Junta de Andalucía
Consejería de Salud y Familias
FUNDACIÓN PROGRESO Y SALUD

Annex 4
ADDITIONAL AGREEMENTS TO THE TEMPLATE AGREEMENT

As one party, Mr / Ms _____, acting as Managing Director of the Centre _____.
As another, Mr / Ms _____, acting as _____ of the Managing Body.
As another, Mr / Ms _____, acting as _____ of _____ (hereinafter, the Sponsor).
And, as another, Mr / Ms _____, acting as Principal Researcher of the clinical trial, in witness of their knowledge and acceptance,

STATE

That, during the negotiation of the agreement, the parties have agreed to introduce, via this Annex, certain clarifications in relation to the agreement. In this regard:

THEY DECLARE

First: That the parties wish to add to the following content related to Ant-corruption to Statement V:

1. *The Centre, the Managing Body and the Principal Researcher declare and guarantee that they have not carried out any actions supposing a breach of local or international anti-corruption regulations applicable to this Agreement (hereinafter, "Anti-corruption Legislation"). In addition, they declare that they will ensure that their executives, employees or agents do not commit this type of behaviour. Furthermore, it is specified that neither the Centre, nor the Principal Researcher, nor the Managing Body will, directly or indirectly, make any payments, offers, promises of payment, or deliveries of economic value, and neither will they agree, promise to make payments, or offer or transfer anything of any economic value to any public officials or employees of the Public Administration, to any politicians, to any political parties, or to any candidates to occupy political or public positions, or to any third parties who may be related to the purpose of this Agreement, with the intention of having an influence over any decisions related to the Sponsor or its affiliates and/or its business activity in contravention of Anti-corruption Legislation.*

In line with the foregoing, the Centre, the Managing Body and the Principal Researcher state that they have performed and will perform their activity in conformity with that established in Anti-corruption Legislation applicable for this purpose.

In addition, the Centre and the Managing Body will be responsible for keeping appropriate internal accounting control and ensuring that all accounting aspects of the Study are recorded in their books and records in a precise, complete and truthful manner, as well as for the principal aspects of the documents on which said books and records are based being precise, complete and truthful.

The Centre and the Managing Body are to maintain and provide access to the Sponsor and/or to its auditors or any other representatives the latter delegates, whenever this may be requested,

to records (financial or of any other kind) as well as the supporting documentation related to the purpose of this Agreement, to document or verify their conformity with the provisions of this clause.

Without detriment to that established in the clauses of this Agreement in relation to Termination and Compensation, respectively, should the Centre, the Managing Body and/or the Principal Researcher breach any of the provisions established in this clause, said breach shall be considered a serious breach of this Agreement and shall entitle the Sponsor to terminate it with immediate effect by means of a written notification to the Centre, the Managing Body and/or the Principal Researcher, with this not causing the Sponsor to incur any kind of financial liability or to have to pay any compensation due to said termination.

2. *The parties declare that they know and undertake to comply with Spanish legislation on corrupt practices and/or any against the interests of the Public Administration, including, but not limited to, articles 419 to 427 bis (section 2), related to bribery; articles 428 to 431, related to the exercise of undue influence; articles 432 to 435, related to misappropriation; articles 436 to 438, related to acts of fraud and illegal exaction; articles 439 to 444, related to dealings and activities prohibited for public officials; and article 445 bis (section 2), related to offences of corruption in international transactions, all these articles being of the Criminal Code; and any other related regulations applicable. In addition, the Sponsor declares that it knows and undertakes to comply with the United States Foreign Corrupt Practices Act, or FCPA.*

Second: That the parties wish to add the following content in clause two, in relation to the Obligations of the Parties:

The Centre certifies that both itself and the Principal Researcher have the licence or authorization, or otherwise the qualification, necessary to perform the Clinical Trial and their corresponding activities, in conformity with any applicable laws, regulations, policies or administrative requirements, and that no applicable regulations or other obligations exist that prohibit the performance of the clinical trial and the conclusion of this agreement. The Centre also certifies that neither itself nor the Principal Researcher have been disqualified, that they have not been prohibited from performing clinical research in any jurisdictions in which they have worked; and that they will in no way request services from any persons disqualified by competent authorities in respect of the services to be performed by virtue of this agreement. During the period of validity of the agreement, and for a period of three years as from its termination, the Centre must inform the Sponsor / CRO immediately should any circumstances that may give rise to disqualification or prohibition on performing the aforementioned activities arise.

Third: That the parties wish to add the following content in clause four, relating to Economic Aspects:

The Centre, the Managing Body and the Principal Researcher declare that the fees to be paid by virtue of this Agreement represent fair compensation for the actions to be performed.

Fourth: That the parties wish to add the following content in clause nine, on Confidentiality and Access to Information:

The Centre undertakes to use all means it has available to guarantee the confidentiality of the information provided by the CRO or the Sponsor to perform the clinical trial, as well as that obtained during the performance of the same (including the Protocol, the Researcher Handbook, details of the clinical trial, details of the biological material analysis, and any other information related to the trial, the investigational drug, and the business plans and technology both of the CRO and of the Sponsor). The Sponsor and the CRO undertake to use all means available to them to guarantee the confidentiality of the information provided in relation to the business plans of the Centre, research or political activities and procedures shared with the Sponsor or the CRO, within the context of the clinical trial.

Each party shall process the confidential information of the other party in conformity with its confidential and secret nature, ensuring the restricted circulation of said information, taking appropriate measures for this and assuming responsibility for all persons having access thereto fulfilling this obligation, in accordance with that agreed in this agreement.

Specifically, the parties undertake the following:

1. To receive and store any confidential information of the other party respecting this nature.

2. To use any confidential information of the other party solely for the purposes and objectives set down in this agreement.

3. To reveal any confidential information of the other party to third parties only with the prior written consent of the owning party and provided that the third party is involved in the clinical trial and undertakes, in addition, to maintain the confidentiality demanded in this agreement.

The foregoing will not be applicable to information in the following cases:

I. Whenever it is or becomes of public domain by any means other than a breach of this confidentiality clause.

II. Whenever it is legitimately received by any third parties without a breach by the parties of this confidentiality clause.

III. Whenever it was known by the corresponding party previously and it was revealed free from any confidentiality obligations.

IV. Whenever it may be mandatory to reveal said information by virtue of law or at the requirement of the corresponding authority.

Fifth: That the parties wish to add the following content in clause ten, relating to Personal Data Protection:

1. The Sponsor acknowledges that it is the data controller in respect of the case report form used in the research project and it assumes all functions and obligations that personal data protection regulations impose in this respect. One of these demands the inclusion of this processing activity in a record containing the information required in article 30.1 of the General Data Protection Regulation (GDPR) and article 31 of Spanish Organic Act 3/2018, of 5 December, on Personal Data Protection and the guarantee of digital rights (LOPDGDD in Spanish).

2. Whenever the Sponsor is located outside the EU, it must designate a representative in the EU to fulfil the obligations as data controller.

3. Where appropriate, the Sponsor must declare its association with any given Code of Conduct from among those regulated in data protection regulations, in order to demonstrate compliance with the same. In such case, it must identify any obligations that this Code imposes on it that may have an influence on fulfilment with these specific clauses or those general ones included in the principal agreement.

4. The Sponsor must conclude the corresponding data processing agreements, in compliance with articles 28 of the GDPR and 33 of the LOPDGDD, in respect of any contracting or subcontracting entities that require access to the personal data of the subjects participating in the research project; such is the case of the contract research organization (CRO), the monitor or the auditor. Should fulfilment of this requisite not be accredited, the health care centre may not provide access to the processing activities under its responsibility.

5. Access to the personal data of the participants identified shall be restricted to the doctor of the study / collaborators, health care authorities (the Spanish Agency of Medicines and Medical Devices, and foreign health care authorities), to the Research Ethics Committee and/or the Drug Research Ethics Committee (CEIC / CEIm), and to personnel authorized by the Sponsor (study monitors and auditors), whenever they may so require in order to verify the data and procedures of the study, but always keeping confidentiality in relation thereto in accordance with legislation in force.

6. In any cases in which the Sponsor requires the consent of the participants in the research project (a clinical trial, for example) as a basis for legal standing to process their personal data, this must be duly recorded in the health care centre in order to provide evidence of the existence of guarantees that render the exchange of information possible between the personal data processing activity used for clinical research, a responsibility of the health care centre, and the care report form, a responsibility of the Sponsor.

7. The Sponsor knows and accepts that the centre / the health care institution may provide instructions and sufficient information on the authorized mechanisms for access and the collection of information on the data processing activities under its responsibility to the Principal Researcher, to collaborating personnel, and to other professionals involved in the clinical research project (the CRO, the monitor, or the auditor), with all of the foregoing being in fulfilment of its data protection policy and procedures that develop this.

8. Whenever work is performed on data under pseudonyms, or coded, in the clinical research project, the Sponsor is to take the pertinent measures to guarantee the protection of the privacy of the participants and shall not allow for their data to be crossed with any other databases that

may enable them to be identified. If the Sponsor is not able to confirm fulfilment of this requirement, the participants must be informed of the risk of reidentification derived from the reutilization of their data in future studies not presently defined.

9. The Sponsor is to perform the corresponding assessment of risks and of the impact on data protection prior to determining the measures of protection applicable. To do so, it may request collaboration from suitable personnel of the centre or health care institution.

10. In any case, the Sponsor must implement mechanisms for the following:

a) To guarantee the permanent confidentiality, integrity, availability and resilience of the processing systems and services.

b) To restore availability of and access to personal data rapidly in cases of any physical or technical incidents.

c) To verify, assess and evaluate, regularly, the efficacy of the technical and organizational measures implemented to guarantee processing safety.

d) To place personal data under pseudonyms and to code it, where appropriate.

e) Any other measures which, taking into account the overall processing that it performs, may be necessary to guarantee a suitable level of safety for the risk.

11. Should either of the parties become aware of any breaches of data protection (under articles 33 and 34 of the GDPR), said party must notify this to the other immediately. In such case, the parties shall cooperate fully between each other to remedy the personal data breach, fulfil appropriate (legal) notification obligations and repair any damages that may have been caused.

12. It is determined that the categories of interested persons, in their capacity as data subjects in respect of the data transferred, are [indicate as appropriate]:

[ ] Citizens [ ] Workers [ ] Patients [ ] Disabled persons

[ ] Users of Information Systems [ ] Minors [ ] Researchers [ ] Students

[ ] Others: ……

13. For the conclusion of the agreement, the health care centre, which is responsible for the processing of medical records and research data, makes the information described here below available to the Sponsor, who is responsible for processing the case report form:

□ ……..

□ ……..

□ ……..

The inclusion of that provided above does not release the Sponsor from the obligation to comply with personal data protection regulations, with this therefore not being of a limited nature, rather an example.

Sixth: That the parties wish to add the following content in clause eleven, on Industrial and Intellectual Property Rights:

Should the performance of the Clinical Trial result in any of the inventions or discoveries referred to in clause eleven of the agreement, the Centre, via the Principal Researcher, must inform the CRO / Sponsor immediately. The Centre, via the researcher, must provide reasonable assistance to the Sponsor to present and process any applications for patents related to said inventions or discoveries, at the expense of the Sponsor.

Seventh: That the parties wish to add the following content in clause twelve, related to Publications of Results:

Given that this matter has not been specified in the Clinical Trial Protocol, the parties involved in the performance of the same agree the following:

> *The Centre, via the Principal Researcher, must provide any publications related to the Clinical Trial to the Sponsor at least thirty (30) working days before it is sent for publication or disseminated in any other manner. During this period, the publication will be retained in order for the Sponsor to be able to assess its impact on any possible intellectual or industrial property rights derived from the results of the Clinical Trial. Should it be necessary to apply any measures to protect the intellectual or industrial property rights mentioned, the Sponsor must notify this to the Centre and to the Principal Researcher in writing as soon as possible. In this case, the Principal Researcher must delay the dissemination for an additional period that is not to exceed sixty (60) working days.*
>
> *During this period of retention, the Sponsor may request the Principal Researcher to eliminate any type of confidential information that has not been published previously from the publication, with the exception of any data relating to the investigational drug or product or to the Clinical Trial that may be necessary for a suitable scientific presentation of the results of the Clinical Trial or for them to be correctly understood.*
>
> *Should the Clinical Trial form part of a multi-centre study, the parties recognize that the first publication will be a joint publication, covering all the centres, and that any subsequent publications must refer to said first publication.*
>
> *Notwithstanding the foregoing, should a joint manuscription not be sent to all the centres participating within a term of twelve (12) months following the conclusion of the Clinical Trial, the Principal Researcher may publish it individually, provided that it fulfils the remaining requisites included in this Agreement.*

Octavo: That the parties wish to add the following content in clause seventeen, on General Points:

The agreement will come into effect as from the data on which it is signed, or, should it be signed on different dates, on the date on which the last of the signatories signs, and it shall be valid until the finalization of the Clinical Trial, without detriment to any obligations assumed by

the parties that may continue to remain in force following the finalization of the same or following the early termination of said agreement.

This agreement may be concluded in two or more copies, each one of which shall be considered an original, and all copies shall jointly constitute one same and single instrument. The parties may sign this agreement in the following manners:

- *(i) All by hand, on paper.*
- *(ii) All in an electronic form complying with that established in Act 59/2003, of 19 December, on Electronic Signatures, with such signature being valid and binding for all purposes in the same manner as a handwritten signature. For this purpose, it is a priority for it to be signed using the signature of an official electronic certification service provider entity. In this case, it must be possible for the authenticity of the status of the digital identification certificate (such as the Spanish Royal Mint) and the integrity of the signature document to be verified.*
- *(iii) Exceptionally, should it not be possible for all parties to sign in conformity with that provided in the preceding sections, one party may do so by hand and the other electronically. Nevertheless, it is recommended for the Parties to sign this Agreement in the same manner, in order to reinforce the legal security of the signature.*

Ninth: That the parties wish to introduce a new clause, nineteen, into the template agreement, and to add content in this related to Inspections by Regulatory Authorities:

The Centre must notify the Sponsor or the CRO, without delay, of any regulatory inspections of the Centre in conformity with this document, for their knowledge, and provide copies of inspection reports related to the clinical trials referred to in this agreement, with either of the two entities being able to make contributions to the answers that are going to be sent to the corresponding authorities. A copy of the final reply sent must be provided.

Tenth: That the parties wish to introduce a new clause, twenty, into the template agreement, and to add content in this related to Preservation of the Master File:

The Sponsor and the Principal Researcher are responsible for the master file of the Clinical Trial, in conformity with that established in article 43 of Royal Decree 1090/2015, of 4 December, regulating clinical trials with drugs. In this regard, the parties involved in the performance of the clinical trial agree that the Centre and the Principal Researcher will preserve the master file of the Clinical Trial, in paper or digital format, for at least twenty-five (25) years following its finalization, or for a longer period should other applicable rules so provide, in accordance with that set down in article 43.2 of the mentioned Royal Decree 1090/2015, of 4 December.

Medical records are to be stored and preserved in accordance with that provided in Act 41/2002, of 14 November, the basic regulation for the autonomy of patients and rights and obligations in the area of information and clinical documentation and in conformity with the maximum period permitted by the Centre, in accordance with that provided in article 43.4 of the aforementioned Royal Decree 1090/2015, of 4 December.

Should the Centre not be able to store the file of the Clinical Trial during the preservation period due to exceptional circumstances, the Centre or the Managing Body must contact the Sponsor to organize the transfer of the Clinical Trial File to the person designated by the Sponsor, at the expense of the latter.

The Researcher and/or the Centre must request instructions from the Sponsor on how to manage the Clinical Trial File once the preservation period has ended. The Researcher and/or the Centre may not destroy the file of the Clinical Trial or dispose of it in any other way without prior instructions in writing from the Sponsor, unless they have requested these and the Sponsor has not sent them by a deadline of 30 working days as from such request, in which case the file of the Clinical Trial may be destroyed.

Eleventh: The Parties state that the content of this document does not contravene the content of the Template Agreement published in the Official Journal of the Government of Andalusia number 118, dated 21 June 2019, or legislation in force, and that it responds to the need to specify certain aspects on the part of the Sponsor.

And, in witness of conformity with the full content of this document, the parties intervening in the agreement hereby sign the same.

In _____, on __ _____ 20__

On behalf of the Centre	On behalf of the Managing Body
Signed: Mr/Ms _____	Signed: Mr/Ms _____
On behalf of the Sponsor	Read and understood by the Principal Researcher
Signed: Mr/Ms _____	Signed: Mr/Ms _____