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| H2020 - LC-MG-1-12-2020**FastTrack**Consortium Agreement14.10.2020 |

TABLE OF CONTENTS

[1 Section: Definitions 5](#_Toc53588299)

[1.1 Definitions 5](#_Toc53588300)

[1.2 Additional Definitions 5](#_Toc53588301)

[2 Section: Purpose 6](#_Toc53588302)

[3 Section: Entry into force, duration and termination 6](#_Toc53588303)

[3.1 Entry into force 6](#_Toc53588304)

[3.2 Duration and termination 6](#_Toc53588305)

[3.3 Survival of rights and obligations 7](#_Toc53588306)

[4 Section: Responsibilities of Parties 7](#_Toc53588307)

[4.1 General principles 7](#_Toc53588308)

[4.2 Breach 7](#_Toc53588309)

[4.3 Involvement of third parties 8](#_Toc53588310)

[5 Section: Liability towards each other 8](#_Toc53588311)

[5.1 No warranties 8](#_Toc53588312)

[5.2 Limitations of contractual liability 8](#_Toc53588313)

[5.3 Damage caused to third parties 9](#_Toc53588314)

[5.4 Force Majeure 9](#_Toc53588315)

[6 Section: Governance structure 9](#_Toc53588316)

[6.1 General structure 9](#_Toc53588317)

[6.2 General operational procedures for all Consortium Bodies 9](#_Toc53588318)

[6.3 Specific operational procedures for the Consortium Bodies 12](#_Toc53588319)

[6.4 Coordinator 15](#_Toc53588320)

[6.5 External Expert Advisory Group (EEAG) 16](#_Toc53588321)

[7 Section: Financial provisions 16](#_Toc53588322)

[7.1 General Principles 16](#_Toc53588323)

[7.2 Budgeting 17](#_Toc53588324)

[7.3 Payments 17](#_Toc53588325)

[8 Section: Results 18](#_Toc53588326)

[8.1 Ownership of Results 18](#_Toc53588327)

[8.2 Joint ownership 18](#_Toc53588328)

[8.3 Transfer of Results 18](#_Toc53588329)

[8.4 Dissemination 19](#_Toc53588330)

[9 Section: Access Rights 20](#_Toc53588332)

[9.1 Background included 20](#_Toc53588333)

[9.2 General Principles 20](#_Toc53588334)

[9.3 Access Rights for implementation 21](#_Toc53588335)

[9.4 Access Rights for Exploitation 21](#_Toc53588336)

[9.5 Access Rights for Affiliated Entities 21](#_Toc53588337)

[9.6 Additional Access Rights 22](#_Toc53588338)

[9.7 Access Rights for Parties entering or leaving the consortium 22](#_Toc53588339)

[9.8 Specific Provisions for Access Rights to Software 22](#_Toc53588340)

[10 Section: Non-disclosure of information 23](#_Toc53588341)

[11 Section: Miscellaneous 24](#_Toc53588349)

[11.1 Attachments, inconsistencies and severability 24](#_Toc53588350)

[11.2 No representation, partnership or agency 25](#_Toc53588351)

[11.3 Notices and other communication 25](#_Toc53588352)

[11.4 Assignment and amendments 25](#_Toc53588353)

[11.5 Mandatory national law 25](#_Toc53588354)

[11.6 Language 25](#_Toc53588355)

[11.7 Applicable law 25](#_Toc53588356)

[11.8 Settlement of disputes 25](#_Toc53588357)

[12 Section Signatures 27](#_Toc53588358)

[Attachment 1: Background included 37](#_Toc53588359)

[Attachment 2: Accession document 38](#_Toc53588360)

[Attachment 3: List of Third Parties for simplified transfer according to Section 8.3.2. 39](#_Toc53588361)

[Option: Attachment 4: Identified Affiliated Entities according to Section 9.5 40](#_Toc53588362)

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 “Rules for Participation”), and the European Commission Multi-beneficiary General Model Grant Agreement and its Annexes, and is made on 01 February 2021, hereinafter referred to as the Effective Date

**BETWEEN:**

1. **ICLEI EUROPEAN SECRETARIAT GMBH (ICLEI EUROPASEKRETARIAT GMBH) (ICLEI EUROPE**), established in LEOPOLDRING 3, FREIBURG IM BREISGAU 79098, Germany, the **Project Coordinator**
2. **EUROCITIES ASBL (EUROCITIES),** established in SQUARE DE MEEUS 1, BRUXELLES 1000, Belgium
3. **MOBIEL 21 VZW (M21),** established in VITAL DECOSTERSTRAAT 67A, LEUVEN 3000, Belgium
4. **EUROPEAN INTEGRATED PROJECT (EIP),** established in BULEVARD ION MIHALACHE 327 BL 12 SC B ET 6 AP 59 SECTOR 1, BUCURESTI 011186, Romania
5. **VECTOS GMBH (VECTOS),** established in AM STEINACKER 14, WACHTBERG 53343, Germany
6. **ETHNIKO KENTRO EREVNAS KAI TECHNOLOGIKIS ANAPTYXIS (CERTH),** established in CHARILAOU THERMI ROAD 6 KM, THERMI THESSALONIKI 57001, Greece
7. **STAD ANTWERPEN (Antwerp),** established in GROTE MARKT 1 STADHUIS, ANTWERPEN 2000, Belgium
8. **COMUNE DI BOLOGNA (COBO),** established in PIAZZA MAGGIORE 6, BOLOGNA 40124, Italy
9. **BUDAPEST FOVAROS ONKORMANYZATA (MUNBUD),** established in VAROSHAZ UTCA 9-11, BUDAPEST 1052, Hungary
10. **STOCKHOLMS STAD (STOCKHOLMS STAD),** established in STADSHUSET/ REDOVISNINGSENHETEN, STOCKHOLM 105 35, Sweden

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

**Fostering the Acceleration of Sustainable Transport To Regions and Authorities through Capacity and Knowledge**

in short

**FastTrack**

hereinafter referred to as “Project”

**WHEREAS:**

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the Funding Authority as part of the 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”).

The Parties are aware that this Consortium Agreement is based upon the DESCA model consortium agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

# 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

**“Consortium Body“:**

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

**“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.

It is composed by Annex 1 Part A and Annex 1 Part B.

**"Funding Authority"**

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

**“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.

**“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.

**“Software”**

Software means sequences of instructions to carry out a process in, or convertible into, a form executable by a computer and fixed in any tangible medium of expression.

# 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.

# Section: Entry into force, duration and termination

## 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.

## 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
* 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.

## 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.

In case of one Party’s withdrawal, the other Parties shall use reasonable endeavours to reach a timely agreement on how to reallocate the requesting Party’s tasks so that the overall objectives of the Project can still be met after the Party’s withdrawal. Following the decisions above the Project Coordinator shall promptly notify the Funding Authority, for its approval.

# Section: Responsibilities of Parties

## General principles

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 as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.
* to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.

Each Party shall

* promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks.
* take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

## 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 project), 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.

## 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 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.

A Party that enters into a subcontract or otherwise involves third parties in the Project shall ensure compliance with the provisions under Article 13 of the Grant Agreement and remains solely 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.

Furthermore, a Party which involves Linked Third Parties shall ensure and be responsible for the allocation of payment to and collection and management of technical and financial statements and reports to and from each Linked Third Party and report the same to the Coordinator.

# Section: Liability towards each other

## No warranties

In respect of any information or materials (incl. 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.

## 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 contractual liability, a Party’s aggregate liability towards the other Parties collectively shall be limited to once 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.

## 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.

## 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 Project are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

# Section: Governance structure

## General structure

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

* **The Project 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.
* **The Steering Group** is the operative body in charge of daily coordination of the Project work, which shall report to and be accountable to the General Assembly. It is chaired by the Project Coordinator.
* **General Assembly** as the ultimate decision-making body of the consortium will deal with critical issues affecting the project as a whole, such as the overall strategy and other matters that the Steering Committee decides to refer to a higher level. It is chaired by the Project Coordinator.
* **External Expert Advisory Group** will give informal advice to the project and its priorities, direction and innovation insights. The Advisory Group will be invited and appointed by the Steering Group in the initial phase of the project.

## General operational procedures for all Consortium Bodies

### Representation in meetings

Any Party which is a member of a Consortium Body (hereinafter referred to as "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 cooperative manner in the meetings.

### Preparation and organisation of meetings

#### Convening meetings

All meetings are chaired and organised by the Project Coordinator.

|  |  |  |
| --- | --- | --- |
| **Consortium Body** | **Ordinary meeting** | **Extraordinary meeting** |
| **General Assembly** | 5 times over the lifetime of the project | If necessary, further meetings can be held remotely (on GoToMeeting) |
| **Steering Group** | 5 times over the lifetime of the project2 times for the Review Meeting with the Project Officer | If necessary, further meetings can be held remotely (on GoToMeeting) |

#### Notice of a meeting

The Project Coordinator shall give notice in writing of a meeting to each Member as soon as possible and no later than 45 calendar days (for the General Assembly) or 15 calendar days (for the Steering Group) preceding the meeting or 15 calendar days before an extraordinary meeting, and respectively 7.

|  |  |  |
| --- | --- | --- |
|  | **Ordinary meeting** | **Extraordinary meeting** |
| **General Assembly** | 45 calendar days | 15 calendar days |
| **Steering Group** | 15 calendar days |  7 calendar days |

#### Sending the agenda

The Project Coordinator shall prepare and send each Member of the Consortium Body a written (original) agenda no later than the 10 calendar days (for the General Assembly) and the 5 calendar days (for the Steering Group) preceding the meeting. The Parties acknowledge that a written original agenda may also be an electronic document attached to an e-mail.

#### Adding agenda items

Any agenda item requiring a decision by the Members of a Consortium Body must be identified as such on the agenda. Any Member of the Consortium Body may add an item to the original agenda by written notification to all of the other Members up to the minimum of 7 calendar days preceding the meeting and 2 days before an extraordinary meeting.

####

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

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.

####

Any decision may also be taken without a meeting if the Project 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 6.2.4.4, no Member has sent an objection in writing to the PC. The decisions will be binding after the PC sends to all Members of the Consortium Body a written notification of this acceptance.

### Voting rules and quorum

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

####

Each Member of a Consortium Body present or represented in the meeting shall have one vote.

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

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

### 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 the 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. A Party that is not a Member of a particular Consortium Body may veto a decision within the same number of 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 by the chairperson of the outcome of the vote.

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.

### Minutes of meetings

The Project Coordinator shall produce written minutes of each meeting which shall be the formal record of all decisions taken. The draft minutes will be sent 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 Project Coordinator shall send the accepted minutes to all the Members of the Consortium Body. The Project Coordinator shall safeguard them and shall provide, if requested authenticated duplicates to Parties.

## Specific operational procedures for the Consortium Bodies

### General Assembly

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

#### Members

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

#####

Each General Assembly Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Section 6.3.1.2. of this Consortium Agreement.

#####

The Project 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 11.8.

#### Decisions

The General Assembly shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein. In addition, all proposals made by the Executive Board shall also be considered and decided upon by the General Assembly. The following decisions shall be taken by the General Assembly:

Content, finances and intellectual property rights:

* Changes to the Consortium Plan.
* Proposals for changes to Annex 1 and Annex 2 (Budget) of the Grant Agreement to be agreed by the Funding Authority.
* Modifications to Attachment 1 (Background Included).
* Additions to Attachment 3 (List of Third Parties for simplified transfer according to Section 8.2.2).
* Additions to Attachment 4 (Identified Affiliated Entities).

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 Project Coordinator.
* 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, the Steering Group 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.

### Steering Group

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

#### Members

The Steering Group is the executive supervisory body of the project and is chaired by the Project Coordinator. The Steering Group shall consist of one representative of each Work Package Leader: VECTOS (WP1 leader), EUROCITIES (WP2 leader), Mobiel21 (WP3 leader), EIP (WP4 leader) and ICLEI (WP5, WP6 and WP7 leader and Project Coordinator).

#### Minutes of meetings

Minutes of Steering Group meetings, once accepted, shall be sent by the Coordinator to the General Assembly Members for information.

#### Tasks

#####

The Steering Group shall prepare the meetings, propose decisions and prepare the agenda of the General Assembly according to Section 6.3.1.2.

#####

The Steering Group shall seek a consensus among the Parties.

The Steering Group shall be responsible for the proper execution and implementation of the decisions of the General Assembly.

#####

The Steering Group shall monitor the effective and efficient implementation of the Project.

#####

Based on the EC requirements and the internal reporting mechanism (Article 6.4.2), the Steering Committee shall regularly collect information at least every 6 months on the progress of the Project, examine that information to assess the compliance of the Project with the Consortium Plan and, if necessary, propose modifications of the Consortium Plan to the General Assembly.

#####

The Steering Group shall:

* 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 in respect of the procedures of the Grant Agreement Article 29.

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

## 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 be responsible for:

* monitoring compliance by the Parties with their obligations
* keeping the address list of Members and other contact persons updated and available
* establishing an internal progress reporting mechanism, congruent with reporting requirements requested by the Funding Authority, to regularly track progress in project delivery and to monitor spending of each party
* collecting and analysing internal progress reports and providing these for review to the Steering Group
* collecting, reviewing to verify consistency and submitting reports, other deliverables (including financial statements and related certifications) and specific requested documents to the Funding Authority
* transmitting documents and information connected with the Project to any other Parties 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 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 project deliverable, the Coordinator may nevertheless submit the other ’Parties’ project 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.

## External Expert Advisory Group (EEAG)

An External Expert Advisory Group will be established that will give informal advice to the project and its priorities, direction and innovation insights. The Advisory Group will be invited and appointed by the Steering Group in the initial phase of the project

The Coordinator will ensure that a non-disclosure agreement is executed between all Parties and each EEAG member. Its terms shall be not less stringent than those stipulated in this Consortium Agreement, and it shall be concluded no later than 30 calendar days after their nomination or before any confidential information will be exchanged, whichever date is earlier. The Coordinator shall write the minutes of the EEAG meetings and prepare the implementation of the EEAG's suggestions. The EEAG members shall be allowed to participate in General Assembly meetings upon invitation but have not any voting rights.

# Section: Financial provisions

## General Principles

### Distribution of Financial Contribution

The financial contribution of the Funding Authority to the Project shall be distributed by the Project Coordinator 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 and for the tasks of the Third Party Linked to a Beneficiary it represents, carried out in accordance with the Consortium Plan.

### 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 Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the Funding Authority.

### 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 less 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.

### 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.

### 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 or another contributor. 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.

## 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.

## Payments

Payments to Parties are the exclusive tasks of the Coordinator. 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 Funding Authority’s financial contribution to the Project separated from its normal business accounts, its own assets and property, except if the Project Coordinator is a Public Body or is not entitled to do so due to statutory legislation.
* With reference to Articles 21.2 and 21.3.2 of the Grant Agreement, no Party shall before the end of the Project 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 final payment have been deducted.

###

The payment schedule, which contains the transfer of pre-financing and interim payments to Parties, will be handled according to the following:

Funding of costs included in the Consortium Plan will be paid to Parties after receipt from the Funding Authority without undue delay and in conformity with the provisions of the Grant Agreement. Costs accepted by the Funding Authority will be paid to the Party concerned.

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.

# Section: Results

## Ownership of Results

Results are owned by the Party that generates them.

## Joint ownership

Joint ownership is governed by Grant Agreement Article 26.2 with the following additions:

Unless otherwise agreed:

* each of the joint owners shall be entitled to use their jointly owned Results for non-commercial research 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:
1. at least 45 calendar days advance notice; and
2. Fair and Reasonable compensation.

## Transfer of Results

###

Each Party may transfer ownership of its own Results following the procedures of the Grant Agreement Article 30.

###

If a Party wishes to transfer its Results to its Affiliated Entity (a Third Party) using the waiver of right to prior notice procedure, it may identify specific third parties it intends to transfer the ownership of its Results to in Attachment (3) to this Consortium Agreement. The other Parties hereby waive their right to prior notice and their right to object to a transfer to listed third parties according to the Grant Agreement Article 30.1.

###

The transferring Party shall, however, at the time of the transfer, inform the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer.

Any addition to Attachment (3) after signature of this Agreement requires a decision of the General Assembly.

###

The Parties recognise that in the framework of a merger or an acquisition of an important part of its assets, it may be impossible under applicable EU and national laws on mergers and acquisitions for a Party to give the full 45 calendar days prior notice for the transfer as foreseen in the Grant Agreement.

###

The obligations above apply only for as long as other Parties still have - or still may request - Access Rights to the Results.

## Dissemination

###

For the avoidance of doubt, nothing in this Section 8.4 has impact on the confidentiality obligations set out in Section 10.

### Dissemination of own Results

####

During the Project and for a period of 1 year after the end of the Project, 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

1. the protection of the objecting Party's Results or Background would be adversely affected
2. the objecting Party's legitimate 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.

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

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.

### Cooperation obligations

The Parties undertake to cooperate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree that includes their Results or Background subject to the confidentiality and publication provisions agreed in this Consortium Agreement.

### 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: Access Rights

## Background included

###

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

###

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.

## 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.

###

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.

## 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.

## Access Rights for Exploitation

### Access Rights to Results

Access Rights to Results if Needed for Exploitation of a Party's own Results shall be granted on Fair and Reasonable conditions.

Access rights to Results for internal research activities 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 Project or, in the case of Section 9.7.2.1.2, after the termination of the requesting Party’s participation in the Project.

## Access Rights for Affiliated Entities

Affiliated Entities have Access Rights under the conditions of the Grant Agreement Articles 25.4 and 31.4. if they are identified in Attachment 4 (Identified Affiliated Entities) to this Consortium Agreement.

Such Access Rights must be requested by the Affiliated Entity from the Party that holds the Background or Results. Alternatively, the Party granting the Access Rights may individually agree with the Party requesting the Access Rights to have the Access Rights include the right to sublicense to the latter's Affiliated Entities (listed in Attachment 4). Access Rights to Affiliated Entities shall be granted on Fair and Reasonable conditions and upon written bilateral agreement.

Affiliated Entities which obtain Access Rights in return fulfil all confidentiality and other obligations accepted by the Parties under the Grant Agreement or this Consortium Agreement as if such Affiliated Entities were Parties.

Access Rights may be refused to Affiliated Entities if such granting is contrary to the legitimate interests of the Party which owns the Background or the Results.

Access Rights granted to any Affiliated Entity are subject to the continuation of the Access Rights of the Party to which it is affiliated and shall automatically terminate upon termination of the Access Rights granted to such Party.

Upon cessation of the status as an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse.

Further arrangements with Affiliated Entities may be negotiated in separate agreements.

## Additional Access Rights

The Parties agree to negotiate in good faith any additional Access Rights to Results as might be asked for by any Party, upon adequate financial conditions to be agreed.

## Access Rights for Parties entering or leaving the consortium

### 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.

### Parties leaving the consortium

#### Access Rights granted to a leaving Party

##### 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.

##### 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.

It may request Access Rights within the period of time specified in Section 9.4.3.

#### 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.

## Specific Provisions for Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software.

Parties’ Access Rights to Software do not include any right to receive source code or object code ported to a certain hardware platform or any right to receive respective Software documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

# Section: Non-disclosure of information

##

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”.

##

The Recipients hereby undertake in addition and without prejudice to any commitment on non-disclosure under the Grant Agreement, for a period of 4 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.

##

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.

##

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.

##

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.

##

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.

##

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.

# Section: Miscellaneous

## Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and

1. Attachment 1 (Background included)
2. Attachment 2 (Accession document)
3. Attachment 3 (List of Third Parties for simplified transfer according to Section 8.3.2)
4. Attachment 4 (Identified Affiliated Entities)

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.

## No representation, partnership or agency

Except as otherwise provided in Section 6.4.4, 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.

## 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 (Sections 4.2, 9.7.2.1.1, and 11.4) 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 Parties.

## Assignment and amendments

Except as set out in Section 8.3, 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.

## 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.

## Language

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

## Applicable law

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

## 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 Brussels unless otherwise agreed upon. The language to be used in the mediation shall be English unless otherwise agreed upon.

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.

# 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.

**ICLEI European Secretariat GmbH (ICLEI EURO, Coordinator)**

Signature:

Name: **Wolfgang Teubner**

Title: Managing Director

Date:

**EUROCITIES ASBL (EUROCITIES)**

Signature:

Name: …………………..

Title: …………………..

Date: …………………..

**MOBIEL 21 VZW (M21)**

Signature:

Name: **…………………..**

Title: …………………..

Date: …………………...

**EUROPEAN INTEGRATED PROJECTS (EIP)**

Signature:

Name: **Lucia Cristea**

Title: Managing Director

Date: …………………...

**VECTOS GmbH (VECTOS)**

Signature:

Name: **…………………..**

Title: …………………..

Date: …………………...

 **ETHNIKO KENTRO EREVNAS KAI TECHNOLOGIKIS ANAPTYXIS (CERTH)**

Signature:

Name: **…………………..**

Title: …………………..

Date: …………………...

**STAD ANTWERPEN (Antwerp)**

Signature:

Name: **…………………..**

Title: …………………..

Date: …………………...

**COMUNE DI BOLOGNA (COBO)**

Signature:

Name: **…………………..**

Title: …………………..

Date: …………………...

**BUDAPEST FOVAROS ONKORMANYZATA (MUNBUD)**

Signature:

Name: **…………………..**

Title: …………………..

Date: …………………...

**STOCKHOLMS STAD (STOCKHOLMS STAD)**

Signature:

Name: **…………………..**

Title: …………………..

Date: …………………...

# 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 project. This is the purpose of this attachment.

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

It is agreed between the Parties that, to the best of their knowledge no data, know-how or information of any Parties shall be needed by another Party for implementation of the Project (Article 25.2 Grant Agreement) or exploitation of that other Party’s Results (Article 25.3 Grant Agreement).

# Attachment 2: Accession document

Document to be used for accession of new party

**ACCESSION**

of a new Party to

**FastTrack Consortium Agreement, version 08.09.2020.**

[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**].

**ICLEI EUROPEAN SECRETARIAT GMBH (ICLEI EUROPASEKRETARIAT GMBH) (ICLEI EUROPE**)

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)

Freiburg, [Date]

**ICLEI EUROPEAN SECRETARIAT GMBH (ICLEI EUROPASEKRETARIAT GMBH) (ICLEI EUROPE**)

Signature(s)

Name(s)

Title(s)

# Attachment 3: List of Third Parties for simplified transfer according to Section 8.3.2.

**Party: BUDAPEST FOVAROS ONKORMANYZATA (MUNBUD),** established in VAROSHAZ UTCA 9-11, BUDAPEST 1052, Hungary

**Linked third party:**

**BKK BUDAPESTI KOZLEKEDESI KOZPONT ZARTKORUEN MUKODO RESZVENYTARSASAG (BKK),** RUMBACH SEBESTYEN UTCA 19-21 1075 , BUDAPEST Hungary

# Option: Attachment 4: Identified Affiliated Entities according to Section 9.5

**Party: BUDAPEST FOVAROS ONKORMANYZATA (MUNBUD),** established in VAROSHAZ UTCA 9-11, BUDAPEST 1052, Hungary

**Linked third party:**

**BKK BUDAPESTI KOZLEKEDESI KOZPONT ZARTKORUEN MUKODO RESZVENYTARSASAG (BKK),** RUMBACH SEBESTYEN UTCA 19-21 1075 , BUDAPEST Hungary