

hDMT Partner Agreement

THE PARTIES

1. **Stichting hDMT**, established at <full address>, the Netherlands, and legitimately represented by [names and function] hereinafter: “hDMT”

and

2. [XXX], established at [full address], the Netherlands, and legitimately represented by YYY, hereinafter: “XXX” or “the hDMT Partner”;

hereinafter individually “Party” and collectively “Parties”

CONSIDERING:

1. The mission of hDMT, a foundation under the laws of The Netherlands, is to form a strong and collaborative public-private partnership on ‘Organ on Chip’ technology in order to develop and valorise representative human organ and disease models for a broad field of application. To realize its mission hDMT has taken the initiative to establish the hDMT Consortium (as defined below) together with partners in academia and industry.
2. Through the hDMT Consortium hDMT intends to form a lasting network of partners who are experienced and have an active scientific or commercial interest in Organ on Chip technology. The Consortium consists of different disciplines from multiple institutes and is aimed at sharing and expanding the expertise in that field, applying for research and infrastructure grants, and making results of the cooperation between the hDMT Partners available to hDMT Partners and the global Organ on Chip research community.
3. [XXX] is active in the field of Organ on Chip technology and supports the mission of hDMT. [XXX] recognizes the value of participating in the hDMT Consortium and has expressed its wish to acquire the status of hDMT Partner. The Executive Board has invited [XXX] to become an hDMT Partner and has, with approval of the Consortium

Assembly, decided in its meeting [date] that [XXX] can become an hDMT Partner of the hDMT Consortium.

4. hDMT and [XXX] are willing to cooperate with the hDMT Partners within the hDMT Consortium and actively fulfil the mission, aim and ambition of hDMT.
5. All hDMT Partners that are or become member of the hDMT Consortium have signed or will sign an identical hDMT Partner Agreement. For information purposes hDMT will provide a copy of each hDMT Partner Agreement to all hDMT Partners.
6. For each hDMT Project, a Project Agreement will be agreed upon between Partners wishing to participate in such project, hDMT and possibly Third Parties. In a Project Agreement the Project Participants can make specific arrangements on e.g. IP Rights and Publication.
7. By signing this hDMT Partner Agreement (hereinafter: “this Agreement”), [XXX] becomes an hDMT Partner and member of the hDMT Consortium.

HAVE AGREED AS FOLLOWS:

Any term in this Agreement written with a capital initial shall have the meaning as defined.

“Affiliate” means a company, whether a corporation or other business entity, that is Controlling, Controlled by or under common Control of a Party. Notwithstanding the foregoing, in a 50/50 joint venture between an hDMT Partner and a Third Party (or affiliate thereof) that is not an hDMT Partner, that Third Party (or affiliate thereof) is not considered an Affiliate of the joint venture. “Control” as used for the definition of Affiliate means the direct or indirect ownership of more than fifty percent (50%) of the equity interest in an entity, or the ability to control the management decisions of such entity.

“Articles of Association” means the articles of association of hDMT, formally establishing hDMT as legal entity, with a governance structure as described therein, the most recent version of which (in Dutch) is attached as annex 1 to this hDMT Partner Agreement.

“Background IP” means all IP Rights, data, Materials, Confidential Information, Know-How and trade secrets which: i) the Project Participant possesses or controls before or after signing the Project Agreement; and ii) are not Project Results.

“Confidential Information” means all information not in the public domain, if that has been received from or on behalf of a party in whatever form, including (without limitation) any samples, Materials, compounds, data, reports, analyses, specifications, techniques, processes, technical information, ideas, Know-How, trade secrets, unpublished patent applications and inventions (whether or not patentable), drawings, designs and computer software. The information disclosed tangibly has to be marked as confidential at the time of such disclosure, or if disclosed orally, stated to be confidential at the time of such disclosure and confirmed as confidential in writing within 30 days after disclosure.

“Consortium Assembly” has the same meaning as it has in the Articles of Association.

“Effective Date” means the date as indicated on the signatory page.

“Executive Board” has the same meaning as it has in the Articles of Association.

“Foreground IP Rights” means the Intellectual Property Rights generated in an hDMT Project and relating to Project Results.

“Funding Agency” means any public or public-private agency that lends support to (part of) an hDMT Project by making available financial support that qualifies as a subsidy and is granted under defined conditions.

“hDMT” means Stichting Institute for human Organ and Disease Model Technologies, a foundation under the laws of The Netherlands.

“hDMT Consortium” means hDMT together with the hDMT Partners.

“hDMT Partner” means the party contracting with hDMT through an hDMT Partner Agreement, including its Affiliates.

“hDMT Partner Agreement” means the agreement between hDMT and a party whereby the party becomes an hDMT Partner.

“hDMT Project” means a research project that fulfils one or more of the following criteria

- i) upon request of one or more hDMT Partners the Executive Board has accepted this project as an hDMT project;
- ii) hDMT is responsible for the project management of this research project;
- iii) hDMT has raised (partly or entirely) the funds for this research project.

“hDMT Project Agreement” means a bilateral or multilateral agreement between hDMT Project Partners and hDMT and additional Third Parties concerning the performance of work as part of an hDMT Project.

“hDMT Project Partner” means an hDMT Partner that participates in a specific hDMT Project under an hDMT Project Agreement

“Intellectual Property Rights” or **“IP Rights”** means all intellectual property rights of whatever nature whether capable of protection by registration or other procedure including without limitation all patent rights, copyrights, design rights, rights in databases, trademarks and service marks (whether registered or not), all applications for registration, renewal, extension etc. of any of the foregoing and rights to make such applications.

“Internal Access” means the direct or indirect utilization of Project Results on a non-exclusive basis, for non-competitive research & development activities, including activities with Third Parties and including use in academic teaching For the avoidance of doubt Internal Access excludes activities and/or efforts directed at commercial development for a product or service, such as but not limited to preparing samples for (potential) customers, manufacturing factory scale batches (after initial sample scale-up batch), creating prototypes, offering the product or service to (potential) customers, screening customers, testing a product or service in a panel, or using the IP Rights to do market research to determine the value of the product or service.

“Know How” means information, data or experience whether capable of protection by registration or other procedure or not, including but not limited to all design, manufacturing or process techniques, specifications, formulae, drawings, models and any other technical and commercial information relating to research, design, development or processes;

“License” means a written permission from a licensor granting Internal Access to particular IP-Rights, and/or Know How under defined terms.

“Material” means tangible material. This material may consist of biological material in the form of primary human cells, animal models, cell lines, compounds, cultures, isolated genes or proteins etcetera, together with unmodified derivatives, material included or incorporated in modified derivatives, progeny, copies as well as associated Know-How and data.

“Project Participant” means an hDMT Partner or a Third Party participating in an hDMT Project under an hDMT Project Agreement

“Project Result” means any result, of any nature (including Materials, data and Know How), that is an outcome of the collaborative efforts of the hDMT Project Participant(s) generated in an hDMT Project, including all IP Rights attached thereto as well as the right to apply for an IP Right.

“Third Party” means every legal entity and natural person that is neither an hDMT Partner nor an Affiliate thereof.

Article 1 TASKS AND RESPONSIBILITES OF THE hDMT CONSORTIUM

The hDMT Consortium and - in its capacity of Consortium member - hDMT and hDMT Partners subscribe to:

- the mission of hDMT as stated in the Articles of Association;
- the aim of hDMT to offer a pre-competitive non-profit platform to develop and valorise model systems; and
- the ambition of hDMT to become the central point of contact for Organ on Chip activities and initiatives in the Netherlands.

Article 2 TASKS AND RESPONSIBILITES OF hDMT

- 2.1 hDMT commits itself, to the extent possible within its budget and capacities, to use reasonable efforts to actively fulfil its mission, ambition and objectives as described in article 1. To that end, and in addition it will perform the tasks mentioned in this article 2.
- 2.2 hDMT decides, in consultation with hDMT Partners, the strategic agenda and focus areas of research in the field of Organ on Chip.
- 2.3 hDMT is committed to influence the Dutch and European research agenda in the field of Organ on Chip. It does so in consultation with hDMT Partners.
- 2.4 hDMT stimulates national and international network activities and cooperation in the field of Organ on Chip, for instance by organising events and meetings, bringing experts into contact and facilitating exchange of knowledge
- 2.5 hDMT intends to develop towards an institute that is recognized as a Center of Excellence in the field of Organ on Chip in the Netherlands, Europe and worldwide. It does so by increasing synergy and preventing fragmentation of research within the

field of Organ on Chip; by accelerating an increasing number of joint publications on model systems; by facilitating an increasing number of granted hDMT Projects; by increasing the number of model systems developed and validated within hDMT, and actively supporting the expansion of expertise and synergy between the hDMT partners in the hDMT Consortium.

- 2.6 hDMT provides support to the hDMT Partners through the hDMT office on the following topics:
- facilitating the raising of private and public funding for future hDMT Projects;
 - facilitating applications for national and international public funding including alerting hDMT Partners on the possibilities of such funding opportunities; assisting in writing (part of) the research proposals and other preparatory actions and formalities;
 - in case hDMT has raised private funds for an hDMT Project, hDMT will coordinate the drafting and signing of an agreement to which the private partner, hDMT Project Partners and hDMT will be party to. hDMT will be responsible for the project management of privately funded hDMT Projects and takes care of all administrative tasks as well as communication to the private partner;
 - in case of public funded hDMT Projects hDMT can execute the project management at the request of the hDMT Project Partners;
 - facilitating internal and external communication in relation to the activities and Research Results of the hDMT Consortium.
- 2.7 For the sake of clarity, hDMT Partner explicitly does NOT mandate hDMT to conclude contracts in its name. For the sake of clarity, the hDMT Partners are independent contractors and nothing contained in this Agreement or any hDMT Project Agreement shall be construed to place them, or any of their employees, in the relationship of partners, principal and agent, franchisee, servant, employer/employee or joint venture. The hDMT Partners agree that neither shall have power or right to bind the other, nor shall either hold itself out as having such authority.
- 2.8 For the sake of clarity, hDMT will not perform research activities itself.
- 2.9 hDMT will take care that all new members of the hDMT Consortium will sign an identical hDMT Partner Agreement. For information purposes hDMT will provide a copy of each hDMT Partner Agreement to all hDMT Partners.

Article 3 PARTNER'S ENTITLEMENTS AND OBLIGATIONS

- 3.1 All entitlements listed in this article 3 equally apply to hDMT Partners' Affiliates unless explicitly stated otherwise.
- 3.2 hDMT Partner is entitled to propose new hDMT Projects. To this end hDMT Partner sends its written request to the Executive Board via the hDMT office.

- 3.3 hDMT Partner is entitled to become a participant in hDMT Projects.
- 3.4 hDMT Partner has free access to the hDMT services as mentioned in article 2.6.
- 3.5 hDMT Partner is entitled access to non-public meetings organized by hDMT at which Project Results of hDMT Projects will be presented, and to hDMT Consortium events.
- 3.6 hDMT Partner is entitled to attend public hDMT events (such as conferences, symposia and workshops). A yearly calendar of hDMT events will be made available and maintained via the hDMT website.
- 3.7 hDMT Partner commits itself, as far as is possible within its budget and capacities in the field of Organ on Chip, to use reasonable efforts to actively fulfil the mission, aim and ambition as described in article 1. For example, it will use reasonable efforts to participate in hDMT Projects; to apply for funding; to network and scout for possible new hDMT Partners and to share expertise and facilities (under conditions to be agreed upon) on a project by project basis, in the field of Organ on Chip; to actively participate in the Consortium Assembly and to contribute to any other relevant activity that fits the scope of hDMT.
- 3.8 In case hDMT has reasons to believe that hDMT Partner does not fulfil its obligations under article 3.7 and has no intention to improve, the Executive Board of hDMT shall discuss this with hDMT Partner.
- 3.9 In order to enhance hDMT's visibility hDMT Partner will mention hDMT in its publications and meetings regarding hDMT activities.
- 3.10 In line with article 12.1 of the Articles of Association hDMT Partner shall pay an annual partnership fee to hDMT. The fee will be determined in line with article 12.1 of Articles of Association.
- 3.11 hDMT shall invoice the fee for the coming year at the end of December each calendar year.
- 3.12 In addition to article 3.11 hDMT shall invoice the first fee payment within thirty (30) days after the Effective Date, and only the portion of the fee due for the remaining part of the ongoing year.
- 3.13 hDMT Partner shall pay the invoice within thirty (30) days of receipt of an invoice.

Article 4 INTELLECTUAL PROPERTY

- 4.1 hDMT Project Partner is prepared to give a non-exclusive, non-transferable, royalty-free, fully paid up, limited in time License to its Background IP Rights to hDMT Project Partners for use in the hDMT Project only for the purpose of being able to participate in that particular hDMT Project. For the sake of clarity, in no event shall an hDMT Partner be obliged to grant any rights to its Background IP Rights in an hDMT Project where such hDMT Partner is not a participant. In a Project Agreement Background IP can be expressly made available to hDMT Project Partners and, at the

hDMT Project Partner's discretion, to Third Party Project Participants for the purpose of the concerned hDMT Project.

- 4.2 Any Foreground IP rights derived from Project Results are owned and controlled by one or more hDMT Project Partners and/or other Project Participants according to the principles agreed in a Project Agreement and as applicable in compliance with intellectual property rights provisions of a Funding Agency. hDMT shall not own IP Rights based on hDMT Project Results.
- 4.3 hDMT Project Partner shall make suitable IP Rights arrangements in a separate hDMT Project Agreement with hDMT, other participating hDMT Project Partners, and if applicable, with Third Parties.

Article 5 PUBLICATION

- 5.1 hDMT Project Partners agree to publish all Project Results in any manner consistent with academic standards and subject to the IPR and publication provisions of the applicable hDMT Project Agreement under which the Project Results have been generated.
- 5.2 hDMT Project Partners agree - when possible and not impeding the quality of the publication - to publish articles in magazines that are available on an open access basis.
- 5.3 Unless otherwise agreed in the Project Agreement, hDMT Project Partner guarantees that the review period of any publication, subject to a Project Agreement, is performed within thirty (30) calendar days. In addition, hDMT Project Partners agree to withhold such publications no longer than sixty (60) days (as from the date the request for publication was made) to obtain patent protection. At this time the Project Results of the Research will be published.
- 5.4 If objections are raised the hDMT Project Partners will discuss in good faith to adapt the publication in such a way to meet the objections and maintain the scientific quality. The hDMT Project Partner has the right to require deletion of any of its Background IP that has not previously been publicly disclosed, its trade secret and its proprietary, or its Confidential Information (not being Project Results) but shall not otherwise have the right to censor publication.

Article 6 PROJECT AGREEMENT

- 6.1 For each hDMT Project in which hDMT Partner wishes to participate, hDMT Project Partner will enter into a Project Agreement with other hDMT Project Partners wishing to participate in such hDMT Project, applicable Third Parties and hDMT.
- 6.2 Each hDMT Project Agreement will contain at least the following provisions:

- hDMT Project Partner agrees that Project Results developed in an hDMT Project will be published in accordance with article 5 of this agreement.
- hDMT Project Partner will grant other hDMT Project Partners a non-exclusive, non-transferable, royalty-free, fully paid up, limited in time and with no right to sub-license, Licence to Foreground IP Rights and Background IP Rights and Know How for the purpose of executing the hDMT Project.
- At the request of an hDMT Project Partner to acquire a Licence on Foreground IP Rights for Internal Access purposes, the owner of the Foreground IP Rights will negotiate in good faith such a Licence upon conditions to be agreed upon.
- Confidentiality arrangement will be made to enable exchange of research results
- hDMT Project Partner undertakes to endeavour to effectively commercialise the Foreground IP or apply the Project Results. However, the decision to commercialize any part of the Foreground IP or apply the Project Results shall always be at an hDMT Partners sole discretion.

Article 7 CONFIDENTIALITY AT CONSORTIUM LEVEL

- 7.1 Confidentiality at Project level will be agreed upon in an hDMT Project Agreement. As for Confidential Information shared by or among the hDMT Partners and hDMT outside the scope of a Project Agreement but within the hDMT Consortium, this Article 7 applies.
- 7.2 For a period of five (5) years after a disclosure of Confidential Information, hDMT Partner and hDMT shall keep confidential any Confidential Information disclosed to it by or on behalf of hDMT or an hDMT Partner. No obligation to confidentiality shall apply to Confidential Information that:
- has come into the public domain prior to, or after the disclosure thereof, and in such case through no wrongful act of the receiving Party;
 - was already known to the receiving Party, as verified by written documentation in the files of the receiving Party;
 - has been lawfully received by the receiving Party without restriction or breach of this hDMT Partner Agreement;
 - is required to be disclosed by an order of any court or competent jurisdiction or government department or local authority provided that the receiving Party to the extent legally permitted (i) notifies the disclosing Party; and (ii) complies with the disclosing Party's

reasonable instructions to protect the confidentiality of the Confidential Information;

- is independently developed in good faith by employees of the receiving Party who had no access to the Confidential Information, as verified by written documentation in the files of the receiving Party.

7.3 The burden of proof lies with the receiving Party.

Article 8 LIABILITY

8.1 Each Party shall be liable for its own activities under this hDMT Partner Agreement.

8.2 Each Party's liability towards the other Party under this hDMT Partner Agreement shall be limited to the extent permitted under Dutch law to direct damage suffered by the other Party.

8.3 hDMT Partner shall be liable for any of its Affiliates' failure to comply with this hDMT Partner Agreement, as if it was its own non/compliance.

8.4 Parties can make separate arrangements on liability at hDMT Project level in an hDMT Project Agreement.

Article 9 NEW PARTNERS

The Consortium is open to new hDMT Partners. Any new hDMT Partner joining the Consortium will sign an hDMT Partner Agreement identical to this hDMT Partner Agreement. For information purposes hDMT will send hDMT Partner a copy of each hDMT Partner Agreement that has been concluded by hDMT.

Article 10 TERM AND EARLY TERMINATION

10.1 This hDMT Partner Agreement will commence on the Effective Date and has a minimum duration of three years. Three years after the Effective Date this hDMT Partner Agreement will automatically be prolonged for an additional two years unless terminated in accordance with this article 10.

10.2 hDMT Partner may terminate this hDMT Partner Agreement at any moment, but at the earliest one year after the Effective Date, with a two years term of notice by informing the Executive Board of such in writing. This means that the Partner Agreement will be terminated two years after the reception of the written notice.

- 10.3 hDMT Partner may terminate this hDMT Partner Agreement within thirty (30) days of being notified by hDMT of a new hDMT Partner and hDMT Partner objects to the accession of such new partner in the Consortium.
- 10.4 hDMT Partner may terminate this hDMT Partner Agreement within thirty (30) days in case hDMT is in breach of article 2.9 first phrase.
- 10.5 hDMT Partner may terminate this hDMT Partner Agreement within thirty (30) days of being notified by hDMT of material changes in the hDMT Articles of Association or related regulations.
- 10.6 hDMT Partner may terminate this hDMT Partner Agreement within thirty (30) days after being notified by hDMT of the decision of the Executive Board to raise the annual fee.
- 10.7 When hDMT Partner is in breach of a material obligation of this hDMT Partner Agreement which is irremediable or which is not remedied within sixty (60) days of written notice of hDMT, hDMT may terminate this Agreement for cause. Non-payment of the annual fee is considered as a material breach of this hDMT Partner Agreement. The hDMT Partner shall in any event be in default when it persistently or repeatedly breaches this Agreement, or it is in major breach of this Partner Agreement.
- 10.8 After termination of this hDMT Partner Agreement following this article 10 the following articles shall remain effective: article 3.10 (only for one year, i.e. the fee due for the year hDMT Partner has terminated the hDMT Partner Agreement) 7, 8, 10.8, 10.9, 11 and 13. In addition, the definitions used in the surviving articles shall remain effective.
- 10.9 When this hDMT Partner Agreement is terminated and hDMT Partner participates in an ongoing Project, hDMT Project Partner has to fulfil all its obligations as an hDMT Project Partner under the hDMT Project Agreement(s) it is a party to for the remaining duration of that Project Agreement.

Article 11 RELATION PARTNER AGREEMENT TO OTHER DOCUMENTS

- 11.1 The Articles of Association and related regulations to this Agreement are an integral part of this Agreement and are equally binding upon the Parties. A change in the Articles of Association and related regulations shall be done in line with the Articles of Association and will be notified to the hDMT Consortium by hDMT at hDMT's earliest convenience.
- 11.2 In case of a conflict between mandatory terms and conditions of a Funding Agency applicable to the execution of an hDMT Project and the relevant sections of this hDMT Partner Agreement, the mandatory terms and conditions of a Funding Agency shall prevail but only for the purpose of the hDMT Project in question.

- 11.3 In case of a conflict between one or more of the articles 10.3 up and until 10.7 of this Partner Agreement and the Articles of Association, the articles of the Partner Agreement shall prevail over the Articles of Association.
- 11.4 Subject to article 11.2 and 11.3, in the event of a conflict between the Articles of Association or related regulations and this hDMT Partner Agreement, the following order shall apply whereby earlier mentioned shall prevail over the later mentioned:
- Articles of Association;
 - regulations as meant in articles 5.9; 9.8 and/or 10.8 of the Articles of Association;
 - this hDMT Partner Agreement;
 - hDMT Project Agreement.

Article 12 NO GENERAL TERMS AND CONDITIONS

Any and all general terms and conditions of hDMT Partners or its Affiliates are expressly declared not applicable to this hDMT Partner Agreement or any related hDMT Project Agreement.

Article 13 LAW AND FORUM

- 13.1 This hDMT Partner Agreement is construed under the laws of The Netherlands, excluding its conflict of law provisions.
- 13.2 Parties will attempt to settle conflicts arising from this hDMT Partner Agreement amicably.
- 13.3 In case Parties are unable to settle their conflict amicably within 60 (sixty) days after one Party has given the other Party written notice of the existence of such conflict, they shall bring the issue before the competent court in the district of The Hague.
- 13.4 Notwithstanding the foregoing, a Party may seek necessary injunctive relief or other provisional remedies in any court having jurisdiction.

Signed in twofold,

Effective date:

hDMT

[XXX]

ANNEXES:

- 1 hDMT Articles of Association (*statuten*) and related regulations (*reglementen*)**