CONCOURS EXTERNES IT 2012

ÉPREUVE TECHNIQUE D'ADMISSION

Durée : 3 heures
Coefficient : 2

CONCOURS N° 140

Corps : Ingénieur d'études

Emploi – type : Chargé de la valorisation de la recherche

Délégation organisatrice : Bretagne et Pays de la Loire (DR 17) (Rennes)

➢ 3 documents sont joints au sujet :
   - Document 1 : "DESCA - The Simplified FP7 Model Consortium Agreement"
   - Document 2 : "EUCAR Model Consortium Agreement FP7"
   - Document 3 : "FP7 - IMG4 Model Consortium Agreement"

➢ Toutes les réponses devront être portées sur la copie d'examen.
EXERCICE 1 (6 points) :

SUJET : Message à adresser en anglais à un partenaire danois

Un laboratoire du CNRS et la société danoise "NOLAC" collaborent dans le cadre d'un projet de recherche bilatéral. Cette collaboration a été contractualisée et la convention signée prévoit, entre autre, que :

- Concernant les publications : "tout projet de publication ou communication sera soumis à l'avis de la société qui pourra supprimer ou modifier certaines précisions dont la divulgation serait de nature à porter préjudice à l'exploitation industrielle et commerciale, dans de bonnes conditions, des résultats des travaux de recherche. De telles suppressions ou modifications ne devront pas porter atteinte à la valeur scientifique de la publication."

- Concernant les résultats obtenus en commun : "Les Parties se concerteront au cas par cas, pour les résultats communs, afin de se déterminer sur l'opportunité d'un éventuel dépôt de demande de brevet, de dessin ou de modèle, de marque ou de logiciel" et "s'accorderont sur les conditions d'utilisation et d'exploitation des résultats communs".

Vous êtes le chargé de valorisation gérant ce dossier. Nous vous demandons de rédiger, en anglais, un message destiné à votre correspondant dans la société NOLAC, Palle Andersen, afin de lui demander son avis sur les deux points suivants, en appuyant votre argumentation, si vous l’estimez nécessaire, sur les extraits de la convention présentés ci-dessus :

- **Point 1** : un des chercheurs du laboratoire CNRS a préparé une proposition de publication scientifique qu’il souhaiterait présenter dans une conférence (vous pouvez considérer que vous disposez du projet de publication et qu’il vous est donc possible de le joindre à votre message). Vous souhaitez obtenir l’accord de publication de la part de NOLAC.

- **Point 2** : les chercheurs du laboratoire CNRS et les ingénieurs de la société NOLAC ont développé un logiciel "SOFTWARE". Vous proposez à NOLAC de déposer ce logiciel à l’agence de protection des programmes avec une répartition de propriété 50-50. Au nom du CNRS, vous lui proposez aussi de lui céder la quote-part CNRS de propriété de ce logiciel "SOFTWARE" pour un montant de 15 000 euros en lui demandant de conserver le droit d’utiliser ce logiciel dans des projets collaboratifs.
EXERCICE 2 (8 points)

Documents mis à votre disposition pour cet exercice :
- Document 1 : "DESCA - The Simplified FP7 Model Consortium Agreement"
- Document 2 : "EUCAR Model Consortium Agreement FP7"
- Document 3 : "FP7 - IMG4 Model Consortium Agreement"

**SUJET** : Accords de consortium : identification des principales différences entre les modèles de consortium agreements européens DESCA, EUCAR et IMG4 concernant les aspects de propriété intellectuelle

Comme la Commission Européenne ne fournit pas de modèle d’accord de consortium pour les projets collaboratifs qu’elle finance, plusieurs organisations ont développé des modèles de consortium agreements pour aider les consortiums de participants aux projets collaboratifs à élaborder leurs propres accords de consortium. Vous trouverez dans les documents joints, trois différents modèles de consortium agreement : DESCA (The Simplified FP7 Model Consortium Agreement), EUCAR (European Council for Automotive R&D) et IMG4 (Aerospace and Defence Industries Association of Europe).

- Il vous est demandé de proposer une vision synthétique des différences concernant les principaux aspects de propriété intellectuelle à savoir "background", "foreground", "affiliated entities", "acces rights", "confidentiality" et "law & dispute settlements".

- Il vous est aussi demandé de conclure cette analyse en identifiant le modèle qui vous semble le plus adapté à un laboratoire du CNRS et en justifiant ce choix.

EXERCICE 3 (6 points)

**SUJET** : Négociation concernant une collaboration directe entre un laboratoire du CNRS et une entreprise

Un laboratoire du CNRS et une entreprise souhaitent initier une collaboration de recherche d’une durée de deux ans. Le sujet de cette collaboration est évidemment thématiquement lié aux travaux menés par le laboratoire. Le laboratoire a déjà protégé des résultats obtenus par le passé.

Il s’agit de trouver les dispositions convenant à la fois au laboratoire et à l’entreprise, celle-ci souhaitant a priori être la seule bénéficiaire de cette collaboration puisqu’elle la finance.

En pratique, ce sera une réelle collaboration qui impliquera les personnels suivants:
• pour le CNRS : un chercheur permanent à 25% de son temps et un ingénieur non permanent à temps plein, qui sera spécifiquement recruté pour la réalisation de ce projet
• pour l'entreprise, un ingénieur de recherche à mi-temps

Pour une telle collaboration de deux ans, le coût additionnel pour le CNRS, correspondant au coût salarial du personnel non permanent, aux missions et aux frais de matériel, sera de 150 k€ mais le coût complet, intégrant le coût du chercheur permanent et les coûts de structure, atteint 300 000 €. Le laboratoire souhaite que la contribution demandée à l'entreprise pour cette collaboration de recherche soit de 200 000 €.

On suppose que la négociation a démarré avec l'entreprise et qu'un accord a déjà été trouvé concernant le contenu précis de la collaboration, son calendrier, l'implication en personnel CNRS (permanent et non permanent = 1,25 équivalent temps plein pendant 2 ans) et le prix (200 000 €) qui sera payé par l'entreprise pour cette implication en personnel et les dépenses de matériel et de missions associées.

Les points qui restent à fixer concernent la protection et l'exploitation de la propriété intellectuelle ainsi que les règles de confidentialité et de publication :

A- Propriété intellectuelle :
• Protection et propriété des résultats : les résultats importants seront brevetables. Les brevets correspondent à un indicateur important pour le CNRS car ils sont représentatifs de sa production de résultats innovants mais l'industriel veut être le seul détenteur du (des) brevets
  QUESTION 1 : quelle serait la (ou les) solution(s) envisageable(s) permettant de satisfaire les deux parties ?
• exploitation des résultats :
  QUESTION 2 : quelle(s) sont les disposition(s) à prévoir pour permettre l'exploitation des résultats par l'entreprise ?

B- Confidentialité & Publications :
La société et le CNRS sont d'accord pour garantir la confidentialité des informations échangées et des résultats sensibles mais les chercheurs doivent aussi pouvoir publier les résultats scientifiques pendant et après la collaboration :

  QUESTION 3 : quelle(s) solutions peuvent être proposées, pour garantir la confidentialité mais aussi pour permettre la publication de résultats scientifiques ?
Version 3.0 March 2011
Table of Content

Section 1: Definitions .................................................................................................................. 4
Section 2: Purpose ....................................................................................................................... 4
Section 3: Entry into force, duration and termination .............................................................. 5
Section 4: Responsibilities of Parties ....................................................................................... 5
Section 5: Liability towards each other .................................................................................... 6
Section 6: Governance structure ............................................................................................. 7
Section 7: Financial provisions ................................................................................................. 13
Section 9: Access Rights ........................................................................................................... 19
Section 10: Non-disclosure of information .............................................................................. 23
Section 11: Miscellaneous .......................................................................................................... 24
Section 12: Signatures ................................................................................................................ 28
[Attachment 1: Background included] ...................................................................................... 29
[Attachment 2: Background excluded] ..................................................................................... 30
[Attachment 3: Accession document] ....................................................................................... 31
[Attachment 4: Listed Affiliated Entities] ................................................................................ 32
[Attachment 5: List of Third Parties] ....................................................................................... 33
CONSORTIUM AGREEMENT

THIS CONSORTIUM AGREEMENT is based upon
REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) hereinafter referred to as Rules for Participation and the European Commission Grant Agreement, adopted on 10 April 2007, hereinafter referred to as the Grant Agreement or EC-GA and Annex II adopted on 10 April 2007 Version 6 adopted on 24 January 2011, hereinafter referred to as Annex II of the EC-GA, and is made on YYYY-MM-DD, hereinafter referred to as “Effective Date”

BETWEEN:

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE GRANT AGREEMENT]
- the Coordinator -

[OFFICIAL NAME OF THE PARTY AS IDENTIFIED IN THE GRANT AGREEMENT],
[OFFICIAL NAME OF THE PARTY AS IDENTIFIED IN THE GRANT AGREEMENT],
[Insert identification of other Parties …]
- hereinafter, jointly or individually, referred to as "Parties" or "Party" -

relating to the Project entitled

»[NAME OF PROJECT]«

in short

»[Insert: acronym]«

hereinafter referred to as “Project”.

WHEREAS:
The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the European Commission as part of the Seventh Framework Programme of the European Community for Research, Technological Development and Demonstration Activities under the funding scheme of “Collaborative Project”.
The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the EC-GA.
The Parties are aware that this Consortium Agreement is based upon the DESCA model consortium agreement and that explanations to the DESCA model are available at www.DESCA-FP7.eu.
NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Section 1: Definitions

1.1 Definitions
Words beginning with a capital letter shall have the meaning defined either herein or in the Rules for Participation or in the Grant Agreement including its Annexes without the need to replicate said terms herein.

1.2 Additional Definitions

“Consortium Plan”

Consortium Plan means the description of the work and the related agreed Consortium Budget, including the payment schedule, as updated and approved by the General Assembly.

“Consortium Budget”

Consortium Budget means the allocation of all the resources in cash or in kind for the activities as defined in Annex I of the Grant Agreement and in the Consortium Plan thereafter.

“Defaulting Party”

Defaulting Party means a Party which the General Assembly has identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Article 4.2 of this Consortium Agreement.

“Needed” means:

For the implementation of the Project:
Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient Party would be impossible, significantly delayed, or require significant additional financial or human resources.

For Use of own Foreground:
Access Rights are Needed if, without the grant of such Access Rights, the Use of own Foreground would be technically or legally impossible.

“Software”

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

Section 2: Purpose

The purpose of this Consortium Agreement is to specify with respect to the Project the relationship among the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution.
Section 3: Entry into force, duration and termination

3.1 Entry into force

An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by a duly authorised representative.

This Consortium Agreement shall have effect from the Effective Date identified at the beginning of this Consortium Agreement.

A new Party enters the Consortium upon signature of the accession document Attachment 3 by the new Party and the Coordinator. Such accession shall have effect from the date identified in the accession document.

3.2 Duration and termination

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the EC-GA and under this Consortium Agreement. However, this Consortium Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of this Consortium Agreement and Annex II of the EC-GA (Article II.37. and II.38.). If the Commission does not award the EC-GA or terminates the EC-GA or a Party's participation in the EC-GA, this Consortium Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Art. 3.3 of this Consortium Agreement.

3.3 Survival of rights and obligations

The provisions relating to Access Rights and Confidentiality, for the time period mentioned therein, as well as for Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Consortium Agreement. Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the General Assembly and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

Section 4: Responsibilities of Parties

4.1 General principles

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the EC-GA and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.

Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.
Each Party shall promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

4.2 Breach

In the event a responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the EC-GA (e.g.: a partner producing poor quality work), the Coordinator or the Party appointed by the General Assembly if the Coordinator is in breach of its obligations under this Consortium Agreement or the EC-GA will give written notice to such Party requiring that such breach be remedied within 30 calendar days. If such breach is substantial and is not remedied within that period or is not capable of remedy, the General Assembly may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of its participation.

4.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Project remains solely responsible for carrying out its relevant part of the Project and for such third party’s compliance with the provisions of this Consortium Agreement and of the EC-GA. It has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties under this Consortium Agreement and the EC-GA.

Section 5: Liability towards each other

5.1 No warranties

In respect of any information or materials (incl. Foreground and Background) supplied by one Party to another under the Project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

- the recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials, and
- no Party granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Party (or its Affiliates) exercising its Access Rights.

5.2 Limitations of contractual liability

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Version 3.0, March 2011
No Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by a wilful act or by a breach of confidentiality.

A Party’s aggregate liability towards the other Parties collectively shall be limited to Insert: once or twice the Party’s share of the total costs of the Project as identified in Annex I of the EC-GA provided such damage was not caused by a wilful act or gross negligence.

The terms of this Consortium Agreement shall not be construed to amend or limit any Party’s statutory liability.

5.3 Damage caused to third parties
Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party’s obligations by it or on its behalf under this Consortium Agreement or from its use of Foreground or Background.

5.4 Force Majeure
No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify the competent Consortium Bodies of any Force Majeure without undue delay. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

Section 6: Governance structure

[Module GOV LP]
Governance structure for Medium and Large Projects

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

General Assembly as the ultimate decision-making body of the Consortium

Executive Board as the supervisory body for the execution of the Project which shall report to and be accountable to the General Assembly

The Coordinator is the legal entity acting as the intermediary between the Parties and the European Commission. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the EC-GA and this Consortium Agreement.

The Management Support Team assists the Executive Board and the Coordinator.
6.2 General operational procedures for all Consortium Bodies

6.2.1 Representation in meetings
Any member of a Consortium Body (hereinafter referred to as "Member"): should be present or represented at any meeting of such Consortium Body; may appoint a substitute or a proxy to attend and vote at any meeting; and shall participate in a cooperative manner in the meetings.

6.2.2 Preparation and organisation of meetings

6.2.2.1 Convening meetings:
The chairperson of a Consortium Body shall convene meetings of that Consortium Body.

<table>
<thead>
<tr>
<th></th>
<th>Ordinary meeting</th>
<th>Extraordinary meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Assembly</td>
<td>At least once a year</td>
<td>At any time upon written request of the Executive Board or 1/3 of the Members of the General Assembly</td>
</tr>
<tr>
<td>Executive Board</td>
<td>At least quarterly</td>
<td>At any time upon written request of any Member of the Executive Board</td>
</tr>
</tbody>
</table>

6.2.2.2 Notice of a meeting:
The chairperson of a Consortium Body shall give notice in writing of a meeting to each Member of that Consortium Body as soon as possible and no later than the minimum number of days preceding the meeting as indicated below.

<table>
<thead>
<tr>
<th></th>
<th>Ordinary meeting</th>
<th>Extraordinary meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Assembly</td>
<td>45 calendar days</td>
<td>15 calendar days</td>
</tr>
<tr>
<td>Executive Board</td>
<td>14 calendar days</td>
<td>7 calendar days</td>
</tr>
</tbody>
</table>

6.2.2.3 Sending the agenda:
The chairperson of a Consortium Body shall prepare and send each Member of that Consortium Body a written (original) agenda no later than the minimum number of days preceding the meeting as indicated below.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>General Assembly</td>
<td>21 calendar days, 10 calendar days for an extraordinary meeting</td>
</tr>
<tr>
<td>Executive Board</td>
<td>7 calendar days</td>
</tr>
</tbody>
</table>

6.2.2.4 Adding agenda items:
Any agenda item requiring a decision by the Members of a Consortium Body must be identified as such on the agenda.
Any Member of a Consortium Body may add an item to the original agenda by written notification to all of the other Members of that Consortium Body up to the minimum number of days preceding the meeting as indicated below.
General Assembly 14 calendar days, 7 calendar days for an extraordinary meeting
Executive Board 2 working days

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

6.2.2.6 Any decision may also be taken without a meeting if the Coordinator circulates to all Members of the Consortium Body a written document which is then signed by the defined majority (see Article 6.2.3.) of all Members of the Consortium Body.

6.2.2.7 Meetings of each Consortium Body may also be held by teleconference or other telecommunication means.

6.2.2.8 Decisions will only be binding once the relevant part of the Minutes has been accepted according to Article 6.2.5.

6.2.3 Voting rules and quorum
6.2.3.1 Each Consortium Body shall not deliberate and decide validly unless two-thirds (2/3) of its Members are present or represented (quorum).

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

6.2.3.3 Defaulting Parties may not vote. Decisions shall be taken by a majority of two-thirds (2/3) of the votes.

6.2.4 Veto rights
6.2.4.1 A Member which can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of a Consortium Body may exercise a veto with respect to the corresponding decision or relevant part of the decision.

6.2.4.2 When the decision is foreseen on the original agenda, a Member may veto such a decision during the meeting only.

6.2.4.3 When a decision has been taken on a new item added to the agenda before or during the meeting, a Member may veto such decision during the meeting and within 15 days after the draft minutes of the meeting are sent.

6.2.4.4 In case of exercise of veto, the Members of the related Consortium Body shall make every effort to resolve the matter which occasioned the veto to the general satisfaction of all its Members.

6.2.4.5 A Party may not veto decisions relating to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the Consortium or the consequences of them.
6.2.4.6 A Party requesting to leave the Consortium may not veto decisions relating thereto.

6.2.5 Minutes of meetings
6.2.5.1 The chairperson of a Consortium Body shall produce written minutes of each meeting which shall be the formal record of all decisions taken. He shall send the draft minutes to all Members within 10 calendar days of the meeting.

6.2.5.2 The minutes shall be considered as accepted if, within 15 calendar days from sending, no Member has objected in writing to the chairperson with respect to the accuracy of the draft of the minutes.

6.2.5.3 The chairperson shall send the accepted minutes to all the Members of the Consortium Body and to the Coordinator, who shall safeguard them. If requested the Coordinator shall provide authenticated duplicates to Parties.

6.3 Specific operational procedures for the Consortium Bodies
6.3.1 General Assembly
In addition to the rules described in Article 6.2, the following rules apply:

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

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

6.3.1.1.3 The Coordinator shall chair all meetings of the General Assembly, unless decided otherwise in a meeting of the General Assembly.

6.3.1.1.4 The Parties agree to abide by all decisions of the General Assembly. This does not prevent the Parties to submit a dispute to resolution in accordance with the provisions of Settlement of disputes in Article 11.8.

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

Content, finances and intellectual property rights
- Proposals for changes to Annex I of the EC-GA to be agreed by the European Commission
- Changes to the Consortium Plan (including the Consortium Budget)
- Withdrawals from Attachment 1 (Background included)
- Additions to Attachment 2 (Background excluded)
- Additions to Attachment 4 (Listed Affiliated Entities)
- Additions to Attachment 5 (List of Third Parties)

Evolution of the Consortium
- Entry of a new Party to the Consortium and approval of the settlement on the conditions of the accession of such a new Party
- Withdrawal of a Party from the Consortium and the approval of the settlement on the conditions of the withdrawal
- Declaration of a Party to be a Defaulting Party
- Remedies to be performed by a Defaulting Party
- Termination of a Defaulting Party’s participation in the Consortium and measures relating thereto
- Proposal to the European Commission for a change of the Coordinator
- Proposal to the European Commission for suspension of all or part of the Project
- Proposal to the European Commission for termination of the Project and the Consortium Agreement

Appointments

On the basis of Annex I, the appointment if necessary of:

- Executive Board Members

6.3.2 Executive Board
In addition to the rules in Article 6.2, the following rules shall apply:

6.3.2.1 Members
The Executive Board shall consist of the Coordinator and all of the Parties as appointed by the General Assembly (hereinafter Executive Members).

The Coordinator shall chair all meetings of the Executive Board, unless decided otherwise.

6.3.2.2 Minutes of meetings
Minutes of Executive Board meetings, once accepted, shall be sent by the Coordinator to the General Assembly Members for information.
6.3.2.3 Tasks

6.3.2.3.1 The Executive Board shall prepare the meetings, propose decisions and prepare the agenda of the General Assembly according to Article 6.3.1.2.

6.3.2.3.2 It shall seek a consensus among the Parties.

6.3.2.3.3 The Executive Board shall be responsible for the proper execution and implementation of the decisions of the General Assembly.

6.3.2.3.4 The Executive Board shall monitor the effective and efficient implementation of the Project.

6.3.2.3.5 In addition, the Executive Board shall collect information at least every 6 months on the progress of the Project, examine that information to assess the compliance of the Project with the Consortium Plan and, if necessary, propose modifications of the Consortium Plan to the General Assembly.

6.3.2.3.6 The Executive Board shall:

- Agree on the Members of the Management Support Team, upon a proposal by the Coordinator
- Support the Coordinator in preparing meetings with the European Commission and in preparing related data and deliverables
- Prepare the content and timing of press releases and joint publications by the Consortium or proposed by the European Commission in respect of the procedures of the EC-GA Article II 30.3.

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

6.4 Coordinator

6.4.1 The Coordinator shall be the intermediary between the Parties and the European Commission and shall perform all tasks assigned to it as described in the EC-GA and in this Consortium Agreement.

6.4.2 In particular, the Coordinator shall be responsible for:

- Monitoring compliance by the Parties with their obligations
- Keeping the address list of Members and other contact persons updated and available
- Collecting, reviewing to verify consistency and submitting reports and other deliverables (including financial statements and related certifications) to the European Commission
- Transmitting documents and information connected with the Project to any other Parties concerned
- Administering the financial contribution of the Union and fulfilling the financial tasks described in Article 7.3
- Providing, upon request, the Parties with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims.

6.4.3 If the Coordinator fails in its coordination tasks, the General Assembly may propose to the European Commission to change the Coordinator.

6.4.4 The Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party.

6.4.5 The Coordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the EC-GA.

6.5 Management Support Team

The Management Support Team shall be proposed by the Coordinator. It shall be appointed by the Executive Board and shall assist and facilitate the work of the Executive Board and the Coordinator for executing the decisions of the General Assembly as well as the day-to-day management of the Project.

[Optional, where foreseen in Annex I or otherwise decided by the Consortium]

6.6 External Expert Advisory Board (EEAB)

An External Expert Advisory Board (EEAB) will be appointed and steered by the Executive Board. The EEAB shall assist and facilitate the decisions made by the General Assembly. The members of the EEAB are required to sign a non-disclosure agreement no later than 30 days after their nomination or before any confidential information will be exchanged, whichever date is earlier. The Coordinator shall write the minutes of the EEAB meetings and prepare the implementation of the EEAB's suggestions. The EEAB members shall be allowed to participate in General Assembly meetings upon invitation but have not any voting rights.

Section 7: Financial provisions

7.1 General Principles
7.1.1 Distribution of Financial Contribution

The financial contribution of the Union to the Project shall be distributed by the Coordinator according to:
- the Consortium Budget as included in the Consortium Plan
- the approval of reports by the European Commission, and
- the provisions of payment in Article 7.3.

A Party shall be funded only for its tasks carried out in accordance with the Consortium Plan.

7.1.2 Justifying Costs

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Project towards the European Commission. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the European Commission.

7.1.3 Funding Principles

A Party which spends less than its allocated share of the Consortium Budget will be funded in accordance with its actual duly justified eligible costs only.
A Party that spends more than its allocated share of the Consortium Budget will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share.

7.1.4 Financial Consequences of the termination of the participation of a Party

A Party leaving the Consortium shall refund all payments it has received except the amount of contribution accepted by the European Commission or another contributor. Furthermore a Defaulting Party shall, within the limits specified in Article 5.2 of this Consortium Agreement, bear any reasonable and justifiable additional costs occurring to the other Parties in order to perform its and their tasks. Any additional costs which are not covered by the Defaulting Party shall in principle be apportioned to the remaining Parties pro rata to their share in the total costs of the Project as identified in the Consortium Budget.

7.2 Budgeting

The Consortium Budget shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties.

7.2.1 Budgeted costs eligible for 100% reimbursement

These costs shall be budgeted in the Consortium Budget in the following order of priority:
- Banking and transaction costs related to the handling of any financial resources made available for the Project by the Coordinator
- Costs of Parties related to calls for new Beneficiaries
- Costs related to updating this Agreement
- Management costs of the Coordinator and the Management Support Team
- [costs related to the tasks of the Executive Board]
7.2.2 Budgeting of coordination costs
Costs of coordination of research which are not allowed as management cost according to Annex II of the EC-GA (EC-GA Article II.16.5) have to be budgeted separately.

7.3 Payments
7.3.1 Payments to Parties are the exclusive tasks of the Coordinator
In particular, the Coordinator shall:
- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references
- perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts
- undertake to keep the Community financial contribution to the Project separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.

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

[Please choose one of the following options]

[OPTION 1]
- Funding of costs included in the Consortium Plan will be paid to Parties after receipt from the EU-Commission in separate instalments in conformity with the decision of the General Assembly on the applicable instalment mechanism: Funding for costs accepted by the EU-Commission will be paid to the Party concerned, taking into account the amounts already paid for the reporting period concerned.

[OPTION 2]
Funding of costs included in the Consortium Plan will be paid to Parties after receipt from the EU-Commission without undue delay and in conformity with the provisions of Annex II of the EC-GA. Costs accepted by the EU-Commission will be paid to the Party concerned, taking into account the amounts already paid for the reporting period concerned.

The Coordinator is entitled to withhold any payments due to a Party identified by a responsible Consortium Body to be in breach of its obligations under this Consortium Agreement or the EC-GA or to a Beneficiary which has not yet signed this Consortium Agreement.
The Coordinator is entitled to recover any payments already paid to a Defaulting Party.
Section 8: Foreground

Regarding Foreground, EC-GA Article II.26. - Article II.29. shall apply with the following additions:

8.1 Joint ownership

[Please choose one of the following options]

[OPTION 1:]

Where no joint ownership agreement has yet been concluded:
- each of the joint owners shall be entitled to Use their jointly owned Foreground on a royalty-free basis, and without requiring the prior consent of the other joint owner(s), and
- each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sub-license, subject to the following conditions:
  - at least 45 days prior notice must be given to the other joint owner(s); and
  - fair and reasonable compensation must be provided to the other joint owner(s).

[OPTION 2:]

In case of joint ownership, each of the joint owners shall be entitled to Use the joint Foreground as it sees fit, and to grant non-exclusive licences, without obtaining any consent from, paying compensation to, or otherwise accounting to any other joint owner, unless otherwise agreed between the joint owners.

The joint owners shall agree on all protection measures and the division of related cost in advance.

8.2 Transfer of Foreground

8.2.1 Each Party may transfer ownership of its own Foreground following the procedures of the EC-GA Article II 27.

8.2.2 It may identify specific third parties it intends to transfer the ownership of its Foreground to in Attachment (5) to this Consortium Agreement. The other Parties hereby waive their right to object to a transfer to listed third parties according to the EC-GA Article II.27.3.

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

Any addition to Attachment (5) after signature of this Agreement requires a decision of the General Assembly.

8.2.4 The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, a Party may be subject to confidentiality obligations which prevent it from giving the full 45 days prior notice for the transfer as foreseen in the EC-GA, Article II 27.2.
8.3 Dissemination

8.3.1 Publication

8.3.1.1 Dissemination activities including but not restricted to publications and presentations shall be governed by the procedure of Article II.30.3 of the EC-GA subject to the following provisions. Prior notice of any planned publication shall be given to the other Parties concerned at least 45 days before the publication. Any objection to the planned publication shall be made in accordance with the GA in writing to the Coordinator and to any Party concerned within 30 days after receipt of the notice. If no objection is made within the time limit stated above, the publication is permitted.

8.3.1.2 An objection is justified if
(a) the objecting Party’s legitimate academic or commercial interests are compromised by the publication; or
(b) the protection of the objecting Party’s Foreground or Background is adversely affected.

The objection has to include a precise request for necessary modifications.

8.3.1.3 If an objection has been raised the involved Parties shall discuss how to overcome the justified grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting information before publication) and the objecting Party shall not unreasonably continue the opposition if appropriate actions are performed following the discussion.

8.3.2 Publication of another Party’s Foreground or Background

For the avoidance of doubt, a Party shall not publish Foreground or Background of another Party, even if such Foreground or Background is amalgamated with the Party’s Foreground, without the other Party’s prior written approval. For the avoidance of doubt, the mere absence of an objection according to 8.3.1 is not considered as an approval.

8.3.3 Cooperation obligations

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

8.3.4 Use of names, logos or trademarks

Nothing in this Consortium Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the Parties or any of their logos or trademarks without their prior written approval.
Section 9: Access Rights

9.1 Background covered

[Please choose one of the following options]

[OPTION 1:]

9.1.1 The Parties shall identify in the Attachment 1 the Background to which they are ready to grant Access Rights, subject to the provisions of this Consortium Agreement and the EC-GA. Such identification may be done by e.g.

- subject matter and possibly in addition by
- naming a specific department of a Party.

9.1.2 The owning Party may add further Background to Attachment 1 during the Project by written notice. However, only the General Assembly can permit a Party to withdraw any of its Background from Attachment 1.

9.1.3 The Parties agree that all Background not listed in Attachment 1 shall be explicitly excluded from Access Rights. The Parties agree, however, to negotiate in good faith additions to Attachment 1 if a Party asks them to do so and those are needed. For the avoidance of doubt, the owner is under no obligation to agree to additions of his Background to Attachment 1.

9.1.4 In addition, if a Party wishes to list specific Background as excluded, it shall identify such Background in the Attachment 2. The owning Party may withdraw any of its Background from Attachment 2 during the Project by written notice. However, only the General Assembly can permit a Party to add Background to Attachment 2.

[OPTION 2:]

In accordance with and subject to the provisions of the EC-GA, any Party may enter in Attachment 2 any specific Background excluded from the obligation to grant Access Rights in accordance with the provisions of this Consortium Agreement. All other Background except that listed in Attachment 2 shall be available for the granting of Access Rights in accordance with the provisions of this Consortium Agreement.

9.2 General Principles

9.2.1 Each Party shall implement its tasks in accordance with the Consortium Plan and shall bear sole responsibility for ensuring that its acts within the Project do not knowingly infringe third party property rights.

9.2.2 As provided in the EC-GA Article II.32.3. Parties shall inform the Consortium as soon as possible of any limitation to the granting of Access Rights to Background or of any other
restriction which might substantially affect the granting of Access Rights (e.g. the use of open source code software in the Project).

9.2.3 If the General Assembly considers that the restrictions have such impact, which is not foreseen in the Consortium Plan, it may decide to update the Consortium Plan accordingly.

9.2.4 Any Access Rights granted expressly exclude any rights to sublicence unless expressly stated otherwise. Access Rights shall be free of any administrative transfer costs. Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties according to the EC-GA Article II.32.7.

9.2.5 Foreground and Background shall be used only for the purposes for which Access Rights to it have been granted.

9.2.6 All requests for Access Rights shall be made in writing. The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

9.2.7 The requesting Party must show that the Access Rights are Needed.

9.3 Access Rights for implementation
Access Rights to Foreground and Background Needed for the performance of the own work of a Party under the Project shall be granted on a royalty-free basis, unless otherwise agreed for Background in Attachment 1.

9.4 Access Rights for Use

[Please choose one of the following options for Art. 9.4.1]

[OPTION 1:]

9.4.1 Access Rights to Foreground if Needed for Use of a Party's own Foreground including for third-party research shall be granted on Fair and Reasonable conditions.

Access rights for internal research activities shall be granted on a royalty-free basis.

[OPTION 2:]

9.4.1 Access Rights to Foreground if Needed for Use of a Party's own Foreground shall be granted on a royalty-free basis.

[end of OPTION 2:]
9.4.2 Access Rights to Background if Needed for Use of a Party's own Foreground shall be granted on Fair and Reasonable conditions.

9.4.3 A request for Access Rights may be made up to twelve months after the end of the Project or, in the case of Art. 9.7.2.1.2, after the termination of the requesting Party’s participation in the Project.

9.5 Access Rights for Affiliated Entities

[Please choose one of the following options]

[OPTION 1:]
Affiliated Entities have Access Rights under the conditions of the EC-GA Article II.34.3.

[OPTION 2:]
Affiliated Entities have Access Rights under the conditions of the EC-GA Article II.34.3.

In addition, Affiliate Entities shall also enjoy Access Rights if they can show that:
- they hold a licence on Foreground developed by a Party they are affiliated to; and
- they Need Access Rights in order to Use such Foreground; and
- they are established in a Member State or an Associated Country;
and they are listed in [Attachment 4 (Listed Affiliated Entities)] to this Consortium Agreement.

[end of OPTION 2:]

Such Access Rights to Affiliated Entities shall be granted on Fair and Reasonable conditions and upon written bilateral agreement.

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

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

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

Upon cessation of the status as an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse. Further arrangements with Affiliated Entities may be negotiated in separate agreements.
9.6 Additional Access Rights

[Please choose one of the following options]

[OPTION 1:]

For the avoidance of doubt any grant of Access Rights not covered by the EC-GA or this Consortium Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

[OPTION 2:]

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

9.7 Access Rights for Parties entering or leaving the Consortium

9.7.1 New Parties entering the Consortium

All Foreground developed before the accession of the new Party shall be considered to be Background with regard to said new Party.

9.7.2 Parties leaving the Consortium

9.7.2.1 Access Rights granted to a leaving Party

9.7.2.1.1 Defaulting Party

Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the General Assembly to terminate its participation in the Consortium.

9.7.2.1.2 Non-defaulting Party

A non-defaulting Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the Foreground developed until the date of the termination of its participation. It may request Access Rights within the period of time specified in Art. 9.4.2.

9.7.2.2 Access Rights to be granted by any leaving Party

Any Party leaving the Project shall continue to grant Access Rights pursuant to the EC-GA and this Consortium Agreement as if it had remained a Party for the whole duration of the Project.

9.8 Specific Provisions for Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software. Parties' Access Rights to Software do not include any right to receive source code or object code ported to a certain hardware platform or any right to receive respective Software documentation in any particular form or detail, but only as available from the Party granting the Access Rights.
Section 10: Non-disclosure of information

10.1 All information in whatever form or mode of transmission, which is disclosed by a Party (the “Disclosing Party”) to any other Party (the “Recipient”) in connection with the Project during its implementation and which has been explicitly marked as “confidential”, or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 days from oral disclosure at the latest as confidential information by the Disclosing Party, is “Confidential Information”.

10.2 The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the EC-GA, for a period of 5 years after the end of the Project:

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
- to return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Recipients may however request to keep a copy for archival purposes only.

10.3 The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees and shall ensure that their employees remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of employment.

10.4 The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

- the Confidential Information becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;
- the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
10.5 The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care.

10.6 Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

10.7 If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure:
- notify the Disclosing Party, and
- comply with the Disclosing Party’s reasonable instructions to protect the confidentiality of the information.

10.8 The confidentiality obligations under this Consortium Agreement and the EC-GA shall not prevent the communication of Confidential Information to the European Commission.

Section 11: Miscellaneous

11.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and

Attachment 1 (Background included)
Attachment 2 (Background excluded)
Attachment 3 (Accession document)
Attachment 4 (Listed Affiliated Entities)
Attachment 5 (List of Third Parties)

In case the terms of this Consortium Agreement are in conflict with the terms of the EC-GA, the terms of the latter shall prevail. In case of conflicts between the attachments and the core text of this Consortium Agreement, the latter shall prevail.
Should any provision of this Consortium Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Consortium Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

11.2 No representation, partnership or agency
The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Party. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

11.3 Notices and other communication
Any notice to be given under this Consortium Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Coordinator.

Formal notices:
If it is required in this Consortium Agreement (Article. 9.7.2.1.1 and 11.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party and shall either be served personally or sent by mail with recorded delivery or telefax with receipt acknowledgement.

Other communication:
Other communication between the Parties may also be effected by other means such as e-mail with acknowledgement of receipt, which fulfils the conditions of written form.

Any change of persons or contact details shall be notified immediately by the respective Party to the Coordinator. The address list shall be accessible to all concerned.

11.4 Assignment and amendments
No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties’ prior formal approval.

Amendments and modifications to the text of this Consortium Agreement not explicitly listed in Article 6.3.1.2 (LP)/ 6.3.6 (SP) require a separate agreement between all Parties.

11.5 Mandatory national law
Nothing in this Consortium Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.

11.6 Language
© DESC | The simplified FP7 Model Consortium Agreement (www.DESCA-FP7.eu )
Version 3.0, March 2011
25 / 41
This Consortium Agreement is drawn up in English, which language shall govern all documents, notices, meetings, arbitral proceedings and processes relative thereto.

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

11.8 Settlement of disputes
[Please choose between the options 1 and 2 and within these options between 1.1 and 1.2 or 2.1 and 2.2]

[OPTION 1: WIPO Mediation Followed, in the Absence of a Settlement, by WIPO Expedited Arbitration or by Court Litigation]

Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be Brussels unless otherwise agreed upon. The language to be used in the mediation shall be English unless otherwise agreed upon.

[Please choose one of the following options]

[OPTION 1.1: WIPO Mediation Followed, in the Absence of a Settlement, by WIPO Expedited Arbitration]

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. Alternatively, if, before the expiration of the said period of 60 days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be Brussels unless otherwise agreed upon. The language to be used in the arbitral proceedings shall be English unless otherwise agreed upon.

[OPTION 1.2: WIPO Mediation Followed, in the Absence of a Settlement, by Court Litigation]

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within 60 days of the commencement of the mediation, the courts of Brussels shall have exclusive jurisdiction.
[OPTION 2: Mediation by bMediation Followed, in the absence of a settlement, by CEPANI Arbitration or by the courts of Brussels]

Should a dispute arise between the Parties concerning the validity, the interpretation and/or the implementation of this Consortium Agreement, they will try to solve it through mediation, according to the rules of bMediation, Brussels. The Parties undertake not to put an end to the mediation before the introductory statement made by each party in joint session.

Should the mediation fail to bring about a full agreement between the Parties putting an end to the dispute,

[Please choose one of the following options]

OPTION 2.1.: said dispute will be finally settled by arbitration, according to the rules of the Belgian Centre for Arbitration and Mediation (in short: CEPANI).

OPTION 2.2.: sole competent courts will be the courts of Brussels.
Section 12: Signatures

AS WITNESS:

The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in separate signature pages the day and year first above written.

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)
Date

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)
Date

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)
Date
[Attachment 1: Background included]

Access Rights to Background made available to the Parties:

a.
b.
...

This represents the status at the time of signature of this Consortium Agreement.
Background excluded from Access Rights:

a.

b.

...

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

of a new Party to

[Acronym of the Project] Consortium Agreement, version […, YYYY-MM-DD]

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE EC-GA]

hereby consents to become a Party to the Consortium Agreement identified above and accepts all the rights and obligations of a Party starting [date].

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE EC-GA]

hereby certifies that the Consortium has accepted in the meeting held on [date] the accession of [the name of the new Party] to the Consortium starting [date].

This Accession document has been done in 2 originals to be duly signed by the undersigned authorised representatives.

[Date and Place]

[INSERT NAME OF THE NEW PARTY]
Signature(s)
Name(s)
Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]
Signature(s)
Name(s)
Title(s)
Acronym of the Project Consortium Agreement, version ……., YYYY-MM-DD

[Attachment 4: Listed Affiliated Entities]
[Attachment 5: List of Third Parties]

List of Third Parties to which transfer of Foreground is possible with prior notice to the other Parties and for which the other Parties have waived their right to object.

***
Concours n°140 - Document 2
EUCAR Model Consortium Agreement FP7

EUCAR Model Consortium Agreement for the Seventh Framework Programme
(Funding Scheme Collaborative Projects)

[Project Title]([Project Short Title])

Annotation: This Model Consortium Agreement is applicable for projects under the Seventh Framework Programme of the European Community - Funding Scheme Collaborative Projects; compare Decision No 1982/2006/EC, Annex I.

Relevant documents:
3. Model Grant Agreement by the European Commission (final version April 10, 2007)

Consortium Agreement

Ref No: __________

Table of Contents

Article 1: Introduction 2
Article 2: Interpretation 3
Article 3: Purpose and Scope of the CONSORTIUM AGREEMENT 6
Article 4: Organisation of the PROJECT 6
  4.1 General Principles 6
  4.2 PROJECT Level 7
    4.2.1 GENERAL ASSEMBLY 7
    4.2.2 STEERING COMMITTEE 7
  4.3 SUB-PROJECTS Level 8
    4.3.1 SUB-PROJECT COMMITTEES 8
    4.3.2 SUB-PROJECT LEADERS 8
Article 5: CO-ORDINATOR 8
Article 6: ADMINISTRATIVE OBLIGATIONS of the BENEFICIARIES 9
Article 7: DELIVERABLES 10
Article 8: BUDGET and COMMUNITY FINANCIAL CONTRIBUTION 10
Article 9: Confidentiality 11
Article 10: Ownership of FOREGROUND INFORMATION 11
Article 11: ACCESS RIGHTS 12
Article 12: Accession to this CONSORTIUM AGREEMENT 13
Article 13: Liability in Contract 13
  13.1 General Principles 13
Article 1: Introduction

1.1 This CONSORTIUM AGREEMENT is made on __________ (herein referred to as “EFFECTIVE DATE” by and among:

Annotation: insert date

__________

__________

__________

__________

Annotation: insert name of legal entity and principal place of business (i.e. town and country)

(herinafter referred to as “the BENEFICIARIES”)

1.2 The BENEFICIARIES prepared a proposal for the implementation of the PROJECT as defined in Annex A (PROPOSAL) and, if the European Community provides a GRANT AGREEMENT for the PROJECT that does not materially deviate from the PROPOSAL, shall accede to the GRANT AGREEMENT as a beneficiary and shall implement the PROJECT.

Annotation: compare Grant Agreement (final version April 10, 2007), Article 1.1

1.3 The BENEFICIARIES warrant that they are not aware of any LEGITIMATE INTERESTS that restrict, prevent or otherwise interfere with the grant of ACCESS RIGHTS as set forth in the CONSORTIUM AGREEMENT.

1.4 The BENEFICIARIES wish to define in more detail their rights and obligations towards each other in relation to the GRANT AGREEMENT and have agreed that the following additional terms and conditions shall apply to their performance of the GRANT AGREEMENT.

1.5 Where a stipulation in the CONSORTIUM AGREEMENT complements or modifies any stipulation in the GRANT AGREEMENT in a way that is not allowed under the GRANT AGREEMENT, the stipulation in the GRANT AGREEMENT shall prevail.
**Article 2: Interpretation**

In this CONSORTIUM AGREEMENT, the following expressions shall have the following meanings except where the context clearly indicates otherwise:-

<table>
<thead>
<tr>
<th>Expression</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACCEDING PARTY</td>
<td>means any THIRD PARTY acceding to this CONSORTIUM AGREEMENT</td>
</tr>
<tr>
<td>ACCESS RIGHTS</td>
<td>means licenses and user rights in respect of FOREGROUND INFORMATION and BACKGROUN</td>
</tr>
<tr>
<td>ADMINISTRATIVE OBLIGATIONS</td>
<td>means the obligations of the BENEFICIARIES defined in Article 6</td>
</tr>
<tr>
<td>AFFILIATE</td>
<td>means any legal entity directly or indirectly owned or controlled by or owning or controlling or under the same ownership or control as any of the BENEFICIARIES, such ownership or control existing through the direct or indirect - ownership of more than 30 % of the nominal value of the issued equity share capital, or - ownership of more than 30 % of the shares entitling the holders to vote for the election of directors or persons performing similar functions, or to the right by any other means to elect or appoint directors, or persons performing similar functions, who have a majority vote, or - ownership of 30 % or more of the shares and the right to control management or operation of the company through contractual provisions</td>
</tr>
<tr>
<td>BACKGROUND INFORMATION</td>
<td>means information, whether or not they can be protected, which are not generated in the PROJECT; such results include rights related to copyright, design rights, patent rights, plant variety rights or similar forms of protection</td>
</tr>
<tr>
<td>BENEFICIARY</td>
<td>means a signatory to this CONSORTIUM AGREEMENT and any ACCEDING PARTY</td>
</tr>
<tr>
<td>BUDGET</td>
<td>means the estimated cost of the PROJECT</td>
</tr>
<tr>
<td>COMMUNITY FINANCIAL CONTRIBUTION</td>
<td>means the Community financial contribution by the European Community under the GRANT AGREEMENT</td>
</tr>
<tr>
<td><strong>CONSORTIUM AGREEMENT</strong></td>
<td>means this consortium agreement</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td><strong>CO-ORDINATOR</strong></td>
<td>has the meaning defined in Article 5.1</td>
</tr>
<tr>
<td><strong>DELIVERABLES</strong></td>
<td>means all reports, certificates, data and other information required to be provided to the European Community by the GRANT AGREEMENT</td>
</tr>
<tr>
<td><strong>EFFECTIVE DATE</strong></td>
<td>means the date of this CONSORTIUM AGREEMENT as defined in Article 1.1</td>
</tr>
<tr>
<td><strong>EUCAR AGREEMENT</strong></td>
<td>means the agreement dated 27th May 1994 between Adam Opel AG (now Adam Opel GmbH), Bayerische Motoren Werke AG, Daimler-Benz AG (now DaimlerChrysler AG), Fiat S.p.A., Ford Motor Company Limited, Peugeot S.A., Regie Nationale des Usines Renault S.A. (now Renault s.a.s.), Volkswagen AG and AB Volvo relating to the establishment of co-operative activities in research and development of products processes and systems in order to improve the competitiveness of the European automotive industry and to achieve benefits for its customers and consumers (European Council for Automotive R&amp;D), as amended from time to time</td>
</tr>
<tr>
<td><strong>EUCAR MEMBERS</strong></td>
<td>means the contracting parties of the agreement dated 27th May 1994, namely Adam Opel AG (now Adam Opel GmbH), Bayerische Motoren Werke AG, Daimler-Benz AG (now DaimlerChrysler AG), Fiat S.p.A., Ford Motor Company Limited, Peugeot S.A., Regie Nationale des Usines Renault S.A. (now Renault s.a.s.), Volkswagen AG and AB Volvo and acceded Dr. Ing. h.c. F. Porsche AG and DAF Trucks N.V.</td>
</tr>
<tr>
<td><strong>FAULT</strong></td>
<td>means any wrongful act, omission, breach of applicable laws or failure to comply with the terms of this CONSORTIUM AGREEMENT</td>
</tr>
<tr>
<td><strong>FORCE MAJEURE</strong></td>
<td>means any act, event or condition beyond the reasonable control of a BENEFICIARY that was not reasonably foreseeable and is not avoidable under normal circumstances, including but not limited to acts of God, war, riot, acts of Governments or any political subdivision thereof, fires, floods, explosions, or other catastrophes, labour disturbances, freight embargoes or material shortages</td>
</tr>
</tbody>
</table>
FOREGROUND INFORMATION means the results, including information, whether or not they can be protected, which are generated in the PROJECT; such results include rights related to copyright, design rights, patent rights, plant variety rights or similar forms of protection.

Annotation: compare Regulation (EC) No 1906/2006, Article 2.4 and 2.5

GENERAL ASSEMBLY has the meaning defined in Article 4.2.1

GRANT AGREEMENT means the grant agreement between the European Community and the BENEFICIARIES.

Annotation: see Regulation (EC) No 1906/2006, Article 18.2

LEGITIMATE INTERESTS means a BENEFICIARY's interests of any kind, particularly a commercial interest, which may be claimed in the cases provided for in this CONSORTIUM AGREEMENT, if failure to take account of this interest would result in such BENEFICIARY's suffering disproportionately great harm.

NEEDED FOR USE means needed as necessary to enable the USE.

PROJECT means the project defined in Article 1.2

PROPOSAL means the proposal referred to in Article 1.2

REPRESENTATIVE means the one representative designated by each of the BENEFICIARIES in accordance with Article 4.1.1

STEERING COMMITTEE has the meaning defined in Article 4.2.2

SUB-CONTRACT means an agreement between one or more BENEFICIARIES and a THIRD PARTY, in order to carry out part of the work of the PROJECT.

SUB-CONTRACTOR means a THIRD PARTY which has entered into an agreement with one or more BENEFICIARIES, in order to carry out part of the work of the PROJECT.

SUB-PROJECT COMMITTEE the committees established in accordance with Article 4.3.2

SUB-PROJECT LEADER the BENEFICIARIES as defined in Article 4.3.1
THIRD PARTY means any person other than the BENEFICIARIES and AFFILIATES

USE means the direct or indirect utilisation of FOREGROUND INFORMATION or BACKGROUND INFORMATION in research activities or for developing, creating, making (including have made) and marketing a product or process, or for developing, creating and providing a service, but not including the right to grant sub-licences

WRITTEN FORM means (i) documents duly signed by an authorized representative and personally delivered or delivered by mail or (ii) electronic documents delivered with advanced electronic signatures which are based on a qualified certificate and which are created by a secure-signature-creation device.


Article 3: Purpose and Scope of the CONSORTIUM AGREEMENT

The CONSORTIUM AGREEMENT is intended to define more precisely the terms on which the BENEFICIARIES will co-operate within the scope of the GRANT AGREEMENT. Accordingly, the BENEFICIARIES agree amongst themselves to take all reasonable and necessary measures to ensure that the PROJECT is carried out in accordance with the terms and conditions of the GRANT AGREEMENT and the CONSORTIUM AGREEMENT.

Annotation: compare Regulation (EC) No 1906/2006, Article 18.1

Article 4: Organisation of the PROJECT

4.1 General Principles

4.1.1 Each BENEFICIARY shall designate a person as a representative (herein referred to as "REPRESENTATIVE").

4.1.2 The PROJECT is structured by SUB-PROJECTS, which may be publicly funded and which are structured by WORK PACKAGES.

4.1.3 General Principles for the GENERAL ASSEMBLY, the STEERING COMMITTEE, and the SUB-PROJECT COMMITTEES.

The chairman shall convene all meetings and shall give each of the members at least fourteen days notice of such meetings. Such invitation should set an agenda including the items to be discussed and the decisions proposed to make. The members shall be represented by their REPRESENTATIVES. Each member may appoint a substitute for its REPRESENTATIVE to attend and vote at any meeting. The chairman shall convene meetings on the request of a third of the members.
The GENERAL ASSEMBLY, the STEERING COMMITTEE, and the SUB-PROJECT COMMITTEES making a decision shall be obliged to allow the BENEFICIARIES concerned to invoke objections and shall take into account, and draw the appropriate conclusions from, any objection by any BENEFICIARY based on LEGITIMATE INTERESTS.

If a consensus cannot be reached, the matter shall be resolved by a vote of the members. Each member shall have one vote.

The adoption of a decision shall require the favourable vote of two thirds of the members (whether present or not), unless a unanimous decision is required under this CONSORTIUM AGREEMENT.

Subject to their LEGITIMATE INTERESTS the BENEFICIARIES agree to abide by all decisions of the GENERAL ASSEMBLY, the STEERING COMMITTEE, and the SUB-PROJECT COMMITTEE.

A BENEFICIARY who can show that its own work, time for performance, costs or liabilities, or intellectual property rights would be severely impacted or who can claim LEGITIMATE INTERESTS, may veto the relevant part of the decision of the GENERAL ASSEMBLY, the STEERING COMMITTEE, or the SUB-PROJECT COMMITTEES with no undue delay.

Each of the BENEFICIARIES shall have the right to refuse to undertake any kind of work without its consent that is outside the scope of the work assigned to him or the cost of performance of which would exceed the BUDGET identified for that BENEFICIARY.

If there is any contradiction between the decisions taken by the GENERAL ASSEMBLY, the STEERING COMMITTEE, or the SUB-PROJECT COMMITTEES, the decision of the GENERAL ASSEMBLY shall prevail over the decisions taken by the STEERING COMMITTEE and the SUB-PROJECT COMMITTEES and the decisions of the STEERING COMMITTEE shall prevail over the decisions taken by the SUB-PROJECT COMMITTEES.

4.2 PROJECT Level

4.2.1 GENERAL ASSEMBLY

All BENEFICIARIES shall be members of the GENERAL ASSEMBLY. The CO-ORDINATOR shall chair all meetings of the GENERAL ASSEMBLY. The GENERAL ASSEMBLY shall have an annual meeting for reviewing and monitoring the progress of the PROJECT as well as identifying appropriate actions for the successful performance of the PROJECT.

The GENERAL ASSEMBLY shall be in charge of making decisions or proposals for decisions to be taken by the STEERING COMMITTEE, particularly decisions of major and strategic relevance.

4.2.2 STEERING COMMITTEE

The CO-ORDINATOR and the following BENEFICIARIES shall be members of the STEERING COMMITTEE: __________.

Annotation: insert
- name of legal entities
or
- "the SUB-PROJECT LEADERS"
The CO-ORDINATOR shall chair all meetings of the STEERING COMMITTEE. The CO-ORDINATOR shall convene meetings at least once every six months during the term of the CONSORTIUM AGREEMENT.

The STEERING COMMITTEE shall be in charge of supervising the progress of the PROJECT, taking decisions regarding the PROJECT, particularly decisions of major and strategic relevance.

Any decision taken by the STEERING COMMITTEE shall require the unanimous decision of all members.

4.3 SUB-PROJECTS Level

4.3.1 SUB-PROJECT COMMITTEES

All BENEFICIARIES participating in the respective SUB-PROJECT shall be members of the respective SUB-PROJECT COMMITTEE. The SUB-PROJECT LEADER shall chair all meetings of the SUB-PROJECT COMMITTEE.

The SUB-PROJECT COMMITTEE shall be in charge of managing the SUB-PROJECT within the PROJECT and consistent with the decisions taken by the GENERAL ASSEMBLY and the STEERING COMMITTEE.

The responsibilities of the SUB-PROJECT COMMITTEE shall include without limitation:-
- to supervise and provide day to day management of the activities of the respective BENEFICIARIES on the SUB-PROJECT;
- active planning and progress monitoring of the SUB-PROJECT.

4.3.2 SUB-PROJECT LEADERS

If not nominated in the PROPOSAL, each SUB-PROJECT COMMITTEE may elect a BENEFICIARY as a SUB-PROJECT LEADER.

The SUB-PROJECT LEADER shall
- submit the reports to the CO-ORDINATOR
- submit the DELIVERABLES to the CO-ORDINATOR
- submit information required to the CO-ORDINATOR

The SUB-PROJECT LEADER shall not be entitled to act or to make legally binding declarations on behalf of any other BENEFICIARIES.

Article 5: CO-ORDINATOR

5.1 _________ is the CO-ORDINATOR.

*Annotation: insert name of legal entity, i.e. the name of one of the BENEFICIARIES*

5.2 The CO-ORDINATOR shall represent the PROJECT towards the European Community and other THIRD PARTIES, but shall not be entitled to act or to make legally binding declarations on behalf of any other BENEFICIARIES.

5.3 In addition to the obligations of the coordinator under the GRANT AGREEMENT, the CO-ORDINATOR shall be responsible for the following additional co-ordination responsibilities:
- interacting with the European Community and THIRD PARTIES about the PROJECT, including the submission of DELIVERABLES to the European Community;
- receiving, compiling, and distributing to the BENEFICIARIES’ and other relevant recipients’ documents, reports, statements of expenditure, minutes of meetings of the
GENERAL ASSEMBLY and of the STEERING COMMITTEE and other relevant information from the BENEFICIARIES.

5.4 All costs incurred by the CO-ORDINATOR in its performance of its co-ordination responsibilities (including costs incurred under any SUB-CONTRACT for the performance of such responsibilities) shall be borne by the CO-ORDINATOR as part of the CO-ORDINATORS's work in the PROJECT.

Article 6: ADMINISTRATIVE OBLIGATIONS of the BENEFICIARIES

6.1 Each of the BENEFICIARIES shall promptly supply to their respective SUB-PROJECT LEADERS, to the CO-ORDINATOR, to the STEERING COMMITTEE and to the European Community all such information, reports, documents and DELIVERABLES that are necessary in order to fulfil their obligations under the GRANT AGREEMENT and the CONSORTIUM AGREEMENT.

6.2 The BENEFICIARIES shall support the CO-ORDINATOR in fulfilling the obligations of the CO-ORDINATOR under the GRANT AGREEMENT and under this CONSORTIUM AGREEMENT. In particular, the BENEFICIARIES shall

(a) comply with their obligations under the GRANT AGREEMENT;

(b) give immediate notice to the CO-ORDINATOR about any awareness about non-compliance of any BENEFICIARY in the PROJECT with its obligations under the GRANT AGREEMENT;

(c) make sure that they complete the necessary formalities for accession to the GRANT AGREEMENT;

(d) check the compliance of any receipt of financial contribution with the provisions of the CONSORTIUM AGREEMENT and the GRANT AGREEMENT and give immediate notice to the CO-ORDINATOR about any awareness about non-compliance;

(e) submit to the CO-ORDINATOR all information necessary for the records and financial accounts relevant for the financial contribution;

(f) make its communication to the European Community via the CO-ORDINATOR and to submit to the CO-ORDINATOR all information necessary to report to the European Community on the progress of the PROJECT;

6.3 Where an amount, paid by the European Community to the CO-ORDINATOR in its capacity of recipient of all payments, is to be recovered under the terms of the GRANT AGREEMENT, the final recipient of the amount due will repay to the European Community the sum in question with no undue delay.

6.4 Each BENEFICIARY shall inform all other BENEFICIARIES about any relevant change in persons, addresses, telephone, fax numbers and e-mail addresses and other relevant means of communication as soon as possible.

6.5 Where a BENEFICIARY designates a SUB-CONTRACTOR, the BENEFICIARY shall ensure that the terms and conditions on which the SUB-CONTRACTOR is appointed are fully consistent with those of the CONSORTIUM AGREEMENT and the GRANT AGREEMENT.
The BENEFICIARY shall be responsible for the work to be performed by the SUB-CONTRACTOR.

*Annotation: compare Grant Agreement (final version April 10, 2007), Article II.7.1*

### Article 7: DELIVERABLES

7.1 The BENEFICIARIES will use all reasonable endeavours to supply DELIVERABLES to the CO-ORDINATOR four weeks in advance of the date by which the DELIVERABLES are due for submission to the European Community.

7.2 The STEERING COMMITTEE shall specify the format and number of copies in which all drafts, reports, DELIVERABLES and other information required to be submitted by any of the BENEFICIARIES in accordance with the CONSORTIUM AGREEMENT will be submitted.

### Article 8: BUDGET and COMMUNITY FINANCIAL CONTRIBUTION

8.1 The BUDGET and COMMUNITY FINANCIAL CONTRIBUTION is allocated according to the GRANT AGREEMENT.

*Annotation: Grant Agreement (final version April 10, 2007), Article 5.2: provides: “Details of the Community financial contribution are contained in Annex I to this grant agreement which includes: - a table of the estimated breakdown of budget and Community financial contribution per activity to be carried out by each of the beneficiaries under the project. Beneficiaries are allowed to transfer budget between different activities and between themselves in so far as the work is carried out as foreseen in Annex I.”*

8.2 BENEFICIARIES who spend less than their respective share in the BUDGET will be funded only in respect of the actual amount spent. BENEFICIARIES who spend more than their respective share in the BUDGET will be funded only up to the COMMUNITY FINANCIAL CONTRIBUTION as allocated under this CONSORTIUM AGREEMENT.

8.3 Any costs incurred by the CO-ORDINATOR in connection with the transfer of payments from the European Community to the CO-ORDINATOR shall be divided between the BENEFICIARIES in proportion to their respective share in the COMMUNITY FINANCIAL CONTRIBUTION.

8.4 Any costs incurred by the CO-ORDINATOR in connection with the transfer of payments to any of the BENEFICIARIES will be charged to the BENEFICIARY concerned.

8.5 Each BENEFICIARY shall specify to the CO-ORDINATOR an account to which the COMMUNITY FINANCIAL CONTRIBUTION shall be transferred.

8.6 The CO-ORDINATOR shall transfer COMMUNITY FINANCIAL CONTRIBUTION received from the European Community to each of the other BENEFICIARIES without unjustified delay after the receipt of the COMMUNITY FINANCIAL CONTRIBUTION and relevant supporting information.

*Annotation: compare Grant Agreement (final version April 10, 2007), Article II.2.3 a)*

8.7 Each of the BENEFICIARIES shall bear all its own costs incurred in connection with the PROJECT and shall receive the COMMUNITY FINANCIAL CONTRIBUTION as allocated to it provided proper performance of the PROJECT.

8.8 Amongst EUCAR MEMBERS that are BENEFICIARIES and their AFFILIATES, the CONSORTIUM AGREEMENT shall supersede any provision of the EUCAR AGREEMENT.
relating to the implementation of this PROJECT; the cross-billing process of Article 20 of the EUCAR AGREEMENT shall not apply.

Article 9: Confidentiality

Each of the BENEFICIARIES undertakes to use a reasonable degree of care not to disclose to any THIRD PARTY - except as expressly permitted by the CONSORTIUM AGREEMENT or the GRANT AGREEMENT or by an order of a judicial or governmental authority - any technical or business information which, during the course of the preparation of the proposal for, or in the course of the performance of, the PROJECT, it received, gained access to or otherwise obtained from any of the other BENEFICIARIES.

This undertaking shall not apply to any information that:-
- the receiving BENEFICIARY can prove is already known to it;
- is published or otherwise generally available to the public at the time of the communication or becomes published or so available after such communication through no wrongful act of the receiving BENEFICIARY;
- corresponds to information that is subsequently communicated to the receiving BENEFICIARY from a THIRD PARTY without any relevant obligation of non-disclosure;
- was developed independently of the work under the GRANT AGREEMENT by the receiving BENEFICIARY or any of its AFFILIATES;
- is necessarily divulged to enable the exercise of any licence in accordance with the CONSORTIUM AGREEMENT or the GRANT AGREEMENT.

This undertaking shall not apply with respect to disclosures by the receiving BENEFICIARY to its AFFILIATES as long as the AFFILIATES are subject to similar non-disclosure obligations.

This undertaking shall apply for a period of five (5) years from the completion or termination of this PROJECT (whichever is the earlier).

The BENEFICIARIES providing confidential information shall remain the vested holders of such information.

Article 10: Ownership of FOREGROUND INFORMATION

10.1 FOREGROUND INFORMATION shall be owned by the BENEFICIARY or BENEFICIARIES who carried out the work generating the FOREGROUND INFORMATION, or on whose behalf such work was carried out.

10.2 Where FOREGROUND INFORMATION is generated from work carried out jointly by two or more BENEFICIARIES, those BENEFICIARIES shall jointly own equal undivided shares in that FOREGROUND INFORMATION, and shall be free to exercise all ACCESS RIGHTS (and the right to grant non-exclusive sub-licences) in respect of that FOREGROUND INFORMATION independently of any other BENEFICIARY with whom such FOREGROUND INFORMATION is jointly owned, without payment of compensation to any other such BENEFICIARY.

10.3 The following BENEFICIARIES have entered into agreements under which ownership of the BENEFICIARY's FOREGROUND INFORMATION is assigned to one or more of their AFFILIATES. Those BENEFICIARIES warrant that such assignment does not prejudice the ACCESS RIGHTS of the other BENEFICIARIES to such FOREGROUND INFORMATION and that the AFFILIATE accepts all the obligations under the CONSORTIUM AGREEMENT arising from ownership of the FOREGROUND INFORMATION. The other BENEFICIARIES hereby consent to such assignment.

BENEFICIARY/Assignor

BENEFICIARY's AFFILIATE/Assignee

__________ __________
10.4 Save as provided above, if any of the BENEFICIARIES wishes to assign any FOREGROUND INFORMATION to a THIRD PARTY it shall promptly notify the other BENEFICIARIES of the THIRD PARTY and the terms and conditions upon which it proposes to make the assignment, but shall not make such an assignment without the prior consent of the other BENEFICIARIES, which shall not be unreasonably withheld.

10.5 BENEFICIARIES may in their own discretion and at their own expense make applications for patent or similar form of protection in territories of their own choice and shall supply details of each such application to the other BENEFICIARIES within five months of the date of the application.

Article 11: ACCESS RIGHTS

11.1 ACCESS RIGHTS for the performance of the PROJECT

Each of the BENEFICIARIES hereby agrees to grant to each of the other BENEFICIARIES royalty-free, non-exclusive ACCESS RIGHTS in respect of their FOREGROUND INFORMATION and, subject to LEGITIMATE INTERESTS of the respective owner, BACKGROUND INFORMATION to the extent needed for the performance of the PROJECT.

11.2 ACCESS RIGHTS for USE (among BENEFICIARIES in different SUB-PROJECTS)

11.2.1 FOREGROUND INFORMATION. Each of the BENEFICIARIES hereby agrees to grant permanent, world-wide, non-exclusive ACCESS RIGHTS in respect of the BENEFICIARY's FOREGROUND INFORMATION to the extent NEEDED FOR USE of FOREGROUND INFORMATION generated in the SUB-PROJECT they participate in - on preferential conditions to the other BENEFICIARIES and their AFFILIATES

11.2.2 BACKGROUND INFORMATION. Subject to LEGITIMATE INTERESTS of the respective owner, each of the BENEFICIARIES hereby agrees to grant permanent, world-wide, non-exclusive ACCESS RIGHTS in respect of the BENEFICIARY's BACKGROUND INFORMATION to the extent NEEDED FOR USE of FOREGROUND INFORMATION generated in the SUB-PROJECT they participate in - on preferential conditions to the other BENEFICIARIES and their AFFILIATES

11.3 ACCESS RIGHTS for USE (among the BENEFICIARIES of the same SUB-PROJECT)

11.3.1 FOREGROUND INFORMATION. Each of the BENEFICIARIES hereby agrees to grant permanent, world-wide, non-exclusive ACCESS RIGHTS in respect of the BENEFICIARY's FOREGROUND INFORMATION on the following terms - royalty-free to the other BENEFICIARIES participating in the same SUB-PROJECT and their AFFILIATES - on preferential conditions to any ACCEDING PARTY participating in the same SUB-PROJECT and its AFFILIATES with regard to FOREGROUND INFORMATION generated before the accession

11.3.2 BACKGROUND INFORMATION. Subject to LEGITIMATE INTERESTS of the respective owner, each of the BENEFICIARIES hereby agrees to grant permanent, world-wide, non-exclusive ACCESS RIGHTS in respect of the BENEFICIARY's BACKGROUND INFORMATION to the extent NEEDED FOR USE of FOREGROUND INFORMATION.
on preferential conditions to the other BENEFICIARIES participating in the same SUB-PROJECT and their AFFILIATES

11.4 Any request for ACCESS RIGHTS may be made without any time-limit. By signing the CONSORTIUM AGREEMENT, the BENEFICIARIES shall be deemed to have requested in WRITTEN FORM the grant of all ACCESS RIGHTS referred to above.

Annotation: regarding the first sentence, see Regulation (EC) No 1906/2006, Article 48.1; Grant Agreement (final version April 10, 2007), Article II.32.1, Article II.34.4

11.5 The BENEFICIARIES shall inform each other as soon as possible of any limitation to the granting of ACCESS RIGHTS to BACKGROUND INFORMATION, or of any other restriction which might substantially affect the granting of ACCESS RIGHTS.

Annotation: see Regulation (EC) No 1906/2006, Article 48.5, Article 50.4; Grant Agreement (final version April 10, 2007), Article II.32.3

Article 12: Accession to this CONSORTIUM AGREEMENT

12.1 Any accession to this CONSORTIUM AGREEMENT shall require
- the conclusion of an accession agreement in WRITTEN FORM duly signed by all BENEFICIARIES and by the ACCEDING PARTY; the BENEFICIARIES may authorise the CO-ORDINATOR to sign the respective accession agreement on their behalf and
- the accession by the ACCEDING PARTY to the GRANT AGREEMENT.

Annotation: see Regulation (EC) No 1906/2006, Article 26.2

12.2 The ACCEDING PARTY shall take the obligations and shall have the rights, as if it were a BENEFICIARY from the EFFECTIVE DATE.

Annotation: see Regulation (EC) No 1906/2006, Article 19.1

Article 13: Liability in Contract

13.1 General Principles

This Article shall apply for any liability for damages based on contract, but not with regard to any liability based on tort or based on other statutory liability.

13.2 Liability towards the BENEFICIARIES

13.2.1 Liability. Each BENEFICIARY undertakes to use all reasonable endeavours to insure the accuracy of its performance of the PROJECT and of the information furnished to other BENEFICIARIES in connection with such performance.

Upon notification or discovery that it has submitted defective or incorrect information to another BENEFICIARY at any time during the performance of the PROJECT, a BENEFICIARY shall promptly correct and redeliver such information at its own expense.

Other than as set forth in the foregoing paragraphs, no warranty, condition or representation of any kind is made, given or to be implied in any case as on the sufficiency accuracy or fitness for purpose of information or materials or the absence of any infringement of statutory monopoly or intellectual property rights of THIRD PARTIES by the USE of such information and materials, and a BENEFICIARY receiving information and materials, shall be entirely responsible for the USE to which they are put.
13.2.2 Limitations of Liability. Except in the case of wilful misconduct or gross negligence, a BENEFICIARY shall not be liable to other BENEFICIARIES for indirect or consequential loss or damages such as but not limited to loss of profit, loss of revenue, or loss of contracts.

Except in the case of wilful misconduct, each BENEFICIARY's total and cumulative limit of liability resulting from any FAULT towards all the other BENEFICIARIES collectively, in respect of any and all claims regarding any FAULT, shall not exceed twice the amount of that BENEFICIARY's share in the COMMUNITY FINANCIAL CONTRIBUTION as defined at the time of the occurring of the FAULT.

13.3 Liability towards the European Community and THIRD PARTIES

13.3.1 Notwithstanding the foregoing, each BENEFICIARY agrees to indemnify the CO-ORDINATOR, in case of any action, complaint or proceeding brought by the European Community against the CO-ORDINATOR as result of damage caused, either by any act or omission committed by the BENEFICIARY in performing its ADMINISTRATIVE OBLIGATIONS.

13.3.2 Should the European Community, in accordance with the provisions of the GRANT AGREEMENT, or any THIRD PARTY, under the laws applicable, make a claim for specific performance or any reimbursement, indemnity or payment of damages from one or more BENEFICIARIES, the BENEFICIARIES who perform such BENEFICIARY’s work or pay the reimbursement, indemnity or payment shall be entitled to receive from any BENEFICIARY a contribution to their additional cost or payment to the extent such BENEFICIARY’s FAULT caused such claim.

13.3.3 In the event it is not possible to attribute the FAULT to any BENEFICIARY, the amount claimed by the European Community or the THIRD PARTY shall be apportioned among all the BENEFICIARIES in proportion to their respective share in the COMMUNITY FINANCIAL CONTRIBUTION as defined at the time of the implementation of the work or the payment to the European Community.

Article 14: FORCE MAJEURE

No BENEFICIARY shall be liable for any failure to perform or any delay in performing any of its obligations under the CONSORTIUM AGREEMENT if such failure or delay arises out of FORCE MAJEURE. The BENEFICIARY relying on FORCE MAJEURE shall promptly notify the other BENEFICIARIES and shall use its best endeavours to remedy any default or delay occasioned thereby forthwith upon such event ceasing to apply.

Article 15: Dissemination, Publicity and Press Releases

15.1 The BENEFICIARIES shall not issue any press release or similar publicity about the PROJECT without the prior approval of the STEERING COMMITTEE, which shall not be unreasonably withheld or delayed longer than two weeks after receipt by the STEERING COMMITTEE.

15.2 Without prejudice to any other obligations in this CONSORTIUM AGREEMENT, the BENEFICIARIES shall be entitled to disseminate and/or publish without prior notice to the other BENEFICIARIES the FOREGROUND INFORMATION they generated in the PROJECT.

Annotation: compare Grant Agreement (final version April 10, 2007), Article II.30.3
Article 16: Notices

Any notice to be given under this CONSORTIUM AGREEMENT shall be made in WRITTEN FORM to the following recipients or to such other address and recipient as a BENEFICIARY may designate in respect of that BENEFICIARY by notice in WRITTEN FORM to the other BENEFICIARIES:

- __________ nominates as contact for technical matters (project officer)
  Mr. __________, Dept. __________
  and as contact for administrative matters (financial officer)
  Mr. __________, Dept. __________
- __________ nominates as contact for technical matters (project officer)
  Mr. __________, Dept. __________
  and as contact for administrative matters (financial officer)
  Mr. __________, Dept. __________
- __________ nominates as contact for technical matters (project officer)
  Mr. __________, Dept. __________
  and as contact for administrative matters (financial officer)
  Mr. __________, Dept. __________
- __________ nominates as contact for technical matters (project officer)
  Mr. __________, Dept. __________
  and as contact for administrative matters (financial officer)
  Mr. __________, Dept. __________

Article 17: Amendments to the GRANT AGREEMENT and to this CONSORTIUM AGREEMENT

17.1 Any approval or request addressed to the European Community regarding the amendment or the termination of the GRANT AGREEMENT shall require the approval of all BENEFICIARIES in WRITTEN FORM, which shall not be unreasonably withheld.

Annotation: compare Grant Agreement (final version April 10, 2007), Article II.36.2

17.2 All amendments and changes to this CONSORTIUM AGREEMENT require an amending agreement made in WRITTEN FORM.

Article 18: Term and Termination of the CONSORTIUM AGREEMENT

18.1 The CONSORTIUM AGREEMENT and the participation of any BENEFICIARY in the PROJECT is effective retroactively from the EFFECTIVE DATE.

18.2 A BENEFICIARY shall be entitled to terminate its participation in the CONSORTIUM AGREEMENT and in the PROJECT with no undue delay by notice in WRITTEN FORM delivered to the other BENEFICIARIES,

(a) if the European Community provides a GRANT AGREEMENT for the PROJECT that materially deviates from the PROPOSAL, or
(b) if the GRANT AGREEMENT terminates, or
(c) if the participation of that BENEFICIARY in the GRANT AGREEMENT is terminated.

The BENEFICIARIES whose participation is terminated under (a) above shall be relieved from implementing the PROJECT and from any other obligation under the CONSORTIUM AGREEMENT with the exception of the Articles of the CONSORTIUM AGREEMENT on Confidentiality, Liability, Settlement of Disputes, and Applicable Law which shall survive the termination.

The BENEFICIARIES whose participation is terminated under (b), or (c) above shall be relieved from further implementing the PROJECT, but the Articles of the CONSORTIUM AGREEMENT on ADMINISTRATIVE OBLIGATIONS, Confidentiality, ACCESS RIGHTS,
Liability, and Publicity and Press Releases, Settlement of Disputes, and Applicable Law shall survive the termination, but shall - as far as they refer to FOREGROUND INFORMATION - apply on FOREGROUND INFORMATION only which has been generated before the termination.

18.3 Any approval or request addressed to the European Community regarding the termination of any BENEFICIARY’s participation in the GRANT AGREEMENT and in the PROJECT shall require the approval of all BENEFICIARIES, with the exception of the BENEFICIARY whose participation is intended to be terminated, in WRITTEN FORM, which shall not be unreasonably withheld.

Annotation: compare Grant Agreement (final version April 10, 2007), Article II.36.2

18.4 The termination of the participation of a BENEFICIARY shall in no way affect the obligation of that BENEFICIARY to grant ACCESS RIGHTS to the remaining BENEFICIARIES.

Annotation: compare Regulation (EC) No 1906/2006, Article 32.4

Article 19: Settlement of Disputes

In case of dispute or difference between the BENEFICIARIES arising out or in connection with this CONSORTIUM AGREEMENT, the BENEFICIARIES shall first endeavour to settle it amicably.

All disputes which cannot be settled in this way shall be finally settled by arbitration. The Arbitration Board shall convene in Brussels under the Rules of Arbitration of the International Chamber of Commerce and shall comprise one or more arbitrators to be appointed under the terms of these Rules. In any arbitration in which there are three arbitrators, the Chairman shall be of legal education. The language to be used in the arbitral proceedings shall be English.

The award of the Arbitrator will be final and binding upon all BENEFICIARIES concerned.

Article 20: Applicable Law

The CONSORTIUM AGREEMENT shall be construed according to and governed by the laws of __________.

Annotation: insert country

- where the CO-ORDINATOR has its principal place of business
or
- Belgium
(If you have an attorney in Belgium available, you should prefer the laws of Belgium, otherwise it might be preferable to choose the CO-ORDINATOR’s principal place of business, who can then provide legal opinions on questions arising from this agreement.)
CONSORTIUM AGREEMENT Ref No: __________
Authorised Signature(s) of the BENEFICIARY:

BENEFICIARY: __________

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SEVENTH FRAMEWORK PROGRAMME (FP7)

Call Reference N°:
Proposal Reference N°

PROJECT TITLE:

Collaborative Project

CONSORTIUM AGREEMENT

Date of preparation of this document: YY/MM/DD

version: REF
CONSORTIUM AGREEMENT

Section 1: Definitions .......................................................................................................... 4
Section 2: Purpose .............................................................................................................. 4
Section 3: Entry into force, duration and termination ........................................................... 4
Section 4: Responsibilities of Parties .................................................................................. 5
Section 5: Liability towards each other .............................................................................. 6
Section 6: Governance structure (Large Projects) ............................................................... 6
Section 7: Financial provisions .......................................................................................... 16
Section 8: Foreground ....................................................................................................... 18
Section 9: Access Rights .................................................................................................. 19
Section 10: Non-disclosure of information ........................................................................ 22
Section 11: Miscellaneous ................................................................................................ 23
Section 12: Signatures ...................................................................................................... 25
[Attachment 1]: Background included ................................................................................. 27
[Attachment 2]: Accession document ................................................................................ 28
[Attachment 3]: Listed Affiliated Entities ........................................................................... 29
[Attachment 4]: Initial list of Parties and other contact persons ......................................... 30
[Attachment 5]: List of Third Parties .................................................................................. 31
[Attachment 6]: Agreement for the loan of material or equipment ..................................... 32
[Attachment 7]: Initial Consortium Plan ............................................................................. 34

THIS CONSORTIUM AGREEMENT is based upon
REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of
18 December 2006 laying down the rules for the participation of undertakings, research centres and
universities in actions under the Seventh Framework Programme and for the dissemination of
research results (2007-2013) hereinafter referred to as Rules for Participation and the European
Commission Grant Agreement, adopted on 10 April 2007 hereinafter referred to as the Grant
Agreement and Annex II adopted on 10 April 2007 hereinafter referred to as Annex II of the Grant
Agreement
and is made on [YYYY-MM-DD],

BETWEEN:

(1) [OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE GRANT AGREEMENT],
    the Coordinator

(2) [OFFICIAL NAME OF THE PARTY AS IDENTIFIED IN THE GRANT AGREEMENT],

(3) [OFFICIAL NAME OF THE PARTY AS IDENTIFIED IN THE GRANT AGREEMENT],
hereinafter, jointly or individually, referred to as "Parties" or "Party"
relating to the Project entitled

[NAME OF PROJECT]

in short

[Insert: acronym]

hereinafter referred to as “Project”

WHEREAS:

The Parties, having considerable experience in the field concerned, have submitted a proposal for the Project to the European Commission as part of the Seventh Framework Programme of the European Community for Research, Technological Development and Demonstration Activities under the funding scheme for collaborative research project.

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the Grant Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS Follows:
Section 1 : Definitions

1.1 Definitions
Words beginning with a capital letter shall have the meaning defined either herein or in the Rules for Participation or in the Grant Agreement including its Annexes without the need to replicate said terms herein.

1.2 Additional Definitions
“Consortium Plan”
Consortium Plan means the description of the work and the related agreed Consortium Budget, including the payment schedule, as updated and approved by the General Assembly the initial version of which is included as [Attachment 7] to this Agreement.

“Consortium Budget”
Consortium Budget means the allocation of all the resources in cash or in kind for the activities as defined in Annex I of the Grant Agreement and in the Consortium Plan thereafter.

“Defaulting Party”
Defaulting Party means a Party which the General Assembly has identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Article 4.2 of this Consortium Agreement.

"Effective Date"
Effective Date means either the date of signature of the Consortium Agreement by all the Parties or the Start Date of the Grant Agreement whichever is the earlier

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

Section 2 : Purpose

The purpose of this Consortium Agreement is to specify with respect to the Project the relationship among the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution.

Section 3 : Entry into force, duration and termination

3.1 Entry into force

This Consortium Agreement shall have effect from the Effective Date
A new Party enters the Consortium upon signature of the accession document [Attachment 2] by the new Party and the Coordinator. Such accession shall have effect from the date identified in the Accession document.

3.2 Duration and termination

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement.
However, this Consortium Agreement may be terminated in accordance with the terms of this Consortium Agreement and Annex II of the Grant Agreement (Article II.37. and II.38.).

3.3 Survival of rights and obligations

The provisions relating to Access Rights, Confidentiality, Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Consortium Agreement as agreed in respective articles.

Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the General Assembly and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

Section 4 : Responsibilities of Parties

4.1 General principles

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.

Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.

Each Party shall promptly provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks as foreseen in Article 6.4.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

4.2 Termination of the participation of a Party in the Project

4.2.1 In the event the relevant consortium body identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement, the Coordinator will give written notice to such Party requiring that such breach be remedied within thirty (30) calendar days.

If such breach is not remedied within that period or is not capable of remedy, the General Assembly may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of its participation.

4.2.2 The Parties agree that if a Party wishes to terminate its participation in the Project, it will be considered as a request for termination as provided for in article II.36.6 of the Grant Agreement and the provisions of this Consortium Agreement regarding such termination shall apply.

4.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Project remains solely responsible for carrying out its relevant part of the Project and for such third party’s compliance with the provisions of this Consortium Agreement and of the Grant Agreement. It has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties in this Consortium Agreement.
Section 5 : Liability towards each other

5.1 Each Party undertakes to perform its work at its own risk and under its sole liability and shall support all consequences in compliance with the provisions hereunder.

5.2 No warranties
In respect of any information or materials supplied by one Party to another under the Project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

The recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials.

Nevertheless, each Party undertakes not to knowingly use any proprietary rights of a third party for which such Party has not acquired the corresponding right of use and/or to grant licenses.

5.3 Limitations of contractual liability
No Party shall be responsible to any other Party for any indirect or consequential loss or similar damages such as, but not limited to, loss of profit, loss of revenue or loss of contracts.

A Party’s aggregate liability towards the other Parties shall be limited to [Insert: once or twice] the Party’s share of the total costs of the Project. Nevertheless, in the case of loan or bail of material and/or equipment between Parties for the performance of the Project an agreement based on the model set forth in Attachment 6 shall be entered into between the said Parties and may be amended to contain specific conditions regarding liabilities.

The exclusions and limitations of liability stated above shall not apply in the case of damage caused by a wilful act or gross negligence.

The terms of this Consortium Agreement shall not be construed to amend or limit any Party’s non-contractual liability.

5.4 Damage caused to third parties
Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party’s obligations under this Consortium Agreement or from its use of Foreground or Background.

5.5 Force Majeure
No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify the competent consortium bodies of any Force Majeure as soon as possible. If the consequences of Force Majeure for the Project are not overcome within sixth (6) weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

Section 6 : Governance structure (Large Projects)

6.1 General Principles
The Project is structured by work packages (Work Package) allocated among the Parties.
The Project management, coordination and decisions are handled by the Consortium Bodies: the Co-ordinator, the Steering Committee and the Project Management Committee.

6.2 CONSORTIUM Bodies
The Consortium Bodies become operational on the Effective Date.

6.2.1 Coordinator
The Coordinator shall act as the intermediary between the Parties and the European Commission. In addition to its responsibilities as a Party it shall perform all tasks assigned to it as described in the Grant Agreement and in this Consortium Agreement.

In particular, the Coordinator shall be responsible for:

- monitoring compliance by the Parties with their obligations;
- keeping the address list of members and other contact persons updated and available;
- collecting, reviewing and submitting information on the progress of the Project and reports and other deliverables (including financial statements and related certification) to the European Commission;
- preparing the meetings, proposing decisions and preparing the agenda of Steering Committee meetings, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings;
- transmitting documents and information connected with the Project, including copies of Accession documents and changes of contact information to the Parties;
- administering the Community financial contribution and fulfilling the financial tasks described in Article 7.1.1 and 7.3 below;
- providing, upon request, the Parties with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims;
- receiving and submitting requests for amendments and termination at the initiative of the Consortium in accordance with Annex II to Grant Agreement, Article II.36.

If the Coordinator fails in its coordination tasks, the Steering Committee may propose to the Commission to change the Coordinator through a vote in a meeting or by consents of the Parties. Decisions shall be taken unanimously by all of the Parties.

The Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party.
The Coordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the Grant Agreement.

The level of details regarding information requested by the Coordinator for the management of the Project and the frequency for providing such an information beyond the reporting periods set in the Grant Agreement shall prior be agreed by the Steering Committee. A reasonable frequency for such submission should not be more than twice a year and should only contain estimated data.
The Coordinator shall provide evidence of any particular European Commission request for information to a Party. In the event such a request concerns a piece of information that the Party considers as sensitive said Party may elect to directly provide the information to the European Commission and will inform the Coordinator of such communication.

### 6.2.2 Steering Committee

The Steering Committee is in charge of the overall supervision and major decisions with regard to the Project. The Steering Committee shall be advised by and shall take decisions based upon recommendations made to it by the Project Management Committee.

The Steering Committee has no competence to take decisions concerning the internal sovereignty and independence of the Parties.

The Steering Committee shall consist of one representative of each Party. The Steering Committee appointed members are listed in the Attachment 4 of this Consortium Agreement. Any change will have to be notified in writing by the concerned Party to the Co-ordinator.

The requests of participation of third parties (sub-contractors, external bodies, advisors, etc.) to a Steering Committee meeting will have to be communicated to the other Parties at least two (2) weeks in advance of the meeting, and will be subject to the non-refusal of any other Party before the meeting.

The Coordinator shall call and chair all meetings of the Steering Committee.

The Coordinator shall convene meetings of the Steering Committee at least once every twelve (12) months and shall also convene meetings at any time upon written request of any Party in the case of an emergency situation, provided that this request is supported by at least one fourth (1/4) of the Parties.

The Coordinator shall give each of the Parties at least thirty (30) calendar days notice in writing of such meetings or fifteen (15) calendar days notice in case of an emergency situation, along with an agenda.

Each Party shall have one vote. Should a member not be able to attend a meeting, it shall appoint a substitute to attend and vote on its behalf. This substitute may be the Steering Committee member of another Party. Any substitute will have to justify its appointment as a substitute by written evidence, to be distributed to the Coordinator in advance of the meeting.

Any decision requiring a vote at a Steering Committee meeting must be identified as such on the invitation. Should a Party suggest adding a discussion/decision to the proposed agenda, it shall do so in writing to all other Parties at least seven (7) calendar days prior to the meeting date.

Any subsequent change to the agenda of the Steering Committee will require an approval by a majority vote of two-thirds (2/3).

However, any decision required or permitted to be taken by the Steering Committee may be adopted:

i. In meetings including meetings held via teleconference or videoconference.
ii. Without a meeting, through circulation among the Parties of a written document setting forth the decision to be voted which must be returned within fifteen (15) calendar days to the Coordinator, duly signed and with their votes indicated in relation thereof. In such a case, the Coordinator shall draft the minutes to formalize in writing the decisions taken, taking into account the documents returned and the votes accounted for in accordance with the rules below mentioned in the same paragraph and shall dispatch them to all Parties within fifteen calendar days of the expiration date of the above fifteen (15) days.

The Steering Committee shall in particular be responsible for:

a) Decisions taken through a vote in a meeting or by consents of the Parties (without a meeting) are the following:

i. Approving the allocation of the Project Budget among the Parties in accordance with the Grant Agreement, including the Project Plan, and reviewing and proposing to the Parties budget transfers;

ii. Approving a change of the list of Affiliated Entities, when requested;

iii. Approving changes to the terms of the signed Grant Agreement and/or this Consortium Agreement;

iv. Approving suspension of all or part of the Project or requesting the Commission to terminate all or part of the Grant Agreement, or the participation of one or more Parties;

v. Approving actions to be taken against a Defaulting Party, including a request to the Commission for an audit or for the assistance of the Commission, and approving the assignment of the Defaulting Party’s tasks to Non-Defaulting Parties, and reallocating the Community Financial Contribution (coming from the Guarantee Fund) among the Parties effectively involved in completion of such Defaulting Party’s tasks and/or if appropriate agree upon a new entity to join the Project for that purpose;

vi. In case of default of the Coordinator in the performance of its tasks as a Coordinator, approving actions to be taken and, if necessary, submitting a proposal to the European Commission for the instigation of a new Coordinator;

vii. Approving the entering into the Grant Agreement and the Consortium Agreement of new Parties;

viii. Without prejudice to Article 8, approving procedures and policies in accordance with the Grant Agreement rules, Annex II General Conditions - Part C for the use and dissemination of the Foreground;

ix. Approving the rules for the management of the funds received from the Commission and for the management and co-ordination budgets rules in accordance with Article 7;

x. Approving major changes in work, particularly termination, creation, or reallocation of top level work packages, in concertation with the European Commission;
xi. Without prejudice to the rules under Article 8, approving press releases and publications by the Parties or with the Commission with regard to the Project, as per the Grant Agreement and this Consortium Agreement;

xii. Approving a change of a third party to which ownership of Foreground will be assigned.

xiii. Approving withdrawal of Background from Attachment 1.

b) Decisions given without vote through written notification are the following:

xiv. Take note of a change of the name of a member of a Party to the Steering Committee and to the Project Management Committee and notify all the Steering Committee members.

The Steering Committee shall not deliberate and decide validly unless a majority of two-thirds (2/3) of its members are present or represented, or expressed their votes in a written form.

When a Party is not present and has not provided its vote through suitable representation, the Coordinator is hereby mandated to vote on its behalf provided that the Parties were informed about such vote within the agenda.

In the cases of sub paragraphs i to xi, decisions shall be taken unanimously by all of the Parties, excluding the Defaulting Party as appropriate or excluding in the iv) sub paragraph the Party (ies) whose participation would be terminated.

In other cases, decisions shall be taken by a majority of two third (2/3) of the votes of Parties present or represented, or that have expressed their votes in a written form. The Parties agree to abide by all decisions of the Steering Committee.

The Coordinator shall draft the minutes of each meeting to formalize in writing all decisions taken and shall dispatch them to all Parties within fifteen (15) calendar days of a meeting.

All the minutes (including those drafted without meeting as above mentioned) shall be considered as accepted by the Parties if, within fifteen (15) calendar days from receipt thereof, no Party has objected in writing to the Coordinator, provided that objection shall be either on such formalization or on a decision that was not part of the agenda and which was not accepted by all Parties.

6.2.3 Project Management Committee

The Project Management Committee ("PMC") shall be in charge of the operational daily management of the Project including all decisions not affecting significantly the overall scope, structure and timing of the Project.

The Project Management Committee shall consist of the following appointed persons:

- TO BE ADJUSTED ON A CASE BY CASE BASIS

Membership may be updated upon PMC’s unanimous agreement. When required by the topics to be discussed in the agenda, The PMC may invite some Level 2 Work Package leaders to attend the PMC.
Persons entitled to vote (one vote per person) are:

- **TO BE ADJUSTED ON A CASE BY CASE BASIS**

The Coordinator shall chair all meetings of the Project Management Committee. Each PMC representative shall participate or be duly represented by a substitute to each PMC meeting.

The Coordinator shall convene meetings of the Project Management Committee at least on a quarterly basis and shall also convene meetings at any time upon written request of any member of the Project Management Committee in the case of an emergency situation.

The Coordinator shall give each of the Parties at least fifteen (15) calendar days notice in writing of such meetings or seven (7) calendar days notice in case of an emergency situation.

Any decision requiring a vote at the Project Management Committee meeting must be identified as such on the invitation.

Should a member of the Project Management Committee suggest adding a discussion/decision to the proposed agenda, it shall do so in writing to all other members at least two (2) working days prior to the meeting date.

However, any decision required or permitted to be taken by the Project Management Committee may be taken as follows:

i. In meetings including meetings held via teleconference or videoconference.

ii. Without a meeting, through circulation among the representatives of the Project Management Committee of a written document setting forth the decision to be voted which must be returned within fifteen (15) calendar days to the Coordinator, duly signed and with their votes indicated in relation thereof. In such a case, the Coordinator shall draft the minutes to formalize in writing the decisions taken, taking into account the documents returned and the votes accounted in accordance with the rules below mentioned in the same paragraph and shall dispatch them to the Parties within fifteen (15) calendar days of the expiration date of the above fifteen (15) days.

The Project Management Committee shall in particular be responsible for the following:

i. Making proposals to the Steering Committee for the allocation of the Project Budget in accordance with the Grant Agreement, including the Project Plan and for possible budget transfers;

ii. When major modifications of the scope and content of the Work Packages are required, making proposal to the Steering Committee for those modifications;

iii. Making proposals to the Steering Committee for the review and/or amendment of the terms of the Grant Agreement;

iv. Making proposals to the Steering Committee to suspend all or part of the Project or to terminate all or part of the Grant Agreement, or to request the Commission to terminate the participation of one or more Parties;
v. Reviewing and deciding in case of default of a Party and preparing proposals to the Steering Committee with regard actions to be taken against the Defaulting Party (as defined in Articles 6, 7 and 9, including through a request to the Commission for an audit, an assignment of the Defaulting Party’s tasks, and suggestions on any new entity to join the Project for that purpose;

vi. Reviewing and deciding in case of default of the Coordinator in the performance of its tasks as a Coordinator and preparing proposals to the Steering Committee on actions to be taken and possible nomination of a new Coordinator;

vii. Selecting and proposing to the Steering Committee possible new Parties to enter into the Grant Agreement and the Consortium Agreement;

viii. Deciding on technical roadmaps for the Project;

ix. Deciding on the selection of additional expertise (sub-contractors);

x. Proposing to the Steering Committee rules for the management of the funds received from the Commission in accordance with Article 7 and

xi. Supporting the Coordinator in preparing meetings with the Commission and related data and deliverables.

The Project Management Committee shall make its decisions through votes.

The Project Management Committee shall not deliberate and decide validly unless a majority of five-sixth (5/6) of its members are present or represented.

In any case, decisions shall be taken by a majority of three-fourth (3/4) of the votes of members present or represented.

The Parties agree to abide by all decisions of the Project Management Committee.

The Coordinator shall draft the minutes of each meeting to formalize in writing all decisions taken and shall dispatch them to all Parties within fifteen (15) calendar days of a meeting date.

The minutes shall be considered as accepted by the Parties if no Party has objected in writing to the Coordinator, provided that objection shall be possible only in the following events:

- if made by a member of the Project Management Committee on the grounds that such objection shall be either on such formalization or on a decision that was not part of the agenda and which was not accepted by all members of the Project Management Committee and provided that the objection is made within fifteen (15) calendar days of receipt of the minutes.

- if made by a Party that is not a member of the Project Management Committee on the grounds that such Party’s work package, time for performance, costs or liabilities, or intellectual property rights are impacted or whose information is to be published, provided that the objection is made within fifteen (15) calendar days of receipt of the minutes.
6.2.4. **Project Controller**
The Coordinator may decide to implement a Project Controller reporting to the Coordinator.

The Project Controller shall provide assistance to the Coordinator as specified by the Coordinator, with regard to the Coordinator’s day-to-day tasks, such as preparation of meetings of the Project Management Committee.

6.2.5 **Work Package Management Team**

6.2.5.1. **Work Package Management Team structure**

The Level 1 Work Package Management Team shall consist of the Level 1 Work Package leader and one representative of each Level 2 Work Package participating to such Level 1 Work Package.

The Level 2 Work Package Management Team shall consist of the Level 2 Work Package leader and the other Parties participating to such Level 2 Work Package.

The Work Package Leader shall lead the tasks which are part of its Work Package.

The Work Package Leader shall chair all meetings of the Work Package Management Team. Each representative shall have one vote and may appoint a substitute to attend and vote at any meeting of the Work Package Management Team.

The Work Package Leader shall convene meetings (including meetings held via teleconference or videoconference) of the Work Package Management Team every two (2) months and shall also convene meetings at any time upon written request of any member of the Work Package Management Team in the case of an emergency situation.

The Work Package Leader shall give each of the members at least ten (10) calendar days notice in writing of such meetings or seven (7) calendar days notice in case of an emergency situation.

Any decision requiring a vote at the Work Package Management Team meeting must be identified as such on the invitation.

Should a member of the Work Package Management Team suggest adding a discussion/decision to the proposed agenda, it shall do so in writing to all other members at least two (2) working days prior the meeting date.

However, any decision required or permitted to be taken by the Work Package Management Team may be taken in accordance with the foregoing:

i. in meetings including meetings held via teleconference or videoconference.
ii. without a meeting, through circulation among the members of the Work Package Management Team of a written document setting forth the decision to be voted which must be returned within fifteen (15) calendar days to the Work Package Leader, duly signed and with their votes indicated in relation thereof. In such a case, the Work Package Leader shall draft the minutes to formalize in writing the decisions taken, taking into account the documents returned and the votes accounted in accordance with the rules below mentioned in the same paragraph and shall dispatch them to all members within fifteen calendar days of the expiration date of the above fifteen (15) days.

The Work Package Management Team shall be in charge of managing the Work Packages and in particular be responsible for the following:

i. Deciding upon the allocation of the Work Package tasks in accordance with the Work Package Budget allocation approved in the Steering Committee, including the Project Plan and reviewing and proposing to the concerned Parties budget transfers within the limits of the Project Budget and the Project Plan for the Project;

ii. Making proposals to the Project Management Committee for the entering into the Grant Agreement and the Consortium Agreement of new Parties for participation in the Project;

iii. Alerting the Project Management Committee and the Coordinator in case of delay in the performance of the Work Package or in case of default of any Party under said Work Package;

iv. Analysing and documenting default of a Party under the Work Package and prepare proposal and action plan to the Project Management Committee for this latter’s decision;

v. Deciding upon the exchange of work packages between the Parties in the Work Package, in the event that this exchange has an impact, which does not go beyond the scope of the Work Package and has no impact on the Project Budget and Project Plan.

The Work Package Management Team shall not deliberate and decide validly unless a majority of two-thirds (2/3) of its members are present or represented.

In the case of sub paragraph i, decisions shall be taken unanimously by all members of the Work Package Management Team.

In other cases, decisions shall be taken by a majority of 75% of the votes of Parties present or represented.

The members of the Work Package Management Team agree to abide by all decisions of the Work Package Management Team.

The Sub-Project Leader shall draft the minutes of each meeting to formalize in writing all decisions taken and shall dispatch them to all members within fifteen calendar days of the concerned meeting date.

The minutes shall be considered as accepted by the members if, within fifteen calendar days from receipt thereof, no member has objected in writing to the Work Package Leader, provided that objection shall be either on such formalization or on a decision that was not part of the agenda and which was not accepted by all members.
6.2.5.2 Work Package Leader

The Work Package Leader shall have the following functions only:

i. Administration, preparation of minutes and provision of the chairman of the Work Package Management Team, and follow-up of its decisions;

ii. Transmission of any documents and information connected with the Work Package to the Parties concerned;

iii. Transmission of any documents and information connected with the Work Package to the Coordinator;

iv. Transmission of the Project deliverables of the Parties within the Work Package to the Coordinator;

v. Co-ordinating on a day-to-day basis the progress of the technical work under the Work Package;

vi. For the purpose of Article 7.1, reviewing deliverables at each agreed step under the Project Plan for the Work Package concerned and advise the Coordinator of any delay in delivery that could not be remedied or any major discrepancy.

The Work Package Leader shall neither be entitled to act or to make legally binding declarations on behalf of any other Party nor to enlarge its role beyond the one described herein.

6.2.6. VETO RIGHTS

A Member of the Steering Committee, of the Project Management Committee or of the Work Package management Team whose own work, time for performance, costs, liabilities, intellectual property rights or other Legitimate Interests would be severely affected by a decision of the Steering Committee, the Project Management Committee or Work Package management Team may exercise a veto with respect to the corresponding decision or relevant part of the decision.

When the decision is foreseen on the original agenda, a Member may veto such a decision during the meeting only.

When a decision has been taken on a new item added to the agenda before or during the meeting, a Member may veto such decision during the meeting and within 15 days after the minutes of the meeting are sent.

In case of exercise of veto, the Members shall make every effort to resolve the matter which occasioned the veto to the general satisfaction of all its members.

A Member may not veto decisions relating to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the Consortium or the consequences of them.

A Party requesting to leave the Project may not veto decisions relating thereto.
Section 7: Financial provisions

7.1 General Principles

7.1.1 Distribution of Financial Contribution

The financial contribution of the European Commission to the Project shall be distributed by the Coordinator subject to:

- the Consortium Budget as included in the Consortium Plan,
- the approval of reports by the European Commission, and
- the provisions of payment in Article 7.3.

A Party shall be funded only for its tasks carried out in accordance with the Consortium Plan.

7.1.2 Justifying Costs

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Project towards the European Commission. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the European Commission.

7.1.3 Funding Principles

A Party which spends less than its allocated share of the Consortium Budget will be funded in accordance with its actual duly justified eligible costs only.

A Party that spends more than its allocated share of the Consortium Budget will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share.

In any event, the General Assembly is responsible for the definition and modification of the Consortium Budget.

7.1.4 Financial Consequences of the termination of the participation of a Party

A Party leaving the Consortium pursuant to the terms of article 4.2 shall refund all advances paid to it except the amount of expended eligible costs accepted by the European Commission and shall, within the limits specified in Article 5.3 of this Consortium Agreement, bear any additional costs occurring to the other Parties in order to perform its and their tasks.

7.2 Budgeting

All resources made available for the Project shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties and shall be budgeted.

7.2.1 Budgeted costs eligible for 100% reimbursement

These costs shall be budgeted in the Consortium Budget in the following order of priority:

- banking and transaction costs related to the handling of any financial resources made available for the Project by the Coordinator,

- a reasonable costs of Parties related to:
  - the delivery of certification of financial statements according to the Grant Agreement
- the certification of the methodology for the calculation of costs, unless the total cost of such certification has already been paid to the beneficiary under previous grant agreements and the methodology has not changed (Grant Agreement Article II.4.4 and II.14.1) and/or
  - costs related to calls for new Beneficiaries,
  - costs related to updating this Agreement,
  - management costs of the Coordinator,
  - intellectual property protection costs,
  - costs for publications,
  - costs for the tasks of chairpersons,
  - any other costs eligible for 100% reimbursement.

### 7.2.2 Budgeting of coordination costs

Costs of coordination of research which are not allowed as management cost according to Annex II of the Grant Agreement (Grant Agreement Article II.16.5) have to be budgeted separately.

### 7.3 Payments of the Community financial contribution

Payments to Parties are the exclusive tasks of the Coordinator.

In particular, the Coordinator shall:

- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references,
- perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts,
- undertake to keep the Community financial contribution to the Project separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.

All payments shall be made without undue delay after receipt by the Coordinator of funds from the European Commission in accordance with the accepted decisions of the General Assembly on the Consortium Budget, which includes the payment schedule.

Payments to Parties will be handled according to the following two principles:

- pre-financing in respect of future work included in the Consortium Plan, which may be forwarded to Parties in separate instalments [e.g. a mechanism of every 6 Month 30 %] in conformity with the decisions of the General Assembly [and any related decisions of e.g. a Sub Project Committee].

- payments for past performance approved by the European Commission will be compared with the pre-financing given to a Party for such past performance; the difference due will be paid to the Party concerned.

The Coordinator is entitled to withhold any payment either due to a Defaulting Party
The Coordinator is entitled to recover any sum already paid to a Defaulting Party.
Section 8 : Foreground

Regarding Foreground, Grant Agreement Article II.26. - Article II.29. shall apply with the following additions:

8.1 Joint ownership

In case of joint ownership of Foreground, each of the joint owners shall be entitled to use their jointly owned Foreground free of charge, and without requiring the prior consent of the other joint-owner(s) for their own direct use only.

As long as the co-ownership agreement is not yet concluded, each of the joint owners shall be entitled to grant non-exclusive licences to third parties, without any right to sub-licence, subject to the following conditions:

a) at least 45 days prior notice must be given to the other joint owner(s); and
b) fair and reasonable compensation must be provided to the other joint owner(s). for the avoidance of doubt "fair and reasonable" may mean free of charge.

8.2 Transfer of Foreground

Each Party may transfer ownership of its own Foreground in all or in part following the procedures of the Grant Agreement Article II 27.2.

It may identify specific third parties it intends to transfer the ownership of its Foreground to in [Attachment 5] to this Consortium Agreement.

The other Parties hereby waive their right to object to a transfer to listed third parties according to Grant Agreement Article II.27.3.

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

Any addition to [Attachment 5] after signature of this Agreement requires a decision of the General Assembly.

The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, a Party may be subject to confidentiality obligations which prevent it from giving prior notice for the transfer as foreseen in the Grant Agreement Art. II 27.2.

8.3 Dissemination

8.3.1 Publication

Dissemination activities including but not restricted to publications and presentations shall be governed by Article II.30 of the Grant Agreement.

8.3.2 Publication of another Party’s Foreground or Background

For the avoidance of doubt, a Party shall not publish Foreground or Background of an other Party, even if such Foreground or Background is amalgamated with Party’s Foreground, without the other Party’s prior written approval.
8.3.3 Cooperation obligations

The Parties undertake to cooperate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree which includes their Foreground or Background. However, confidentiality and publication clauses have to be respected.

8.3.4 Use of names, logos or trademarks

Nothing in this Agreement shall be construed as conferring rights to use in advertising, publicity, or otherwise the name of the Parties or any of their logos or trademarks, without their prior written approval.

Section 9 : Access Rights

9.1 Background covered

The Parties shall identify in the [Attachment 1] the Background to which they shall grant Access Rights, subject to the provisions of this Consortium Agreement and the Grant Agreement and may update the Attachment 1 during the Project.

However, A Party may decide to withdraw Background from [Attachment 1] provided that:
(i) such Party provides the other Parties with a prior written notice to that effect,
(ii) the Background has not yet been used by one of the Parties and/or is not planned to be used.

The Parties agree that all background not listed in [Attachment 1] shall be explicitly excluded from Access Rights.

The Parties agree, however, to negotiate in good faith additions to [Attachment 1] if a Party so request and provide such additions are needed. For the avoidance of doubt, the owner is under no obligation to agree to additions of his Background to [Attachment 1].

9.2 General Principles

Each Party shall take appropriate measures to ensure that it can grant Access Rights and fulfil the obligations under the Grant Agreement and this Consortium Agreement notwithstanding any rights of its employees, or any person it assigns or engages to perform its own Work Package for the Project.

As provided in the Grant Agreement Article II.32.3 the Parties shall specify promptly in [Attachment 1] any limitation to the granting of Access Rights to Background or of any other restriction which might substantially affect the granting of Access Rights (e.g. the use of open source code software in the Project).

Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise. Access Rights shall be free of any administrative transfer costs.
Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties according to the Grant Agreement Article II.32.7

Foreground and Background shall be used only for the purposes for which Access Rights to it have been granted.

All Access Rights shall be granted upon written request. The granting of Access Rights may be made conditional on the acceptance of specific conditions ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

The requesting Party must show with all due care and in good faith that the Access Rights are needed, notably if such requesting Party reasonably believes that without Access Rights on another Party’s Background or Foreground, the performance of its own tasks for the Project or the Use of its own Foreground would be technically impossible or significantly delayed.

9.3 Access Rights for implementation

Access Rights to Foreground and Background needed for the performance of the own work of a Party under the Project shall be granted on a royalty-free basis

9.4 Access Rights for Use

Access Rights to Foreground if needed for Use of a Party's own Foreground shall be granted on fair and reasonable conditions.

Use for third party research shall be subject to the prior written approval of the owner of the Foreground, such agreement will not be unreasonably withheld.

Access rights for internal research activities shall be granted on a royalty-free basis.

Access Rights to Background if needed for Use of a Party's own Foreground shall be granted on fair and reasonable conditions.

A request for Access Rights may be made up to [two (2)] years after the end of the Project.

9.5 Access Rights for Affiliated Entities

Notwithstanding Article II.34.3 of the Grant Agreement, Affiliate Entities shall enjoy Access Rights where the Party requiring Access Rights for its Affiliate Entity can show that its Affiliate Entity:

- holds the right to use the Foreground owned by the Party it is affiliated to; and
- Needs Access Rights in order to Use such Foreground; and
- is established in a Member State or an Associated Country; and
- is listed in [Attachment 3] to this Consortium Agreement.

Such Access Rights shall be granted on fair and reasonable conditions and upon written bilateral agreement with the owner of the Information. Affiliated Entities which obtain Access Rights shall fulfil all confidentiality and other obligations accepted by the Parties under the Grant Agreement and under this Consortium Agreement as if such Affiliated Entities were Parties.
However a Party may refuse to grant Access Rights to another Party’s Affiliated Entity which is listed in Attachment 3 if the Party requested to grant such Access Rights has, prior to the signature of the Consortium Agreement, raised objections stating that its Legitimate Interests would be affected by the addition of that Affiliated Entity to such list.

Notwithstanding provision in art 6.3.6 the same shall apply for an Affiliated Entity which has been added to Attachment 3 following a decision of the General Assembly where a Party had voted against the inclusion of the Affiliated Entity in said list.

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

In the event of any change of control of an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse unless agreed otherwise by the owning Party.

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

9.6 Additional Access Rights

Any grant of Access Rights not covered by the Grant Agreement or/and this Consortium Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

9.7 Access Rights for Parties entering or leaving the Consortium

9.7.1 New Parties entering the Consortium

All Foreground developed before the accession of the new Party shall be considered to be Background with regard to said new Party.

9.7.2 Parties leaving the Consortium

9.7.2.1 Access Rights granted to a leaving Party

9.7.2.1.1 Defaulting Party

Access Rights granted to a Defaulting Party and such Party’s right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the General Assembly to terminate its participation in the Consortium.

9.7.2.1.2 Non-defaulting Party

A non-defaulting Party leaving voluntarily shall have Access Rights to the Foreground developed until the date of the termination of its participation. The time-limit for its right to request these Access Rights shall start on the same date.

9.7.2.2 Access Rights to be granted by any leaving Party

Any Party leaving the Project shall continue to grant Access Rights pursuant to the Grant Agreement and this Consortium Agreement as if it had remained a Party for the whole duration of the Project.

9.8 Specific Provisions for Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software.
Parties’ Access Rights to Software do not include any right to receive source code or object code ported to a certain hardware platform or any right to receive respective Software documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

9.9 Ownership and use of materials or equipment

In the event a material or equipment is developed or manufactured in the frame of the Project by two or more Parties, such Parties shall enter into a separate agreement addressing the ownership and conditions of use, maintenance, deposit, etc… of such material or equipment.

The Parties to the Consortium Agreement will be granted a right to use free of charge such material or equipment for the implementation of the Project in accordance with Annex I and the loan conditions in [Attachment 6] to the Consortium Agreement.

Section 10 : Non-disclosure of information

All information in whatever form or mode of transmission, which is disclosed by a Party (the “Disclosing Party”) to any other Party (the “Recipient”) in connection with the Project during its implementation and which has been explicitly marked as “confidential”, or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within [15] [30] days from oral disclosure at the latest as confidential information by the Disclosing Party, is “Confidential Information”.

The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the Grant Agreement, for a period of [15] [10] years after the end of the Project:

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
- to return to the Disclosing Party on demand all Confidential Information which has been supplied to the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Recipients may however request to keep a copy for archival purposes only.

The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees and shall ensure that their employees remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of employment.

The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

- the Confidential Information becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;
- the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;

- the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;

- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or

- the Confidential Information was already known to the Recipient prior to disclosure.

The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care.

Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse by any person of Confidential Information as soon as practicable after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure notify the Disclosing Party, and comply with the Disclosing Party’s reasonable instructions to protect the confidentiality of the information.

The confidentiality obligations under this Consortium Agreement and the Grant Agreement shall not prevent the communication of Confidential Information to the European Commission.

Section 11 : Miscellaneous

11.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this body text and:
[Attachment 1] : (Background included)
[Attachment 2] : (accession document)
[Attachment 3] : (Listed Affiliated Entities)
[Attachment 4] : (initial list of Members and other contact persons)
[Attachment 5] : (List of Third Parties to which transfer of Foreground is possible without prior notice to other Parties)
[Attachment 6] : (Agreement for the loan of material/equipment)
[Attachment 7] : Initial Consortium Plan

In case the terms of this Consortium Agreement are in conflict with the terms of the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the Attachments and the core text of this Consortium Agreement, the latter shall prevail.

Should any provision of this Consortium Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this Consortium Agreement. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.
11.2 No representation, partnership or agency
The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Party. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

11.3 Notices and other communication
Any notice to be given under this Consortium Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Coordinator based on the initial list of members and other contact persons in [Attachment 4].

Formal notices:
If it is required in this Consortium Agreement (Article. 9.7.2.1.1 and 11.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party and shall either be served personally or sent by mail with recorded delivery or telefax with receipt acknowledgement.

Other communication:
Other Communication between the Parties may also be effected by other means such as e-mail with acknowledgement of receipt (e.g. minutes).

Any change of persons or contact details shall be notified immediately by the respective Party to the Coordinator. The address list shall be accessible to all concerned. The change of the contact persons list does not require the signature of an amendment of the Consortium Agreement by all Parties hereto.

11.4 Assignment and amendments
No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval.

Amendments and modifications to the text of this Consortium Agreement not explicitly listed in Article 6.3.6 require a separate agreement between all Parties.

11.5 Mandatory national law
The Parties recognize that at the time of signature of this Consortium Agreement, nothing in this Consortium Agreement requires a Party to breach any mandatory national law under which the Party is operating. To the extent any future mandatory law forbids or restricts any of the activities contemplated hereunder, the Parties agree to inform each other and discuss about the consequences thereof.

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

11.7 Applicable law
This Consortium Agreement shall be construed in accordance with and governed by the laws of [insert law of country stated in Grant Agreement].
11.8 Settlement of disputes

All disputes arising out of or in connection with this Consortium Agreement, which cannot be solved amicably, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

The place of arbitration shall be Brussels.

The award of the arbitration will be final and binding upon the Parties.

Nothing in this Consortium Agreement shall limit the Parties' right to seek injunctive relief or to enforce an arbitration award in any applicable competent court of law.

Section 12 : Signatures

AS WITNESS:
The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in [insert the form of signing: separate signature pages or counterparts or accession forms] the day and year first above written.

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)
[Acronym of the Project] Consortium Agreement, version [……, YYYY-MM-DD]

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)

[INSERT NAME OF PARTY]
Signature(s)
Name(s)
Title(s)
[Attachment 1]: Background included

Access Rights to Background made available to the Parties:

<table>
<thead>
<tr>
<th>Name of the Party</th>
<th>Owner</th>
<th>Nature</th>
<th>Registration / protection</th>
<th>Description / Title</th>
<th>Access conditions for carrying out the project / Limitations</th>
</tr>
</thead>
</table>

This represents the status at the time of signature of this Consortium Agreement.
[Acronym of the Project] Consortium Agreement, version [……, YYYY-MM-DD]

[Attachment 2] : Accession document

ACCESSION

of a new Party to

[Acronym of the Project] Consortium Agreement, version [……, YYYY-MM-DD]

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE GRANT AGREEMENT]

hereby consents to become a Party to the Consortium Agreement identified above and accepts all the rights and obligations of a Party starting [date].

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE GRANT AGREEMENT]

hereby certifies that the Consortium has accepted in the meeting held on [date] the accession of [the name of the new Party] to the Consortium starting [date].

This accession document has been done in 2 originals to be duly signed by the undersigned authorised representatives.

[Date and Place]

[INSERT NAME OF THE NEW PARTY]
Signature(s)
Name(s)
Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]
Signature(s)
Name(s)
Title(s)
[Attachment 3] : Listed Affiliated Entities
[Attachment 4] : Initial list of Parties and other contact persons

Recipients for Notices
Recipients for Notices in Accordance with Section 11 of this Consortium Agreement.

<Party >,
Member of the General Assembly:
Mrs X
Position
Tel. +
Fax +
E-mail:
00000 City, Country,

<Party >,
Member of the General Assembly:
Mr X
Position
Tel. +
Fax +
E-mail:
00000 City, Country,
[Attachment 5] : List of Third Parties
[Attachment 6] : Agreement for the loan of material or equipment

Simple Letter Agreement for the Loan of Materials or equipment

In response to the RECIPIENT Party’s request dated [______] for the MATERIAL or EQUIPMENT [insert description] . . . (the “MATERIAL”) The PROVIDER Party asks that the RECIPIENT Party agree to the following before delivering the MATERIAL to the RECIPIENT Party:

- The MATERIAL is and always remains the property of the PROVIDER Party and is made available in the frame of the [name of the Project] project for the sole performance of the RECIPIENT Party’s tasks.
- THIS MATERIAL IS NOT FOR USE IN HUMAN SUBJECTS.
- The MATERIAL shall always remain in the RECIPIENT Party’s premises [______] for the duration of the loan and will not be further provided to others without the PROVIDER Party’s written consent.
- The RECEIPIENT Party shall refer any request for the MATERIAL to the PROVIDER Party.
- Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties.
- THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.
- Unless prohibited by law, RECIPIENT assumes all liability for claims for damage of the Material which is in its custody and for claims for damage against it by third parties which may arise from the use, storage or disposal of the MATERIAL except that, to the extent permitted by law, the PROVIDER Party shall be liable to the RECEIPIENT Party when the damage is caused by the gross negligence or wilful misconduct of the PROVIDER Party.
- The RECEIPIENT Party agrees to use the MATERIAL in compliance with all applicable statutes and regulations.
- The MATERIAL is provided at no cost.
- (Need to address (transportation costs, export authorization, risk transfer INCOTERMS) duration of the custody)

The PROVIDER Party, RECEIPIENT Party must both sign 2 copies of this letter and each keeps one signed copy for their record.

The PROVIDER Party will then send the MATERIAL.

PROVIDER Party INFORMATION and AUTHORISED SIGNATURE

Provider Scientist: ......................................................
Provider Organisation: ..................................................
Address: .................................................................
Name of Authorised Official: ...........................................
Title of Authorised Official: ............................................

32 / 34
Certification of Authorised Official: This Simple Letter Agreement ___has / ___has not [check one] been modified. If modified, the modifications are attached.

Signature of Authorised Official ..... and Date ...

RECIPIENT Party INFORMATION and AUTHORISED SIGNATURE

Provider Scientist: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .
Provider Organisation: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .
Address: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .
Name of Authorised Official: . . . . . . . . . . . . . . . . . . . . . . . . . . .
Title of Authorised Official: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .
Signature of Authorised Official: . . . . . . . . . . . . . . . . . . . . . . . . . .
Date: . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Certification of Recipient: I have read and understood the conditions outlined in this Agreement and I agree to abide by them in the receipt and use of the MATERIAL.

Signature of Recipient... and Date ...
[Attachment 7] : Initial Consortium Plan