the validity of the agreement.

12.2 The parties do not, through this contractual relationship, acquire any rights from the other party apart from those which are explicitly conferred by the agreement. Nothing in this agreement shall imply any simple partnership between the parties. No party shall be entitled to commit the other party or the parties to any obligation in connection with this agreement, without the prior written consent of the other party.

12.3 Rights and obligations arising from the agreement may not be transferred to third parties without the written permission of the other party. In the event of an assignment of joint Foreground IPR by one party to a third party, the assigning party shall inform the other party beforehand. In any event, the assigning party shall ensure that the rights of the other party to assigned Foreground IPR, such as the licenses granted under this agreement, will not be affected by the assignment.

12.4 Deviations and amendments to the GTC Research ETHZ become valid and integral part of the agreement if stipulated in a separate document and signed by the parties ("Special Provisions").

12.5 In the event of inconsistencies between the main body of the agreement and the GTC Research ETHZ or the Special Provisions, the GTC Research ETHZ and the Special Provisions shall take precedence over the main body of the agreement. In the event of inconsistencies between the GTC Research ETHZ and the Special Provisions, the Special Provisions shall take precedence over the GTC Research ETHZ.

12.6 The agreement shall be construed and governed by the laws of Switzerland, without reference to its conflict of laws principles, and shall not be governed by the United Nations Convention on Agreements for International Sale of Goods (the Vienna Convention). The sole place of jurisdiction for any dispute arising from, or in connection with, the agreement shall be exclusively the courts of the city of Zurich.

GTC Research ETHZ (version March, 2018)