

## READ BEFORE COMPLETION

**NOTICE:** The EBiSC2 Access & Use Agreement (EAUA) is a **LEGALLY BINDING CONTRACT** between the European Bank for induced pluripotent Stem Cells (EBiSC) and the User.

1. The person who signs this contract represents and warrants to EBISC that s/he is an **AUTHORISED SIGNATORY OF THE USER**, who has formal authority to undertake legal obligations on behalf of the User. **If you are not certain whether you have such authority, please do not sign.**
  - Examples of people who the User MAY have authorised to sign include: Directors, Head of Legal, Head of Finance, and Technology Transfer Associates.
  - Examples of people who typically do NOT have such authority include: Head of Laboratory, Principal Investigators, post-doc researchers, students or technicians.
2. Before signing, the User must be aware of the contents of the relevant Cell Line Information Pack (CLIP), which may set out **limitations on cell use**. These obligations have been imposed on the Depositor by third parties, and under the EAUA are **passed on** to the User.
3. Under the EAUA, EBiSC2 cells are accessible solely for **‘research use’**, as broadly defined. For any **other type of use**, including their commercial resale, or use in the conduct of research activities on a fee-for-service basis, the User must make separate arrangements directly with the Depositor.

Signature of the EAUA by an unauthorised person, or failure of the authorised signatory to tick the box below, may result in a significant delay in processing the request of the User for the material.

**The signatory of the User should tick this box to indicate that s/he has read this notice.**

**THIS EBISC2 ACCESS & USE AGREEMENT ("EAUA")** is made on

**BETWEEN:**

(1) [ ] of [ ]

] ("**User**"); and

(2) **Simon Andrews of Fraunhofer UK Research Limited**, a company incorporated in Scotland under Company number: SC419797 and having its registered office at Technology and Innovation Centre, Level 5, 99 George Street, Glasgow, Scotland, G1 1RD ("**EBE**")

**BACKGROUND:**

- A The Innovative Medicines Initiative 2 Joint Undertaking ("**IMI2**") is a public-private partnership between the pharmaceutical industry, represented by the European Federation of Pharmaceutical Industries and Associations, and the European Union, represented by the European Commission.
- B The EBISC2 consortium was formed to undertake the IMI2 project called "A Sustainable European Bank for Induced Pluripotent Stem Cells" (IMI2 Grant Agreement No. 821362) (the "**EBISC2 Project**"), pursuant to which the EBISC2 Bank has been established for the Banking of induced pluripotent stem cell ("**iPSC**") lines for Research Use;
- C The Beneficiaries in the EBISC2 Project entered into an agreement effective 1 March 2019, as amended from time to time (the "**EBISC2 Consortium Agreement**") to govern their collaboration in the EBISC2 Project;
- D The Depositor owns the Original Material and the Original Data, which have been deposited with the EBISC2 Bank in accordance with the terms of an EMDA;
- E The EBE may hold Additional Data, which is not Managed Data, in relation to the Original Material or the Banked Material;
- F The Depositor has granted to the EBE, under said EMDA, rights to conduct or procure the conduct of Banking through the EBISC2 Bank, and to grant Access Rights to users;
- G The User, who is not a Beneficiary, wishes to obtain Access Rights;
- H This Agreement sets out the terms and conditions upon which the EBE provides Access Rights to the User and any Affiliated Entity;
- I This Agreement does not cover access to any Managed Data.

## IT IS AGREED:

### 1. DEFINITIONS

**"Access Rights"** means the non-exclusive rights granted by the EBE to a User, and any Affiliated Entity, to provide them with access to Banked Material, Original Data and Additional Data for Research Use;

**"Additional Data"** means any data or information associated with the Original Material or Banked Material, which has been generated within the EBiSC2 Project or reported or disclosed by any party to the EBE or the EBiSC2 Bank, and which is neither Original Data nor Managed Data;

**"Affiliated Entity"** means any legal entity that is under the direct or indirect control of the User, under the same direct or indirect control as the User, or is directly or indirectly controlling the User, control taking any of the following forms: (a) the direct or indirect holding of more than 50% of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity; (b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned;

**"Banked Material"** means the iPSC lines descended from Original Material that are identified at Appendix 1 to this EAUA, and Replicates thereof.

**"Banking"** means: (i) developing, acquiring, importing, exporting, proliferating, maintaining, storing and distributing Original Material and Replicates on an international basis; (ii) generating characterization data relating to the Original Material; (iii) providing value-add services using Original Material and Replicates; and (iv) the creation of Derivatives, in each case for a reasonable fee sufficient to cover costs of operations; provided however, that in no event does "Banking" include the use of Original Material and Replicates in human clinical testing or as human therapeutics.

**"Beneficiary"** means a party to the EBiSC2 Consortium Agreement, and 'Beneficiaries' shall be interpreted accordingly;

**"Cell Line Information Pack"** or **"CLIP"** means the package of cell line specific information for the User, including Third Party Obligations, which accompanies each cell line in the EBiSC2 catalogue;

**"Controller"** shall mean the natural or legal person, public authority, agency or other body which, alone or jointly with another Beneficiary or a Third Party, determines the purposes and means of Processing of the Personal Data.

**"Data Subject"** means an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**"Depositor"** means the owner of the Original Material and the Original Data;

**"Derivatives"** means substances, other than Banked Material, which: 1) are derived from Banked Material; 2) are modifications of Banked Material; 3) are products of the use of Banked Material, including cells differentiated from it; or 4) wholly or partially incorporate Banked Material;

**"EBE"** means the EBiSC2 Bank Entity, which is Fraunhofer UK Research Ltd, the not-for-profit corporate vehicle that controls the operations of the EBiSC2 Bank, and shall include its assignee(s), successor(s) in title, or such other person(s) as may be notified in accordance with clause 7.2;

**"EBiSC2 Bank"** means the iPSC biorepository created in the framework of the EBiSC2 Project, comprising a main facility and a secure backup or 'mirror' facility, which facilities will be located at Porton Down, UK and Sulzbach, Germany, respectively, or such other locations as may be determined by the EBE in the future;

**"EBiSC2 Pricing Policy"** means the EBiSC2 schedule of prices as provided for in Appendix 12 of the EBiSC2 Consortium Agreement (which Appendix 12 may be updated from time to time with the approval of the EBiSC2 Project Beneficiaries), which reflects the not-for-profit nature of EBiSC2 operations;

**"EMDA"** means EBiSC2 Material Deposit Agreement, which is an agreement between EBE and Depositor substantially in the standard EBiSC2 MDA template appended to the EBiSC2 Consortium Agreement.

**"Intellectual Property"** means patents, trademarks, service marks, registered designs, copyrights, database rights, design rights, confidential information, applications for any of the above, and any similar right recognised from time to time in any jurisdiction, together with all rights of action in relation to the infringement of any of the above;

**"Managed Data"** means data or information, associated with the Original Material or Banked Material, which, for the purposes of donor protection, is held by the EBE, Depositor or other third party in a secure data management system, access to which will be detailed in a specific data access agreement, outside of the terms of this EAUA, with the relevant holder;

**"Original Data"** means the data or information pertaining to the Original Material provided by the Depositor to the EBE upon deposition of the Original Material, and which is not Managed Data;

**"Original Material"** means the samples of iPSC lines transferred by the Depositor to the EBiSC2 Bank in accordance with an EMDA;

**"Personal Data"** means any information relating to a Data Subject,

**"Processing"** and **"Process"** shall mean any operation or set of operations which is performed on Personal Data or sets of Personal Data whether or not by automated means such as, collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or

otherwise making available, alignment or combination, restriction, erasure or destruction.

**“Processor”** shall mean the natural or legal person, public authority,

**"Replicates"** means unmodified iPSC lines descended from Banked Material which retain the ability to replicate and differentiate;

**"Research Use"** means the use by the User, or Affiliated Entity, of Banked Material, and/or Derivatives as identified in Appendix 1, Original Data and Additional Data for all research purposes. For clarity, ‘research purposes’:

- a) includes all pre-clinical research and development activities, all activities relating to developing the ability to commercialise any drug substance or drug product (including process development work) and all activities relating to seeking, obtaining and/or maintaining any regulatory approvals from a regulatory authority;
- b) does not extend to the foregoing research and development activities, or any other activity, provided as a service for a fee; and
- c) excludes the use of Banked Material (and/or the Derivatives as identified in Appendix 1) in human clinical testing and as therapeutics.

**“Sub-Processor”** shall have the meaning assigned to it in clause 2.7 b) of this EAU.

**"Third Party Obligations"** means the obligations of the Depositor to third parties, in relation to the use of the Banked Material and/or the Derivatives identified in Appendix 1, which are specified in the Cell Line Information Pack. For avoidance of doubt, such obligations may include, but are not limited to, reach-through intellectual property rights including royalty obligations to third parties, existing distribution arrangements with third parties, and specific terms of donor consent.

**"User"** means the natural or legal person who is party, with the EBE, to this EAU; for avoidance of doubt, the User is not a Beneficiary.

## 2. ACCESS AND USE

### 2.1 The EBE:

2.1.1 agrees that, upon execution of this Agreement, or as soon as reasonably possible thereafter, it will provide the User with:

- i. samples of Banked Material;
- ii. samples of Derivatives as identified in Appendix 1; and
- iii. access to Original Data and Additional Data;

2.1.2 hereby grants to the User and any Affiliated Entity, subject to Third Party Obligations, a non-exclusive, royalty-free, worldwide licence to use the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data for Research Use during the term of this Agreement;

- 2.1.3 will invoice the User at prevailing EBiSC2 tariff rates, in accordance with the EBiSC2 Pricing Policy.
- 2.1.4 will, to the extent the Original Data or the Original Material as provided by the Depositor and which the EBE transfers and grants, or affirms Access Rights to the User pursuant to this EAUA, contains Personal Data (such as clinical data, genetic data or identifiable human material) and which is required given the activities of the EBiSC2 Project or the purpose of the EBiSC2 Project and/or the EMDA, comply with all its obligations, under the applicable legislation (including the General Data Protection Regulation 2016/679) in view of the Processing of these Personal Data. This means amongst others that the EBE can provide evidence that the concerning Data Subjects (if applicable and in so far and to the extent required under applicable legislation) consented to and have been informed (either directly by the EBE or by the Depositor) on the purpose of the Processing in view of this EAUA and the fact that – the case being - their Personal Data (including clinical data, genetic data or identifiable human material) can be (further) Processed by the User, any other Beneficiary, and/or third parties, either as Processor(s) or Controller(s) for the performance of the activities and the purpose of the EBiSC2 Project and/or the EMDA and/or this EAUA
- 2.2 The User acknowledges prior receipt of a specific Cell Line Information Pack in relation to each iPSC line identified as Banked Material in Appendix 1;
- 2.3 The User agrees that it will:
  - 2.3.1 make full payment of invoices, in British pounds sterling (or other currency by arrangement with EBE upon submission of the order) within 30 days of the date of invoice;
  - 2.3.2 prior to any use, obtain all necessary permits to use the Banked Material and/or the Derivatives as listed in Appendix 1 for Research Use;
  - 2.3.3 make no attempt, at any time, to establish the personal identity of the individual donor of the primary tissue from which the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data or Additional Data was derived. However, the EBE agrees that the activities as envisaged by this EAUA (whether by the User, Beneficiaries, and/or third parties) could lead to the extraction of Personal Data from the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data or Additional Data. In such case as well as in the case of Processing by the User, the Beneficiaries, and/or third parties of Personal Data within the Original Data, Banked Material and/or the Derivatives as listed in Appendix 1 and Additional Data, the User will comply with and will ensure that any other Beneficiaries, and/or third parties involved in the activities

envisaged by this EAUA comply with all applicable obligations, under the applicable legislation (including the General Data Protection Regulation 2016/679) in view of the Processing of these Personal Data.

2.3.4 use the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data:

- i. solely for Research Use;
- ii. in compliance with all applicable laws, government regulations and codes; and
- iii. in compliance with any Third Party Obligations;

2.3.5 in case the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data contains Personal Data as referred to in clause 2.1.4, comply with all its obligations, under the applicable legislation (including the General Data Protection Regulation 2016/679) in view of the Processing of these Personal Data, and if the User can be regarded as a ‘Controller’ of the Personal Data in view of the General Data Protection Regulation 2016/679, comply with its obligations as Controller as set out in the General Data Protection Regulation 2016/679 and will ensure especially that:

- (a) Personal Data shall be accessed only for the purpose of this EAUA. Further Processing of such introduced Personal Data by the User for own purposes or for purposes of Third Parties is not permitted, unless permitted under the applicable legislation (including, but not limited to, when expressly permitted in the informed consent of the Data Subject, if any).
- (b) Personal Data being introduced or Processed in view of this EAUA shall be adequate in relation to the purpose of the this EAUA. No Personal Data shall be Processed if it is not necessary for the stated purpose. Further Processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purpose subject to the conditions set out in the applicable legislation.
- (c) Personal Data shall be retained in a form, which permits identification of Data Subjects no longer than necessary for the purposes of this EAUA (unless longer storage is permitted under and subject to the conditions set out in the applicable legislation).

- (d) it shall provide the EBE (upon the Depositor's request) or the Depositor directly with all information about the accessing and Processing of the Personal Data which the EBE (upon the Depositor's request)/ Depositor requests in order to inform the Data Subject or according to applicable legislation.
- (e) In that case also the User can be the responsible contact for any requests by the Data Subject, e.g. for information, correction or deletion of the Personal Data or for an objection to the Processing.
- (f) it shall take all reasonable technical and organizational measures necessary to protect the introduced Personal Data against unauthorized or unlawful Processing and against accidental loss, destruction of or damage to such Personal Data.

2.3.6 ensure that any other Beneficiaries, and third parties accessing the Personal Data within the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data hereunder shall use such Personal Data solely for performing the activities envisaged by this EAU. The User shall ensure that such Beneficiaries and third parties provide sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the Processing of the Personal Data will meet the requirements of the applicable legislation. Where the Beneficiaries, and/or third parties, (as Sub-Processor of the User and only to that extent) fail to fulfil their data protection obligations towards the Processing of Personal Data, the User shall remain fully liable to the EBE for the performance of the Beneficiaries, and/or third parties' obligations under the applicable legislation (including the General Data Protection Regulation 2016/679) in view of the Processing of these Personal Data.

2.3.7 ensure that any third party, other than an Affiliated Entity, to whom the User subcontracts research involving the Banked Material and/or the Derivatives as listed in Appendix 1, or otherwise permits access to the Banked Material and/or the Derivatives as listed in Appendix 1, has undertaken in writing to comply with all relevant restrictions and obligations imposed by this EAU on the User;

2.3.8 include, in any written application for patent or submission for publication, appropriate acknowledgement of the EBiSC2 Bank, Depositor and any funders identified with the Banked Material;

2.4 The EBE and the User agree that nothing in this EAU shall operate to alter any Third Party Obligations;

2.5 Country Specific Requirements. The Parties will comply with the provisions of the CLIP.



2.6 For avoidance of doubt, no access to Managed Data is provided by this EAU A.

2.7 To the extent the EBE transfers Banked Material and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data that contain Personal Data to the User (in view of clause 2.1.4), which are then accessed and Processed by the User on behalf and upon instructions of the EBE (who acts on behalf and upon the instructions of the Depositor), including with regard to the transfer of Personal Data to countries outside the EU/EEA, the EBE (as Processor) and the User (as sub-processor) (in processor to sub-processor relationship) are obliged as follows:

- a. The EBE has verified that the User provides sufficient guarantees to implement appropriate technical and organizational measures in such a manner that processing of the Personal Data will meet the requirements of the applicable legislation (including the General Data Protection Regulation 2016/679) and ensure the protection of the rights of the Data Subject.
- b. Subject to the relevant provisions of applicable law (including the General Data Protection Regulation 2016/679), the User may engage other processors (each a “Sub-Processor”), for carrying out specific Processing activities, however to the extent no less strict terms and conditions as set out in this EAU A shall be imposed on that other Sub-Processor by way of a contract or other legal act, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the applicable legislation (including the General Data Protection Regulation 2016/679). In such cases, the User shall remain fully liable towards the EBE where the Sub-Processor fails to fulfil its data protection obligations. The User shall inform the EBE of any intended changes concerning the addition or replacement of Sub-Processors, thereby giving the EBE the opportunity to object to such changes. The EBE will however not unreasonably object such intended changes.
- c. The Personal Data that will be Processed in view of this EAU A<sup>1</sup> are Genetic Data including

Yes / No

- STR profiles: ...../.....
- Clinical Data: ...../.....
- Biometric Data: ...../.....
- Other: ...../.....

○ Detail: [ ]

- d. The categories of the Data Subjects<sup>2</sup> to which the Personal Data relate that are Processed are

<sup>1</sup> E.g. genetic data, clinical data, biometric data, health data, etc.

<sup>2</sup> E.g. patients, employees, customers.

- Study participants: .....
- Other: .....
- Detail: [ ]

- e. The nature<sup>3</sup> and the purpose<sup>4</sup> of the Processing of the Personal Data are as follows: [DELETE / AMEND AS NEEDED: Collecting / storing / analysing / sharing Personal data for generation / characterisation / qualification / use / distribution of iPSC lines / and iPSC derivatives].
- f. Subject to the provisions of clause 2.7.b., the User shall Process and shall ensure that it and any Sub-Processor, Processes Personal Data exclusively in accordance with the documented (in so far needed under the applicable legislation) instructions of the EBE (which acts under the instruction of the Depositor) as set out under this EAU, including with regard to the transfer of Personal Data to a third country unless required to do so by applicable law to which the User as Processor is subject; in such a case, the User shall inform the EBE of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest.
- g. The User ensures that persons authorised to Process the Personal Data are obliged to data secrecy in writing, that they are informed about the obligations under the applicable legislation (including the General Data Protection Regulation 2016/679) and that they will act in accordance with those obligations.
- h. The User has or will implement appropriate technical and organizational measures to ensure a level of security appropriate to protect the Personal Data against unauthorized or unlawful Processing and against accidental loss, destruction of or damage to such Personal Data and those security measures (a) are able to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services (b) where appropriate result in pseudonymisation and/or encryption of Personal Data; (c) are able to restore the availability and access to the Personal Data in a timely manner in the event of a physical or technical incident; and (d) include a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the Processing.
- i. The User respects the conditions referred to in clause 2.6 (b) for engaging another processor;
- j. The User, by appropriate technical and organisational measures, assist the EBE insofar as this is possible, for the fulfilment of the EBE's obligation to respond to requests (through the Depositor) for exercising the Data Subject's rights, taking into account the nature of the Processing.

<sup>3</sup> E.g.: collecting, storing, saving, deleting, transferring adaptation, ... of the Personal Data.

<sup>4</sup> This is the description of the reason(s) why the Personal Data are processed.

- k. The User will assist the EBE, upon its request, in ensuring compliance with the obligations relating to the security of Processing, data breach notifications, data protection impact assessment and prior consultation to the data protection authority, taking into account the nature of the Processing and the information available to the User.
  - l. The User shall at the choice of the EBE (and subject to the provisions of the EBiSC2 Consortium Agreement and the EMDA) delete or return all the Personal Data to the EBE after the end of the provision of services relating to Processing or at the EBE's first request, and delete existing copies (unless applicable law requires storage of the Personal Data or deletion would not be reasonably possible (in case deletion of the Personal Data has been requested))
  - m. shall make available to EBE all information necessary to demonstrate compliance with the obligations laid down in this clause 2.6 and allow for and contribute to audits, including inspections, conducted by the EBE or another auditor mandated by the EBE.
- 2.8 The Processing of the Personal Data by the User, sub-processor, any other Beneficiaries, and/or third parties shall exclusively and entirely occur in the type and extent and for the purposes as defined by the EBE in this EAUA (and the EBiSC2 Consortium Agreement) (or further Processing if and to the extent allowed under applicable legislation, the EMDA, the EAUA and the EBiSC2 Consortium Agreement).

### **3. PROPERTY**

- 3.1 Subject to Third Party Obligations, the User shall retain ownership of:
- 3.1.1 Intellectual Property arising out of the Research Use of the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data or Additional Data; and
  - 3.1.2 Derivatives arising out of the Research Use of the Banked Material, Original Data or Additional Data.

### **4. LIABILITY**

- 4.1 Each party represents that it has the requisite power and authority to enter into this EAUA and to perform according to its terms, and that the official of each party executing this EAUA has authority to do so.
- 4.2 Any Banked Material and/or Derivatives as listed in Appendix 1, delivered pursuant to this EAUA is understood to be experimental in nature and may have hazardous properties. The EBE makes no express or implied warranty, condition or representation whatsoever regarding the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data or Additional Data. In particular, the EBE:

- 4.2.1 provides no warranty in regard to the sufficiency, adequacy or fitness of the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data for any particular purpose, and
- 4.2.2 does not represent or warrant that the use of the Banked Material and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data will not infringe or violate any patent, copyright, trademark or proprietary right of any third party.
- 4.3 Nothing in this EAUA shall operate to limit or exclude the liability of either party for death or personal injury caused by the gross negligence or wilful misconduct of that party, for breaches of this EAUA or applicable laws and regulations with respect to personal data, or any other liability which may not lawfully be excluded.
- 4.4 The User shall indemnify and, subject to clause 4.6, hold harmless the EBE and the Depositor for any damages or loss incurred in the event of failure of the User, any Affiliated Entity, or a subcontractor of any of them, to comply with the requirements imposed on such entity by this EAUA.
- 4.5 In the event of any noncompliance referred to in clause 4.4, the User will promptly, and in writing, notify the EBE, who will take and continue to take all reasonable steps to mitigate its loss arising from the event.
- 4.6 Without prejudice to clause 4.3, the liability incurred by the User, as a result of a single event giving rise to a claim pursuant to clause 4.4, shall not exceed €250,000, except for liability incurred due to violation of any data protection laws and regulations.
- 4.7 The User acknowledges and agrees that the Depositor, although a non-signatory to this EAUA, shall have the right to recover damages and any other remedies provided by applicable law directly from the User, without intervention of any nature from the EBE. For the avoidance of doubt, the Depositor has given no express or implied warranty, condition or representation regarding the Banked Material, Original Data or Additional Data, neither with regard to its sufficiency, adequacy or fitness for any particular purpose, nor to assert that it will not infringe or violate any patent, copyright, trademark or proprietary right of any third party.
- 4.8 The User acknowledges that the role of the EBE, in undertaking Banking through the EBiSC2 Bank, is solely to facilitate Research Use; without prejudice to clause 4.3, but subject to clauses 4.4, 4.5 and 4.6, neither the EBE, nor the EBiSC2 Bank, nor the Depositor shall have any liability for loss, costs, claims, damages or expenses arising out of or in connection with the use of any Banked Material and/or the Derivatives as listed in Appendix 1, Derivatives, Original Data or Additional Data under this EAUA.

## **5. CONFIDENTIALITY**

- 5.1 Each party agrees not to (i) disclose any confidential information provided to it by the other pursuant to this EAUA or (ii) use the names or marks of the other without express written permission;
- 5.2 The obligations of confidence referred to in this clause 5 shall not extend to:
  - 5.2.1 the contact details of the User, which it agrees may be made publicly available by the EBE by means including the website of the EBiSC2 Bank;
  - 5.2.2 other information which is, or becomes, generally available to the public, other than by reason of a breach by the EBE of any provision of this clause 5;
  - 5.2.3 information that the EBE is required to disclose to Depositors or potential Depositors pursuant to an MDA, including, but not limited to Additional Data, and as may be required in accordance with Third Party Obligations;
  - 5.2.4 information that the EBE is required to disclose to the organisation(s) appointed to conduct the Banking activities of the EBiSC2 Bank, subject to suitable undertakings of confidentiality given by such organisations;
  - 5.2.5 information which is known to the EBE prior to its receipt from the User and the EBE is free to disclose it;
  - 5.2.6 information that is subsequently disclosed to the EBE without obligations of confidence by a third party owing no such obligations to the disclosing party in respect thereof; or
  - 5.2.7 information that is required to be disclosed in accordance with applicable law or by appropriate regulatory authorities.

## **6. TERM AND TERMINATION**

- 6.1 This EAUA shall come into effect on the date of its execution by both parties and, subject to clause 6.2, shall remain in force for as long as the Banked Material and/or the Derivatives as listed in Appendix 1, is held and used by the User.
- 6.2 This Agreement may be terminated on thirty (30) days written notice by either party to the other.
- 6.3 Upon termination or expiry of this Agreement for any reason, and subject to the provisions of the EBiSC2 Consortium Agreement if and as they apply to the User and any Affiliated Entity:

6.3.1 the Access Rights granted to the User and any Affiliated Entity pursuant to this Agreement will cease to have effect; and

6.3.2 the User shall:

- i. discontinue its use of the Banked Material and/or the Derivatives as listed in Appendix 1,
- ii. upon direction of the EBE, return or destroy any remaining Banked Material and/or the Derivatives as listed in Appendix 1, and
- iii. notify each Affiliated Entity and subcontractor to whom it has given access to the Banked Material and/or the Derivatives as listed in Appendix 1 of the termination or expiry of this Agreement.

The provisions of clauses 2.2, 4, 5, 6, 7, 8, 9, 10, 11 and 13 shall survive expiry or termination of this EAUA.

## **7. ASSIGNMENT**

7.1 If the User transfers any rights in the Banked Material and/or the Derivatives as listed in Appendix 1 or the part of its business controlling the same to a third party, the rights of the User under this EAUA will, subject to its obligations hereunder, be deemed to be assigned to the transferee. The User undertakes to ensure that the transferee is notified of the existence of this EAUA and to notify the EBiSC2 Bank in writing of the transfer.

7.2 The EBE may, without the consent of the User, as part of an assignment of its legal interest in the EBiSC2 Bank, assign its rights, subject to its obligations, under this EAUA, to another not-for-profit corporate entity, and shall notify the User promptly following any such assignment. Alternatively, the User undertakes to novate this EAUA to such assignee, upon the reasonable request of the EBE.

7.3 This EAUA shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

## **8. RELATIONSHIP**

The relationship of the parties is that of independent contractors and not agents of each other or joint venturers or partners. Each party shall maintain sole and exclusive control over its personnel and operations.

## **9. AMENDMENT**

Except as expressly provided in this EAUA, no amendment or waiver will be binding unless executed in writing by both parties. If any provision of this EAUA is for any reason found to be unenforceable, the remainder of this EAUA will continue in full force and effect.

## 10. NOTICES

Any notice given under this EAUA shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at the following address:

*For the User: [ ]*

*For the EBE: Simon Andrews, Fraunhofer UK Research Ltd, Technology and Innovation Centre, Level 5, 99 George Street, Glasgow, Scotland, G1 1RD.*

## 11. ENTIRE AGREEMENT

This Agreement, including any and all appendices and referenced documents, constitutes the entire agreement between the parties regarding the use of the Banked Material, and/or the Derivatives as listed in Appendix 1, Original Data and Additional Data, superseding all other representations, understandings or agreements, whether oral or written.

## 12. COUNTERPARTS

This EAUA may be executed in counterparts, each of which when so executed shall constitute an original copy hereof, but all of which together shall constitute one agreement.

## 13. GOVERNING LAW AND JURISDICTION

- 13.1 This EAUA and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Belgium.
- 13.2 All disputes or differences arising in connection with this EAUA which cannot initially be settled amicably shall be finally settled by arbitration in Brussels under the rules of arbitration of the International Chamber of Commerce, by three arbitrators to be appointed under the terms of those rules. The chairman shall be of juridical education and the arbitration proceedings shall be conducted in English. The award of the arbitration will be final and binding upon the parties concerned.
- 13.3 The parties concerned may, rather than arbitrate under clause 13.2, instead elect to resolve by mediation a dispute or difference arising in connection with this EAUA which cannot be settled amicably. Such election shall be by unanimous written consent of the parties involved in the dispute.

AS WITNESS the parties have caused this EAUA to be duly signed by the undersigned authorised representatives as follows:

**User**

Authorised to sign on behalf of: [ ]

Signature: .....

Name: .....

Title: .....

Date: .....

Stamp (if applicable)

**EBiSC2 Bank Entity**

Authorised to sign on behalf of: **Fraunhofer UK Research Limited**, a company incorporated in Scotland under Company number: SC419797 and having its registered office at Technology and Innovation Centre, Level 5, 99 George Street, Glasgow, Scotland, G1 1RD

Signature: .....

Name: Simon Andrews

Title: Executive Director

Date:

Stamp (if applicable)



**APPENDIX 1 OF THE EBISC2 ACCESS & USE AGREEMENT (“EAUA”): BANKED MATERIAL AND DERIVATIVES**

The Banked Material is an iPSC line generated during the Term of the EBISC2 Project, and identified by the EBE at that time as intended for deposit with the EBISC2 Bank under EMDA.

The Derivative(s) listed is/are generated during the Term of the EBISC2 Project, and identified by the EBE at that time as intended for distribution by the EBISC2 Bank.

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