

Confidentiality Terms and Conditions for Human Brain Project (HBP) Associated Member

(Name of organisation, legal address)

as an HBP Associated Member, hereby agrees to be bound by the following terms and conditions:

1. Confidential Information

All information in whatever form or mode of communication, which is disclosed by an HBP Core Project Partner¹ ("**Disclosing Party**") to any HBP Associated Member ("**Recipient**") in connection with the Human Brain Project during its implementation and which has been explicitly marked as "confidential" or "secret" 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 30 calendar days from oral disclosure at the latest as Confidential Information by the Disclosing Party, is "**Confidential Information**".

2. The Recipient hereby undertakes, for a period of 5 years after the disclosure of the Confidential Information, or for a period defined by the Disclosing Party at the time of communication of such Confidential Information to Recipient:

- (a) not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- (b) not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party, wherein the Recipient must ensure that an arrangement is in place prior to such disclosure that subjects the approved third party to provisions at least as strict as provided in the present Terms and Conditions;
- (c) to apply the same degree of care with regard to the Confidential Information received as it applies to its own confidential and/or proprietary information, but in no case less than reasonable care;
- (d) to ensure that internal distribution to employees and students of Confidential Information by a Recipient shall take place only on a need-to-know basis (and subject always to the obligations set out in *Section 3* below); and
- (e) to return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Recipient including all copies thereof and to delete all information stored in a machine readable form. The Recipient may keep a copy to the extent

¹ **HBP Core Project Partner** means a partner institution or organization receiving funding from the European Commission (EC) through the EC's FET Flagship Programme for the Human Brain Project. A list of HBP Core Project Partner will be provided in a separate attachment or web link.

it is required to keep, archive or store such Confidential Information for the purpose of compliance with applicable laws and regulations or for the proof of on-going obligations.

3. The Recipient shall be responsible for the fulfillment of the above obligations on the part of their employees and/or their third parties involved in a Human Brain Project Partnering Project and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the project of the Human Brain Project and/or after the termination of the contractual relationship with the employee or third party.

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

- (a) the Confidential Information has become publicly available by means other than a breach of the Recipient's confidentiality obligations;
- (b) the Disclosing Party has informed the Recipient that the Confidential Information is no longer confidential;
- (c) the Confidential Information has been 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;
- (d) the Confidential Information was developed by the Recipient completely independently of any such disclosure by the Disclosing Party;
- (e) the Confidential Information was already known to the Recipient prior to disclosure; or
- (f) 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 provisions of *Section 6* hereunder.

5. Each Recipient shall promptly advise the Disclosing Party in writing of any unauthorized disclosure, misappropriation or misuse of Confidential Information after it becomes aware thereof.

6. If any Recipient 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:

- (a) notify the Disclosing Party, and
- (b) comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the Confidential Information.

7. Nothing in the present Terms and Conditions shall be construed as an obligation for an HBP Core Project Partner to disclose or grant access to its confidential information to an HBP Associated Member. All Confidential Information is provided on an AS IS basis, and all warranties, express or

implied, pertaining in particular to, but not limited to, accuracy, fitness for a particular purpose, non-infringement, are hereby disclaimed. Furthermore, the Recipient agrees it that shall remain responsible for all conclusions it derives from the Confidential Information and that the Disclosing Party shall have no liability hereunder with respect the Confidential Information or any use thereof by the Recipient.

8. Any changes and amendments of the present Terms and Conditions must be in writing. This written form requirement may only be waived in writing.

9. Governing Law and place of jurisdiction

9.1. These Terms and Conditions are governed by the laws of Belgium, without regard of its conflict of law provisions.

9.2. Disputes arising out of or in relation to these Terms and Conditions shall be submitted to the competent courts of Brussels, Belgium.

9.3 Nothing in the present Confidentiality Terms and Conditions shall limit the concerned HBP Core Project Partner(s)' right to seek injunctive relief in the event of breach committed by the Recipient of the present Terms and Conditions.

Name of organisation:

Name of authorized representative:

Date:

Signature:

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