**NON DISCLOSURE AGREEMENT**

Non Disclosure Agreement (hereinafter “Agreement”) is entered into by and between:

……………………………………………………………………………………………………………………………………………………………

hereinafter referred to as “Agency”

**XXXXXXXXXX**:  ASSOCIATION EUROPEENNE DES AGENCES DE DEVELOPPEMENT (EURADA), established in AVENUE DES ARTS 12/7, BRUXELLES 1210, Belgium, represented for the purposes of signing the Agreement by Esteban Pelayo,

Herein after referred to as “EURADA”

This Agreement is concluded between the Parties in the framework of the implementation of the project entitled „Optimizing Support for Innovating SMEs – OaSIS” – (the „Project”), which is granted by Executive Agency for Small and Medium – sized Enterprises (EASME) under powers delegated by the European Commission, under Horizon 2020 programme.

Whereas the aim of the Project is to improve the efficiency and effectiveness of the innovation support provided in European regions and to strengthen the capacity of regional development agencies and other support providers. As a result of the Project a new, performance -based methodology of SME segmentation will be developed.

Whereas EURADA is a partner in Research Consortium established to implement the Project. Other Consortium partners are Cracow University of Technology established in Krakow, Poland and Linknovate Science Limited Company established in Santiago de Compostela, Spain (hereinafter referred to as “Consortium Partners”).

Whereas the Agency is a Regional Development Agency and it has a direct interest in the Project objectives and it declares its support to the subject matter.

Whereas it is necessary to carry out analysis of currently used SME support measures and its effectiveness in order to achieve the Project scope.

Whereas one of the EURADA’s tasks in the Project is to gather a large dataset, containing historical information about support provided to SMEs.

Whereas in the course of its activity the AGENCY has made a database containing such historical information which is essential for the Project and therefore it is of interest to Consortium Partners (“the Database”).

1. **DEFINITIONS**
2. Confidential Information means information disclosed by the Agency on the terms set forth herein, regarding its activity and clients, including financial, technical and business data, in particular collected and structured in the form of database.
3. For the purpose of this Agreement Confidential Information is not or cease to be information that:
4. is or become publicly known or publicly available, otherwise than as a result of breach of this Agreement
5. can be demonstrated that EURADA or any of the Consortium Partners or their employees or agents have been in possession of such information before it is provided by the Agency,
6. was obtained from a third party who, to the best knowledge of the Recipient, this information received legally and is not prohibited from disclosing it;
7. Notwithstanding the foregoing, Confidential Information structured in the form of database and protected by European and national regulations cannot be disclosed to any third party, disseminated or re-utilized in other manner without prior written consent of the Agency.
8. Database means set of data gathered and selected by the Agency regarding SME support measures established as for the date of its delivery to EURADA which is kept in confidentiality by the Agency.
9. **OBLIGATION OF CONFIDENTIALITY**
10. Confidential Information shall be kept confidential by EURADA and Consortium Partners and shall not be disclosed to any third parties or used otherwise than set in the Agreement, unless EURADA has obtained the Agency prior written consent (including by email) to do otherwise.
11. Consortium Partners are entitled to access and use the Confidential Information on the terms and conditions set hereunder and to the same extent as EURADA.
12. EURADA undertakes to maintain confidentiality of the Confidential Information, in particular EURADA shall:
13. take all necessary and proper security precautions to prevent disclosure of Confidential Information as well as the possibility of unauthorized access;
14. use no lesser degree of care to protect the Confidential Information than that which it applies to its own confidential information and proprietary information, but shall in any event use no less than a reasonable degree of care;
15. use the Confidential Information solely in relation to the Purpose of Project;
16. notify the Agency as soon as practicable after it becomes aware of any event of loss or unauthorized disclosure or use of any substantial part of the Confidential Information;
17. disclose Confidential Information solely to its employees or other associates, whatever the legal basis of their cooperation is, who are directly involved in the Project implementation and who have a reasonable need to know the content of the Confidential Information for the purposes of the duties assigned to as a result of or in connection with the Project (“Recipient”);
18. ensure that every Recipient who receives or obtains access to the Confidential Information shall be aware of its confidential nature and shall comply with the restrictions on non-disclosure;
19. only make such records or duplicates of Confidential Information which are necessary in relation to the Project;
20. return or destroy all documentary, electronic or other tangible embodiments of the Confidential Information disclosed hereunder as soon as reasonably practicable after the Project implementation and, upon the demand of the Agency, confirm its compliance with the foregoing obligation in writing.
21. The above restrictions and obligations concerning non-disclosure, use and care of the Confidential Information will not apply, and cease to apply, when and to extend that EURADA or any of Consortium Partners shall be obliged to follow any disclosure requirements imposed by law, court of competent jurisdiction, administrative body or another public authority. Upon receiving a request to disclose any part of the Confidential Information pursuant to the same, EURADA shall, as soon as reasonably practicable and to the extent permitted by law, notify the Agency of such a request and shall cooperate with the Agency in its efforts to protect the Confidential Information from disclosure. To extent permitted by law, in the event disclosure is still required, EURADA or other Consortium Partner shall disclose only the minimum part of the Confidential Information as is legally required to be disclosed.
22. **TERM**

This Agreement shall enter into force as of the date of the signature by the Agency or EURADA, depending on which is later, and shall remain in force until the Confidential Information disclosed hereunder loses its confidential nature, otherwise than by breach of this Agreement, however in any case no longer than 10 years after the completion of the Project.

1. **LICENSE**
2. Subject to the terms and conditions of this Agreement the Agency hereby grants to EURADA a non – exclusive, non – revocable and subject to the paragraph 4.2 non – transferable license (“License”) for the term of the Project to use the Database for the Permitted Use as defined hereafter.
3. EURADA is authorized to share the Database with other Consortium Partners solely in relation to the purpose of implementation of the Project. EURADA shall ensure that all of the Consortium Partners comply with the Agreement, in particular the obligation of confidentiality.
4. The Consortium Partners are entitled to use and extract the Database to the same extent as EURADA.
5. If the Database contains any sensitive or personal information the Agency shall extract such information from the Database prior to its delivery to EURADA.
6. **PERMITTED USES**

EURADA shall use the Database solely in accordance with the terms of this Agreement, in particular the Agency entitles EURADA to use, copy, download or otherwise reproduce the Database in any medium or in any way in whole or in a part, to extract, modify, adapt, decompile, disassemble the Database and to create and disseminate derivative works.

1. **GUARANTEES**
2. The Agency declares that it possess the proprietary rights to the Database and represents and warrants that it has the right to grant the License respecting the Database on terms and conditions described in the Agreement.
3. The Agency warrants that neither the conclusion of this Agreement, nor making use of the Database or Confidential Information by EURADA or the Consortium Partners will infringe any rights of any third party, including but not limited to intellectual property rights.
4. **FINAL PROVISIONS**
	1. This Agreement is governed by and construed in accordance with European Union law, supplemented if necessary by the law of Belgium, without regard to principles of conflicts of law or international law. The Parties agree that if any dispute arises out of this Agreement or in connection thereto, they shall negotiate diligently and in good faith, in an effort to reconcile any difference or dispute before the filing of an action in any court. If the negotiations are not successful the jurisdiction is granted to court within whose territorial jurisdiction the registered office of EURADA is situated.
	2. Any amendments to this Agreement shall be made in writing otherwise null and void.
	3. The Parties agree that this Agreement is the complete and exclusive statement of the agreement between the Parties relating to the subject matter.
	4. If any term or provision of this Agreement is found to be unenforceable, null and void it shall not affect the other terms or provisions hereof or the whole of this Agreement. Such term or provision shall be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable. The Parties agree that any such modification, restriction or excision may be accomplished by their mutual written agreement, or alternatively, by disposition of a court or other tribunal.
	5. Neither Party may assign its rights or delegate its duties or obligations under this Agreement without prior written consent from the other Party. Any attempt to do so is void.
	6. This Agreement is made in duplicate in English language.