

ANRT MODEL CONSORTIUM AGREEMENT
for Integrated Projects and Specific Targeted Research or
Innovation Projects
under the Sixth Framework Programme of the European
Community (2002-2006)
for the Project called
" _____ "

This consortium agreement ("Consortium Agreement") is made and entered into this ... day of ... *month/ year* (the "Effective Date") by and among

_____ having its registered office at _____
- Hereinafter referred to as " _____ " -

and

_____ having its registered office at _____
- Hereinafter referred to as " _____ " -

Hereinafter referred to individually or collectively as the "Contractor(s)"

WARNING

This model consortium agreement is based on the draft model contract as shown on the model contract website of the European Commission on January 15 2003.

As a model, it is indicative and can not be used as such. Each provision should be reviewed, revised and adapted to fit the regulation and the needs of each consortium on a case by case basis.

Disclaimer: This model is given for general information only. Only legal sources can be used to set up a consortium agreement. ANRT cannot be held responsible for the content and use of this information.

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Preamble

WHEREAS, in consideration of the Decision No 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006), OJ EC L 232/1 and of the Regulation of the European Parliament and of the Council concerning the Rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the European Community sixth framework programme 2002-2006, the Contractors, having considerable experience in the field concerned, [have submitted] intend to submit a Proposal for the Project to the Commission.

WHEREAS the Contractors have decided and agreed to execute and perform the Contract (as such term is defined in the abovementioned Regulation) to be awarded by the Commission for the Project in the event the Commission accepts their Proposal.

WHEREAS the Contractors in accordance with the provisions of the Commission contractual rules, Annex II General Conditions - Part A, Section 1, Article II.1, wish to specify or supplement, between themselves, the provisions of the anticipated Contract, with respect to the carrying out thereof.

Therefore, the Contractors hereby agree as follows:

Article 1 - Definitions

1.1 General

The words bearing a capital letter in this Consortium Agreement shall have the same definition and meaning as those contained in the Contract, including its Annex II General Conditions or shall have the meaning ascribed to them in any Article of this Consortium Agreement.

1.2 Additional definitions

1.2.1 "Affiliate"

"Affiliate" shall mean any undertaking listed in Annex A hereto and meeting the following conditions:

- (i) Which is directly or indirectly owned or controlled by or owning or controlling or under the same ownership or control as any of the Contractors;
- (ii) Which is incorporated and resident in, and subject to the laws of, a Member State of the Community, or an Associated State or has an ultimate owning or controlling company so incorporated and resident.

Ownership or control exists through the direct or indirect:

- Ownership of more than 50% of the nominal value of the issued equity share capital, or
- Ownership of more than 50% of the shares entitling the holders either 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 50% or more of the shares and the right to control management or operation of the company through contractual provisions.

Ownership or control by public investment corporations, institutional investors or venture-capital companies, funds, and public bodies shall not, in itself, constitute a relationship as an Affiliate.

Ownership or supervision by the same public body shall not, in itself, constitute a relationship as an Affiliate.

The undertakings listed in Annex A shall be deemed Affiliates only as long as the above defined ownership or control lasts.

It is also agreed by the Contractors that any undertaking shall no more be regarded as an Affiliate where there has been a change in the ownership or control of the Contractor unless the Contractors mutually agree otherwise and subject also to the Commission having been provided with the details of the change, in accordance with the Commission contractual rules, Annex II General Conditions – Part A, Section 2, Article II.3, 1 (c), and Article II.7, 2(a) and having indicated in writing that the Commission does not intend to terminate the Contract in accordance with said Article.

Each Contractor shall have the right to update the list of its Affiliates in the case of reorganization, provided that all the criteria defined in this section are still met.

Any other modification of Annex A shall require the approval of the Contractors in the General Assembly.

1.2.2 Software terminology

“API” or “Application Programming Interface” shall mean an interface or other means provided for by a Software application, component or library for the purpose of interfacing or interaction of other Software with such application, component or library.

“Software” shall mean software programs, either in “Object Code”, i.e. in machine-readable, compiled and/or executable form, or in “Source Code”, i.e. in human readable form.

“Software Documentation” shall mean software information being technical information relating to the design, development, use or maintenance of any version of a software program.

Article 2 - Purpose

The purpose of this Consortium Agreement is to specify the organisation of the work between the Contractors, to organize the management of the Project, to define the rights and obligations of the Contractors, including, but not limited to, their liability and indemnification, to supplement the provisions of the Contract concerning Access Rights and to set out rights and obligations of the Contractors supplementing but not conflicting with those of the Contract.

Article 3 - Proposal preparation, negotiations with the Commission, signature of the Contract

Without prejudice to the provisions of Article 5.2.2 relating to the role of the Co-ordinator, the following shall apply.

3.1 Proposal preparation

3.1.1 Each Contractor shall, within its respective scope of supplies and services for the Project (“Work Package”), as agreed by the Contractors and as shown in Annex B “Project Plan” and C “Allocation of Resources”, use its necessary and reasonable efforts to prepare the Proposal. To support this goal, each Contractor shall support and assist the Co-ordinator in finalising the Proposal, in the form and according to the schedule necessary for the Co-ordinator to submit the Proposal in due time to the Commission. Each Contractor shall provide the Co-ordinator with all pertinent technical and cost data, which they or the Contractor deem necessary for the preparation of the Proposal as well as all technical support or such other support as may be mutually agreed upon. The Proposal is legally binding on all Contractors.

3.1.2 The Co-ordinator shall not modify the technical and cost data supplied by the other Contractors without their respective prior consent.

3.1.3 The Co-ordinator shall make available to each Contractor a copy of all significant letters, emails, faxes or documents relating to the Proposal sent to or received from the Commission before the submission of the Proposal.

3.1.4 It is understood that the Co-ordinator will, in the Proposal and in all relevant discussions with respect thereto, identify each Contractor as the source of the corresponding technology and designs.

3.2 Negotiation of the Proposal

3.2.1 The Co-ordinator shall be responsible for the submission of the Proposal and the conduct of the negotiations of the Proposal with the Commission.

3.2.2 Each Contractor shall be kept fully informed of the progress of any negotiations and, as far as its Work Package is concerned, shall attend and participate in the Contract negotiations only upon request from the Co-ordinator.

3.2.3 The Co-ordinator shall put at the disposal of the Contractors all significant letters, emails, faxes or documents relating to the negotiations and shall also keep each Contractor informed of everything relevant to its Work Package until the award of the Contract.

3.2.4 The Co-ordinator shall not, without the prior written agreement of each relevant Contractor, propose or accept any deviation or variation to the conditions or scope of said Contractor's Work Package.

3.2.5 In case the negotiations with the Commission result in conditions in the Contract which substantially deviate from these of the Proposal and/or this Consortium Agreement, the Contractors shall in good faith negotiate in view of adapting the conditions of this Consortium Agreement to those of the Contract.

3.3 Signature of the Contract

As per the Commission contractual rules, the Contract will enter into force upon signature by the Co-ordinator and the Commission.

The Co-ordinator shall therefore not sign the Contract unless and until all other Contractors have approved the Contract terms and such approval shall not be unreasonably withheld or delayed.

3.4. Change of the Commission contractual rules

In case the Contractors would have submitted the Proposal to the Commission prior to the final version of the Commission contractual terms being finalized and published by the Commission, the Contractors shall in good faith review the terms of this Consortium Agreement to make that correct reference is made to the new Commission contractual terms or, would such new Commission contractual terms be substantially different from the ones published at the date of submission of the Proposal, the Contractors shall also and in good faith negotiate in view of adapting the conditions of this Consortium Agreement to those of the new Commission contractual terms or mutually decide in the General Assembly upon withdrawing their Proposal to the Commission and thereby terminating this Consortium Agreement.

Article 4 - Contractors' obligations for the implementation of the Contract

Without prejudice to the provisions of Article 5.2.2 and Article 5.2.5 relating respectively to the roles of the Co-ordinator and Sub-Project Leader, the following shall apply.

4.1 Without prejudice to any other obligations under this Consortium Agreement, the Contractors shall take all necessary measures to perform, fulfil, promptly and in due time all their obligations so that the Project is carried out in accordance with the terms and conditions of the Contract and this Consortium Agreement.

4.2 The Contractors shall provide the Co-ordinator or the Sub Project Leader, as appropriate, with the deliverables, information, and reports as the Co-ordinator or Sub Project Leader requires in order to perform its duties under this Consortium Agreement and under the Contract or as the Commission may request (and in such case the relevant Contractor shall keep the Co-ordinator and /or Sub Project Leader informed of any such request from the Commission).

4.3 On request of the Co-ordinator or of the Sub Project Leader, all deliverables, information, and reports shall be submitted in electronic form in RTF or PDF format, graphics in GIF or JPEG format or any other format mutually agreed.

4.4 Each Contractor undertakes :

- i. to notify the Sub Project Leader promptly of any delay in performance or of any event that may impact the Project;
- ii. to inform the Sub Project Leader of relevant communications it receives from third parties in relation to the Project;
- iii. to ensure the accuracy of any information or materials it supplies to the other Contractors or under the Contract and to promptly correct any error therein of which it is notified. The recipient Contractor shall be responsible for the use to which it puts such information and materials;
- iv. not to use knowingly any proprietary rights of a third party for which such Contractor has not acquired the corresponding right of use and/or to grant licenses;
- v. to act at all times in good faith and in a manner that reflects the good name, goodwill and reputation of the other Contractors and in accordance with good business ethics;
- vi. to participate in a co-operative manner to the meetings of the different bodies under this Consortium Agreement and not to exercise veto rights, which are absolute, unappropriately.

Article 5 - Organisation of the Project

5.1 General Principles

The Project is structured by Sub-Projects, which are structured by Work Packages allocated among the Contractors.

Major changes in Work Packages, particularly creation, reallocation, or termination of Sub-Projects, shall be handled by the General Assembly.

5.2 Project Bodies

5.2.1 General Assembly

The General Assembly shall consist of one representative of each Contractor. The Co-ordinator shall chair all meetings of the General Assembly. Each representative shall have one vote and may appoint a substitute to attend and vote at any meeting of the General Assembly.

The Co-ordinator shall convene meetings of the General Assembly at least once every [six] months and shall also convene meetings at any time upon written request of any Contractor in the case of an emergency situation.

The Co-ordinator shall give each of the Contractors at least thirty calendar day notice in writing of such meetings or fifteen calendar day notice in case of an emergency situation.

Any decision requiring a vote at a General Assembly meeting must be identified as such on the invitation.

Should a Contractor suggest adding a discussion/decision to the proposed agenda, it shall do so in writing to all other Contractors at least seven calendar days prior to the meeting date.

However, any decision required or permitted to be taken by the General Assembly may be taken in accordance with the above (i) in meetings via teleconference and/or via email; (ii) without a meeting with prior notice and/or (iii) without a vote, if, in any such (ii) and (iii) cases, a consent in writing, setting forth the decision so taken, is signed by the representatives of the Contractors having not less than the minimum number of votes that would be necessary to take such decision at a meeting at which all Contractors entitled to vote on such decision were represented and were voting, and provided the consent has been delivered for signature to all Contractor's representatives.

The General Assembly shall be in charge of the overall direction and major decisions with regard to the Project.

The General Assembly shall in particular be responsible for:

- i. deciding upon the allocation of the Project's budget to Sub-Projects in accordance with the Contract, including the Project Plan, and reviewing and proposing to the Contractors budget transfers;
- ii. deciding upon a change of the list of Affiliates, when requested as per the rules of Article 1 hereof;
- iii. making proposals to the Contractors for the review and/or amendment of terms of the Contract and/or this Consortium Agreement;
- iv. deciding to suspend all or part of the Project or to terminate all or part of the Contract, or to request the Commission to terminate the participation of one or more Contractors;

- v. in case of default of a Contractor agreeing on actions to be taken against the Defaulting Contractor (as defined in Article 9), including a request to the Commission for an audit or for the assistance of the Commission, and making proposals to the other Contractors to assign the Defaulting Contractor's tasks, and if appropriate to agree upon a new entity to join the Project for that purpose;
- vi. in case of default of the Co-ordinator in the performance of its tasks as a coordinator, agreeing on actions to be taken and possible nomination of a new Co-ordinator;
- vii. deciding upon the entering into the Contract and the Consortium Agreement of new Contractors;
- viii. without prejudice to Article 7, agreeing procedures and policies in accordance with the Commission contractual rules, Annex II General Conditions - Part B for the management of the Knowledge;
- ix. deciding upon the designation of the depository and rules for the management of the funds received from the Commission and for the management and co-ordination budgets rules in accordance with Article 6;
- x. deciding upon major changes in Work Packages, particularly creation, reallocation, or termination of Sub-Projects;
- xi. deciding upon withdrawal of the Proposal in the case provided for in Article 3.4.

The General Assembly shall not deliberate and decide validly unless a majority of two-thirds (2/3) of its members are present or represented. Where decisions are to be taken unanimously, all Contractors must be present or represented at the meeting.

In the cases of sub paragraphs i to xi, decisions shall be taken unanimously by all of the Contractors, excluding the Defaulting Contractor as appropriate or excluding In the iv) sub paragraph the Contractor(s) which participation would be terminated.

In other cases, decisions shall be taken by a majority of 75% of the votes of Contractors present or represented, provided always that a Contractor which Work Package, time for performance, costs or liabilities, or intellectual property rights are impacted or whose information is to be published, may veto such decisions and such veto shall be duly justified.

The Contractors agree to abide by all decisions of the General Assembly.

The Co-ordinator shall draft the minutes of each meeting to formalize in writing all decisions taken and shall dispatch them to all Contractors within fifteen calendar days of the concerned meeting.

The minutes shall be considered as accepted by the Contractors if, within fifteen calendar days from receipt thereof, no Contractor has objected in writing to the Co-ordinator, 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 Contractors.

5.2.2 Co-ordinator

The Co-ordinator shall be the intermediary between the Contractors and the Commission and shall perform all tasks assigned to it as described in the Contract and hereunder.

In particular, the Co-ordinator shall be responsible for:

- i. submitting reports and other deliverables to the Commission;

- ii. the administration, preparation of minutes and provision of the chairman of the General Assembly and the Executive Board, and follow-up of their decisions;
- iii. the transmission of any documents and information connected with the Project to and between the Sub-Project Leaders and the Contractors concerned;
- iv. withholding advance payments and transferring sums allocated among the Contractors as per the budget agreed in the General Assembly and keep related records identifying what portion of the payments made by the Commission has been allocated and/or paid to each Contractor.

The Co-ordinator shall neither be entitled to act or to make legally binding declarations on behalf of any other Contractor nor to enlarge its role beyond the one described herein and in the Contract.

5.2.3 Executive Board

The Executive Board shall consist of the Co-ordinator and all Sub Project Leaders. However, when there are more than eight Sub Project Leaders, only eight shall be authorised to become members of the Executive Board, upon the Sub Project Leaders' mutual decision. The Co-ordinator shall chair all meetings of the Executive Board. Each representative shall have one vote and may appoint a substitute to attend and vote at any meeting of the Executive Board.

The Co-ordinator shall convene meetings of the Executive Board at least on a [quarterly] basis and shall also convene meetings at any time upon written request of any member of the Executive Board in the case of an emergency situation.

The Co-ordinator shall give each of the Contractors at least fourteen calendar day notice in writing of such meetings or seven calendar day notice in case of an emergency situation.

Any decision requiring a vote at the Executive Board meeting must be identified as such on the invitation.

Should a member of the Executive Board suggest adding a discussion/decision to the proposed agenda, it shall do so in writing to all other members at least two calendar days prior to the meeting date.

However, any decision required or permitted to be taken by the Executive Board may be taken in accordance with the above (i) in meetings via teleconference and/or via email; (ii) without a meeting with prior notice and/or (iii) without a vote, if, in any of the (ii) or (iii) cases, a consent in writing, setting forth the decision so taken, is signed by the members of the Executive Board having not less than the minimum number of votes that would be necessary to take such decision at a meeting at which all members of the Executive Board entitled to vote on such decision were represented and were voting, and provided the consent has been delivered for signature to all members of the Executive Board.

The Executive Board shall be in charge of managing the Project.

The Executive Board shall in particular be responsible for:

- i. making proposal to the General Assembly for the allocation of the Project's budget in accordance with the Contract, including the Project Plan and for possible budget transfers;
- ii. making proposal to the General Assembly for the review and/or amendment of the terms of the Contract;

- iii. making proposal to the General Assembly to suspend all or part of the Project or to terminate all or part of the Contract, or to request the Commission to terminate the participation of one or more Contractors;
- iv. reviewing and deciding in case of default of a Contractor to prepare proposal to the General Assembly with regard actions to be taken against the Defaulting Contractor (as defined in Article 9), including through a request to the Commission for an audit, and assignment of the Defaulting Contractor's tasks, and suggestion on any new entity to join the Project for that purpose;
- v. reviewing and deciding in case of default of the Co-ordinator in the performance of its tasks as a coordinator to prepare proposal to the General Assembly on actions to be taken and possible nomination of a new Co-ordinator;
- vi. selecting and proposing to the General Assembly possible new Contractors to enter into the Contract and the Consortium Agreement;
- vii. deciding on technical roadmaps for the Project;
- viii. reviewing the selection of additional expertise (sub contractors);
- ix. without prejudice to the rules under Article 7, agreeing press releases and publications by the Contractors or by the Commission or with the Commission with regard the Project as per the Commission contractual rules, Annex II General Conditions - Part A, Section 3, Article II.15;
- x. proposing to the General Assembly rules for the management of the funds received from the Commission in accordance with Article 6.
- xi. supporting the Co-ordinator in preparing meetings with the Commission and related data and deliverables.

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

In any case, decisions shall be taken by a majority of 75% of the votes of members present or represented, provided always that a Contractor which work package, time for performance, costs or liabilities, or intellectual property rights are impacted or whose information is to be published, may veto such decisions and such veto shall be duly justified.

The Contractors agree to abide by all decisions of the Executive Board.

The Co-ordinator shall draft the minutes of each meeting to formalize in writing all decisions taken and shall dispatch them to all Contractors within fifteen calendar days of the concerned meeting date.

The minutes shall be considered as accepted by the Contractors if no Contractor has objected in writing to the Co-ordinator, provided that objection shall be possible only in the following events:

- if made by a member of the Executive Board: (i) on the ground of such formalization or on a decision that was not part of the agenda and which was not accepted by all members of the Executive Board or (ii) on the ground that such member Work Package, time for performance, costs or liabilities, or intellectual property rights are impacted or whose information is to be published. Objection shall be made within fifteen calendar days of receipt of the minutes, save in the (ii) case for which the member shall veto during the concerned meeting.
- if made by a Contractor that is not a member of the Executive Board on the ground that such Contractor 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 calendar days of receipt of the minutes.

5.2.4 Project Management Team

The Co-ordinator may decide to implement a Project Management Team reporting to the Co-ordinator.

The Project Management Team shall be in charge of providing assistance to the Co-ordinator as specified by the Co-ordinator, with regard to the Co-ordinator's day-to-day tasks, such as preparation of meetings of the Executive Board.

5.2.5 Sub Projects

5.2.5.1 Sub Project Leader

The Sub Project Management Team shall elect a Sub Project Leader.

The Sub Project Leader shall have the following functions only:

- i. administration, preparation of minutes and provision of the chairman of the Sub-Project Management Team, and follow-up of its decisions;
- ii. transmission of any documents and information connected with the Sub-Project to the Contractors concerned;
- iii. transmission of any documents and information connected with the Sub-Project to the Co-ordinator;
- iv. transmission of the Project deliverables of the Contractors within the Sub-Project to the Co-ordinator;
- v. co-ordinating on a day-to-day basis the progress of the technical work under the Sub Project;
- vi. for the purpose of Article 6.4, reviewing deliverables at each agreed step under the Project Plan for the Sub-Project concerned and advise the Co-ordinator of any delay in delivery that could not be remedied or any major discrepancy.

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

5.2.5.2 Sub Project Management Team

The Sub Project Management Team shall consist of one representative of each Contractor having a Work Package part of the given Sub Project. The Sub Project Leader shall chair all meetings of the Sub Project Management Team. Each representative shall have one vote and may appoint a substitute to attend and vote at any meeting of the Sub Project Management Team.

The Sub Project Leader shall convene meetings of the Sub Project Management Team at least once every [two] months and shall also convene meetings at any time upon written request of any member of the Sub Project Management Team in the case of an emergency situation.

The Sub Project Leader shall give each of the members at least ten calendar day notice in writing of such meetings or seven calendar day notice in case of an emergency situation.

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

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

However, any decision required or permitted to be taken by the Sub Project Management Team may be taken in accordance with the above (i) in meetings via teleconference and/or via email; (ii) without a meeting with prior notice and/or (iii) without a vote, if, in any of the (ii) or (iii) cases, a consent in writing, setting forth the decision so taken, is signed by the members of the Sub Project Management Team having not less than the minimum number of votes that would be necessary to take such decision at a meeting at which all members entitled to vote on such decision were represented and were voting, and provided the consent has been delivered for signature to all members of the Sub Project Management Team.

The Sub Project Management Team shall be in charge of managing the Sub Project and in particular be responsible for:

- i. deciding upon the allocation of the Sub-Project's budget in accordance with the budget allocation approved in the General Assembly, including the Project Plan and reviewing and proposing to the concerned Contractors budget transfers within the limits of the budget and the Project Plan for the Sub- Project;
- ii. making proposals to the Executive Board for the entering into the Contract and the Consortium Agreement of new Contractors for participation in the Sub-Project;
- iii. alerting the Executive Board and the Co-ordinator in case of delay in the performance of the Sub Project or in case of default of any Contractor under said Sub Project;
- iv. analysing and documenting default of a Contractor under the Sub Project and prepare proposal and action plan to the Executive Board for this latter's decision;
- v. deciding upon the exchange of Work Packages between the Contractors in the Sub Project, in the event that this exchange has an impact which does not go beyond the scope of the Sub-Project and has no impact on the budget and Project Plan.

The Sub Project Management Team shall not deliberate and decide validly unless all members are present or represented.

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

In other cases, decisions shall be taken by a majority of 75% of the votes of Contractors present or represented, provided always that the Defaulting Contractor as appropriate shall not vote and also that a member of the Sub Project Management Team which Work Package, time for performance, costs or liabilities, or intellectual property rights are impacted or whose information is to be published, may veto such decisions.

The members of the Sub Project Management Team agree to abide by all decisions of the Sub Project 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 Sub Project 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.

Article 6 - Costs, budget and payments

6.1 Each Contractor shall bear all its own costs incurred in connection with the performance of this Consortium Agreement and of the Contract and incurred in connection with the implementation of the Project.

6.2 The costs for management of the Project shall be separated into two budgets: one for "Management of the consortium" and one for "Co-ordination activities", as defined in the Commission contractual rules, Annex II – General Conditions – Part A, Section 1, Article II.2, 5. Each Contractor shall therefore identify these two budget lines in its accounting system.

The “management” budget which contribution rate from the Commission will be 100% shall include only the costs and expenses for Management of the consortium, as will defined in the Contract, as per the rules referred to in the foregoing paragraph.

The Contractors will ask the Commission that the following costs and expenses fall into the Management of the consortium costs and expenses category in the Contract:

- The audit certificates (up to 4000 euros per audit maximum);
- Opening and operating the account to receive the Commission’s contribution/payments as described in Article 6.3, including for the appointment of the notary public or other depository;
- The selection of a new participant;
- The travels and accommodations for meetings with the Commission;
- The travels and accommodations for general assembly meetings.

The “co-ordination” budget which contribution rate from the Commission will be 50% shall include the costs and expenses for Co-ordination activities, as will defined in the Contract.

The Contractors will ask the Commission that the following costs and expenses fall into the Co-ordination activities costs and expenses category in the Contract:

- all other management costs than the ones listed in the Management of the consortium category such as, the hours for the Co-ordinator, the Executive Board members, the Sub-Project Leader and the Sub-Project management team.

The remaining 50% part of the budget not covered by the Commission contribution will be borne by the Contractors handling the concerned management tasks.

The Co-ordinator will control the allocation of the management expenses between the two budgets.

The General Assembly will decide upon the detailed rules for the “management” and “co-ordination” budgets (such as, for example, rules for travels or hotel accommodations).

6.3 The Co-ordinator shall receive all payments made by the Commission.

Subject to withholding of advance payments according to rules agreed in the General Assembly, the Co-ordinator undertakes to transfer, in accordance with the Contract and the budget allocation decided by the General Assembly, the appropriate sums to the respective Contractors with minimum delay, but not later than thirty (30) calendar days from its receipt thereof from the Commission, and the Co-ordinator will notify each other Contractor promptly of the date and amount transferred to its respective bank account and shall give the relevant references.

The Co-ordinator undertakes to keep advance payments allocated by the Contract, this Consortium Agreement or by budget allocation in accordance with a decision of the General Assembly on an account separated from its normal business accounts and his own assets and property, being already agreed that the account shall be operated by multiple Contractors signatories and not only by the Co-ordinator. Such separation shall be made by means, including but not limited to, of a notary public deposit or similar deposit provided for in the national laws and regulations of the country, where the money is deposited and which means have been decided upon by the General Assembly.

6.4 The Contractors agree that the first part ("Tranche 1") of the Community financial contribution shall only be distributed in third to the Contractors as follows:

- The first third upon receipt of the advance payment from the Commission,
- The second third upon expiry of a six-month period and against receipt by the Co-ordinator, through the Sub-Project Leaders, of relevant deliverables as mutually defined per sub-Projects by the Contractors in the Project Plan, for the purpose of checking the Project implementation progress;
- The last third upon receipt of last payment of the Tranche 1 ("retention rate") from the Commission, against receipt by the Co-ordinator, through the Sub-Project Leaders, of the first year deliverables for the Commission and following the Commission's approval of such deliverables.

The Contractors agree that the subsequent parts or “tranches” of the Community financial contribution shall only be distributed in half to the Contractors as follows:

- One half upon receipt of the advance payment from the Commission;
- One half upon receipt of last payment of the concerned subsequent part or tranche (“retention rate”) from the Commission, against receipt by the Co-ordinator, through the Sub-Project Leaders, of the concerned year deliverables for the Commission and following the Commission’s approval of such deliverables.

In case that a Contractor did not provide the concerned Sub- Project Leader with its deliverables (whether the ones for payment of the second third or the ones for payment of the last third or the ones for the second half) or provide them late or provide non compliant deliverables, such Contractor shall not receive its concerned contribution allocation, until it remedies such non delivery, late delivery or non compliant delivery or unless the Sub-Project Leader in mutual agreement with the Co-ordinator decides otherwise. In any case, the Executive Board shall be informed and may take additional appropriate action with respect to the concerned Contractor.

It is also agreed that no distribution of any advance payment from the Commission will be made for a subsequent part or “tranche” before the prior ones are fully paid.

Article 7 - Intellectual property rights provisions

7.1 General

Each Contractor is bound by the terms and conditions of the Commission contractual rules, Annex II General Conditions - Part B entitled “Intellectual Property Rights ” as hereby complemented or amended.

7.2 Ownership and protection of Knowledge

7.2.1. Knowledge shall be the property of the Contractor generating it.

7.2. 2 If, in the course of carrying out work on the Project, a joint invention, design or work is made (and at least two Contractors are contributors), and if the features of such joint invention design or work are such that it is not possible to separate them for the purpose of applying for, obtaining and/or maintaining in force the protection of the relevant intellectual property right, the Contractors concerned (the "Contributors") agree that they may jointly apply to obtain and/or maintain the relevant rights and shall strive to set up amongst themselves appropriate agreements in order to do so.

So long as any such rights are in force, such Contributors shall be entitled to use, without owing any financial compensation to or requiring the consent of the other Contributors, and to license such rights in accordance all in accordance with the set up agreements.

7.2.3 In the case where a Contractor ("Originator") would decide in its sole discretion that it does not intend to seek adequate and effective protection of certain of its Knowledge from the Project, then, the Originator shall inform in writing the other Contractors, through the Co-ordinator, and any Contractor interested in applying to obtain and maintain such protection shall advise the other Contractors through the Co-ordinator and in writing within one month of receipt of relevant notice.

In case several Contractors are interested in so applying, they shall strive to set up amongst themselves and with the Originator appropriate agreements in order to do so.

Should no other Contractor show an interest to so apply, the Co-ordinator shall inform accordingly the Commission in accordance with the Commission contractual rules, Annex II General Conditions - Part B, Article II.17.

The foregoing shall be without prejudice to the Access Rights of all Contractors that will remain unaffected.

7.3 Publication of Knowledge

7.3.1 A Contractor may publish Knowledge generated by another Contractor or any Pre Existing Know How of such other Contractor, even if such Knowledge or Pre-Existing Know How is amalgamated with such Contractor's Knowledge, only with the other Contractor's prior written approval.

For the avoidance of doubt, for the period of secrecy needed for a successful patent application, there cannot be any publication during such period without prior written approval of the Contractor owner of the Knowledge.

7.3.2 A Contractor shall provide the other Contractors and the Commission with a 30-day prior notice of any planned publication on its Knowledge and, if requested, with copy of relevant publication data. Adequate publication references shall be given in the publication.

Unless it has granted prior written publication approval, any Contractor may object to the publication within fifteen calendar days from receipt of the data, if it considers and can reasonably show that the protection of its own Knowledge could thereby be adversely affected.

Objection shall be made both to the issuing Contractor, with a copy to the Co-ordinator, and to the Commission.

7.3.3 Dissemination of Knowledge after the end of the Project

If dissemination of Knowledge does not adversely affect its protection or use and subject to legitimate interests, the Contractors shall ensure further dissemination of their own Knowledge as provided under the Contract and this Consortium Agreement.

7.4 Access Rights

7.4.1 General principles

In addition to the obligations pursuant to the Commission contractual rules, Annex II General Conditions - Part B, Article 19, each Contractor shall take appropriate measures to ensure that it can grant Access Rights and fulfill the obligations under the Contract 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.

The Contractors agree that Access Rights are granted on a non-exclusive basis.

The Contractors also agree that, if not otherwise provided in this Consortium Agreement or granted by the owner of the Knowledge or Pre Existing Know-how, the Access Rights shall not include the right to grant sub-licenses.

Save as in exceptional circumstances, no costs shall be charged for the granting of Access Rights.

7.4.2 Identification of Pre-Existing Know-How

The Contractors have identified and listed in Annex D the Pre-Existing Know-How to which they may grant Access Rights.

The Contractors agree that all other pre-existing know-how shall be considered as unnecessary for the implementation of the Project, provided however that the Contractors may update Annex D with further development of the listed Pre-Existing Know-How that would have been developed between the date of submission of the Proposal and the date of award of the Contract.

7.4.3 Identification of incompatible or restrictive commitments

Any Contractor shall notify the others of any limitation on Access Rights as per the provisions of the Commission contractual rules, Annex II General Conditions - Part B, Article II-20, promptly and in writing before submission of the Proposal to the Commission.

7.4.4 Access Rights needed for carrying out the Project

The Contractors agree that the Access Rights on the Pre-Existing Know-How needed for carrying out the Project shall be granted on a royalty-free basis, unless it is agreed otherwise (especially in the case where the “exchanges” are unbalanced) by the concerned Contractors before signature of the Contract.

The Contractors agree that the Access Rights on the Knowledge needed for carrying out the Project shall be granted on a royalty-free basis.

7.4.5 Access Rights needed for Use of a Contractor’s own Knowledge arising from the Project

7.4.5.1 Needed Use Of Pre-Existing Know-How

The Contractors agree that the Access Rights on the Pre-Existing Know-How needed for Use of a Contractor’s own Knowledge shall be granted on fair and non-discriminatory market conditions, unless decided otherwise by and between the concerned Contractors before submission of the Proposal to the Commission.

7.4.5.2 Needed Use Of Knowledge

The Contractors agree that the Access Rights on the Knowledge needed for Use of another Contractor’s own Knowledge shall be granted on preferential conditions or royalty-free.

Therefore, each Contractor hereby undertakes, before submission of the Proposal to the Commission or at the latest prior to entering the Contract to inform in writing the other Contractors of its decision.

7.4.6 Minor amount of Knowledge amalgamated

Each Contractor (the “First Contractor”) may enter into a technical cooperation or licensing arrangement with a third party in respect of any minor amount of Knowledge of another Contractor (the “Second Contractor”) which have been unavoidably incorporated into or amalgamated with the First Contractor’s own Knowledge.

In such circumstances and upon request of the First Contractor, the Second Contractor shall grant to the First Contractor non-exclusive licenses on its Knowledge against terms and conditions to be agreed, provided that no Legitimate Interests of the Second Contractor opposes the grant of such license.

7.4.7 Written request for needed Access Rights

Needed Access Rights shall be granted upon request as described below and in accordance with the provisions of the Commission contractual rules, Annex II General Conditions - Part B, Article II-19.

Should a Contractor reasonably believe that, without Access Rights on another Contractor’s Pre-Existing Know-How or Knowledge, the performance of its own work package for the Project or the Use of its own Knowledge resulting from the Project would be technically impossible or significantly delayed, such Contractor shall then promptly request in writing Access Rights from said other Contractor, identify the extent of the Access Rights and provide reasonable evidence on its needs.

7.4.8 Affiliates Access Rights

Each Contractor hereby grants Access Rights to all Affiliates of the other Contractors as if such Affiliates were parties hereto, provided all such Affiliates fulfill all confidentiality and other obligations of the Contractors under the Contract and under this Consortium Agreement.

Upon the date of cessation of an Affiliate to meet all criteria defined in Article 1 of this Consortium Agreement:

- All Access Rights granted **to** such Affiliate in respect of Knowledge or Pre-existing Know-How shall lapse, provided however that, except as otherwise agreed by the relevant Contractors, any Knowledge which has been incorporated into the products or services of said Affiliate or which has been amalgamated with said Affiliate's own information may continue to be used (exclusively in the manner it was used upon such date) by said Affiliate under a non exclusive license agreement to be negotiated with the relevant Contractor(s), upon such ex Affiliate's written request, provided however that no Legitimate Interests of such Contractor(s) oppose the grant of such licenses.
- All Access Rights granted **by** such Affiliate hereunder shall continue in full force and effect.

7.4.9 Software

The Contractors agree that Access Rights (under all the rules herein defined) when applying to Software do not comprise access to Source Code but only to Object Code, unless otherwise expressly provided herein below.

For Software, which is either Pre-Existing Know-How or Knowledge, the Contractors also agree that they shall have Limited Source Code Access for carrying out their Work Package under the Project but they shall not have any access to Source Code for Use.

Limited Source Code Access shall mean Source Code access (i.e. access to Source Code (as available from the Contractor granting such access) and also to Software Documentation), provided in any case that an API including Software

Documentation for the respective Software is not available; and also that use of the Software in Object Code form alone is not meaningful.

Each Contractor licensing its Software shall have the right to ask for a prior written agreement with the Contractor(s) licensed specifying and protecting its proprietary rights.

7.5 “have manufactured” rights

Each of the Contractors agrees that, before any agreement concerning the application of the have manufactured rights is reached with a third party by a Contractor which is not itself or whose Affiliates are not incorporated or established principally to undertake manufacturing activities and, due to its size or nature, is itself unable to commercialise the Knowledge, the other Contractors shall themselves have a prior right to agree to undertake such manufacturing on fair and reasonable terms and conditions.

7.6 Use of Marks

Each Contractor retains all rights, title and interest in any of its trade and business names, service marks, trade marks, logos or other symbols it uses to identify itself or any of its activities (“Marks”) and no Contractor shall acquire under this Consortium Agreement any general license or any other right, express or implied, by law or otherwise, title or interest in or to any such Marks of any other Contractor.

Each Contractor shall obtain the other Contractor’s (s’) prior written approval of any publication or any press releases or public announcement making reference to said other Contractor(s) and specifically on the Marks of said Contractor(s) to be used and on the manner it will be used.

Article 8. Liabilities of the Contractors

8.1 No implied warranty

With respect to information or materials supplied by one Contractor to another hereunder or under the Contract, the supplying Contractor shall be under no obligation or liability other than as stated in Article 4.4, and no warranty condition or representation of any kind is made, given or to be implied as to the sufficiency, accuracy or fitness for purpose of such information or materials. The recipient Contractor shall therefore in any event, be entirely responsible for any use whatsoever of such information and materials.

8.2 Exclusion of indirect damages

No Contractor shall be responsible to another for indirect or consequential loss or damages such as but not limited to loss of profit, loss of revenue, or loss of contracts.

8.3. Liability towards the Commission

Notwithstanding any joint and several liability of the Contractors which may exist towards the Commission, each Contractor shall be liable towards the others for any losses or damages suffered by the Commission, as a consequence of any failure to perform the whole or part of its obligations under the Contract or under this Consortium Agreement.

Accordingly, should the Commission, in accordance with the provisions of the Contract, claim any reimbursement, indemnity or payment of damages from one or more Contractors (except for claims relating to the matters mentioned in the Commission contractual rules, Annex II – General Conditions - Part D, Article II.30 2 (a) and Article II.31 1, which claims shall be solely for the account of the relevant Contractor(s) or where the claim from the Commission is issued only against a part of the Contractor), the Contractors agree that :

- i. each Contractor which default has caused or contributed to cause such claim shall indemnify each of the other Contractors against such claim, provided always that the total and cumulative limit of liability of that Contractor towards all the other Contractors collectively, in respect of any and all such claims shall not exceed twice the amount of that Contractor's Project Share (i.e. its part of the Community financial contribution as per the Contract). Any excess shall therefore be apportioned between all the Contractors including the Defaulting Contractor(s) pro rata to their Project Shares; and
- ii. in the event it is not possible to attribute the default to any Contractor under (i), the amount claimed by the Commission shall be apportioned between all the Contractors prorata their Project Shares.

8.4 Liability towards third parties

Subject always to such other undertakings and warranties as are provided for in this Consortium Agreement and the Contract, each Contractor shall be solely liable for any loss, damage or injury to third parties resulting solely from the performance of its Work Package.

8.5 Liability for Subcontractors

Each Contractor shall remain fully responsible for the performance of any part of its Work Package, or for the performance of its obligations under the Contract by any Subcontractor, provided that in any case appointment of a Subcontractor shall be with the approval of the Executive Board.

Therefore said Contractor shall ensure that (i) such subcontracts fully comply with the requirements of the Contract; (ii) the other Contractors' Access Rights are fully preserved ; and (iii) the third party shall have no access to any other Contractor's Knowledge or Pre-Existing Know-How without the latter's prior written consent.

Article 9 - Defaults and remedies – Exclusion of a Contractor / right to withdraw

9.1 Default and remedies

9.1.1 In the event of a breach by a Contractor ("the Defaulting Contractor ") of its obligations under this Consortium Agreement or the Contract which is irremediable or which is not remedied within sixty calendar days of a written notice from the Co-ordinator, according to the decision of either the Sub Project Management Team or the Executive Board, requiring that such breach be remedied, then the other Contractors in the General Assembly may jointly decide to terminate this Consortium Agreement with respect to the Defaulting Contractor following a minimum thirty calendar day prior written notice by the Co-ordinator.

9.1.2 Such termination shall take place with respect to the Defaulting Contractor and the latter shall be deemed to have agreed to the termination of the Contract in respect of its participation therein under the relevant provisions of Annex II General Conditions-Part D, of the Contract as the other Contractors and/or the Commission shall decide, provided always that:

- i. any and all Access Rights granted **to** the Defaulting Contractor and its Affiliates by the other Contractors under this Consortium Agreement as well as under the Contract, shall cease immediately ; but any and all Access Rights granted **by** the Defaulting Contractor to the other Contractors and their Affiliates under this Consortium Agreement as well as under the Contract shall remain in full force and effect ;
- ii. the Work Package of the Defaulting Contractor, shall be assigned to one or several companies and/or entities which are chosen by the other Contractors, are acceptable to the Commission and agree to be bound by the terms of this Consortium Agreement. The preference shall be granted to one or more of the remaining Contractors
- iii. the Defaulting Contractor shall :
 - assume all reasonable direct cost increase (if any) resulting from the assignment referred to in ii) above in comparison with the costs of the Work Package of the Defaulting Contractor as specified in the Contract ; and
 - be liable for any so resulting additional direct cost caused to the other Contractors, up to a total amount which, together with any liability to the Commission under Article 8.3 above shall not exceed the total maximum limit of liability specified in said Article. Accordingly, any excess amount shall be shared between the Contractors (including the Defaulting Contractor) pro rata their respective shares in the Project at the time of exclusion of the Defaulting Contractor.

9.2 Other exclusions of a Contractor / right to withdraw

The provisions of Article 9.1.2 shall also apply in the events that:

- i. any Contractor's participation in the Contract is terminated by the Commission pursuant to the provisions of the Commission contractual rules, Annex II General Conditions Part D, then, without prejudice to any other rights of the other Contractors
- ii. any Contractor enters into bankruptcy or liquidation or any other arrangement for the benefit of its creditors and the other Contractors, subject to approval by the Commission, decide to terminate the Consortium Agreement with respect to that Contractor, to take over the fulfilment of such Contractor's obligations and to receive subsequent payments under the Contract in respect thereof.
- iii. A Contractor is entitled to withdraw from the Project or to otherwise request the termination of its participation in the Contract having obtained firstly the prior written consent of the other Contractors in the General Assembly (such consent not to be unreasonably withheld), and secondly the consent of the Commission.

Article 10 - Coming into force – Duration – Earlier termination

10.1 Coming into force

This Consortium Agreement shall come into force on the Effective Date.

10.2 Duration

This Consortium Agreement, shall thereafter remain into force :

- until the fulfillment or termination of the Contract awarded by the Commission and resulting from the Proposal and complete discharge of all obligations of the Contractors under the Contract and/or under this Consortium Agreement as well as any amendment or extension thereof ; or
- until this Consortium Agreement is terminated under any cases under Article 10.3 below;

Whichever occurs first.

10.3 Earlier termination

This Consortium Agreement shall automatically terminate without any further demand and without liability of any Contractor to the others upon the first to occur of the following events:

- i. award by the Commission of a contract for the Project to other parties;
- ii. upon a [18] month period from the date of coming into force hereto, if the Contract has not been awarded to the Contractors before expiration of such period ;
- iii. cancellation of the Project by the Commission ;
- iv. termination of the entire Contract by the Commission;
- v. if the Commission indicates in writing that the award of the Contract pursuant to the Proposal is conditional upon the exclusion of one or more of the Contractors, unless the remaining Contractors decide to pursue their co-operation and agree on all consequences thereof, including for taking over the excluded Contractor's (s') Work Package(s);
- vi. should any Contractor enter into bankruptcy or liquidation or any other arrangement for the benefit of its creditors, if the other Contractors decide, subject to approval by the Commission, to terminate the Project.

Article 11 – Other consequences of term or termination

In case of take over of any Contractor's Work Package under Articles 9 or 10, all rights and obligations under the Contract and this Consortium Agreement shall in good faith be redistributed among the remaining Contractors.

Neither Contractor shall by reason of withdrawal or termination be relieved from:

- i. its responsibilities under this Consortium Agreement or the Contract in respect of that part of that Contractor's Work Package which has been carried out (or which should have been carried out) up to the date of withdrawal or termination; or
- ii. any of its obligations or liabilities arising out of such withdrawal or termination.

The provisions of the Articles of this Consortium Agreement relating to liability, confidentiality, intellectual property rights and publications shall survive the term or termination of this Consortium Agreement for any reason whatsoever to the extent needed to enable the Contractors to pursue the remedies and benefits provided for in those Articles.

For the avoidance of doubt, termination or withdrawal shall not affect any rights or obligations incurred prior to the date of the termination.

Article 12– Confidentiality

12.1 During the term of the Project and for a period of five years thereafter, the Contractors shall treat as confidential any information which is designated as proprietary by the disclosing Contractor by an appropriate stamp, legend or any other notice in writing, or when disclosed orally, has been identified as confidential at the time of disclosure and has been promptly (thirty (30) days at the latest) confirmed and designated in writing as confidential information by the disclosing Contractor.

Accordingly, each Contractor undertakes (in addition and without prejudice to any commitment under the Contract) that:

- i. the receiving Contractor shall not use any such information for any purpose other than in accordance with the terms of the Contract and this Consortium Agreement, and
- ii. the receiving Contractor shall not disclose any such confidential information to any third party except with the disclosing Contractor's prior written consent, and
- iii. such information shall neither be copied, nor otherwise reproduced nor duplicated in whole or in part where such copying, reproduction or duplication have not been specifically authorized in writing by the disclosing Contractor.

12.2 No obligation shall apply to any such information:

- i. has come into the public domain prior to, or after the disclosure thereof and in such case through no wrongful act of the receiving Contractor; or
- ii. is already known to the receiving Contractor, as evidenced by written documentation in the files of the receiving Contractor; or
- iii. has been lawfully received from a third Contractor without restrictions or breach of this Consortium Agreement; or
- iv. has been or is published without violation of this Agreement; or
- v. is independently developed in good faith by employees of the receiving Contractor who did not have access to the Confidential Information; or
- vi. is not properly designated or confirmed as confidential.

12.3 The Contractors shall impose the same obligations on their employees, who obtain knowledge of confidential information, as far as legally possible even for the time after the end or after the termination of employment.

Article 13 - Force majeure

The Contractors agree that the definition of force majeure and obligations pertaining thereto shall be as per the Commission contractual rules, Annex II General Conditions, Part A, Section 1, Article II.5 and after the conclusion of the Contract, by such rules as they may have been amended as a result of the Contract negotiations.

Article 14 - No Partnership or Agency

Nothing in this Consortium Agreement shall be deemed to create a partnership or agency or any formal business organization or legal entity among the Contractors.

Article 15 - Notices

Any notice to be given under this Consortium Agreement shall require documents duly signed and personally delivered or delivered by mail. They shall be addressed to the attention of the following recipients of the Contractors or to such other address and recipient as a Contractor may designate in respect of that Contractor by written notice to the other Contractors:

- _____ nominates as contact for technical matters (project officer)
_____, Dept. _____

and as contact for administrative matters (management officer)

· _____, Dept. _____

- _____ nominates as contact for technical matters (project officer)
· _____, Dept. _____

and as contact for administrative matters (financial officer)

Mr. _____, Dept. _____

Article 16 - Language

This Consortium Agreement is drawn up in English which language shall govern all documents, notices and meetings for its performance and application and/or extension or in any other way relative thereto.

Article 17 - Annexes, Conflicts and Inconsistencies

The Annexes to this Consortium Agreement, which are an integral part thereof are:

Annex A (List of AFFILIATES)

Annex B (PROJECT PLAN)

Annex C (Allocation of Resources)

Annex D Pre Existing Know – How

In the event of conflict or inconsistency between any provision contained in the body of this Consortium Agreement and any provision contained in its Annexes, the provisions contained in this Consortium Agreement shall prevail.

In the event of conflict or inconsistency between any provision contained in this Consortium Agreement and the provisions of the Contract, the provisions of the Contract shall prevail.

Article 18 - Assignments, Amendments

18.1 Any rights or obligations of the Contractors arising from this Consortium Agreement may not be assigned or transferred in all or in part to any third party without the other Contractors' prior written approval and such consent shall not be unreasonably withheld if to an Affiliate of the assigning Contractor.

18.2 All amendments and modifications to this Consortium Agreement require documents duly signed by all Contractors.

Article 19 - Severability

Should any provision of this Consortium Agreement prove to be invalid or incapable of fulfilment, or subsequently become invalid or incapable of fulfilment, whether in whole or in part, this shall not affect the validity of the remaining provisions of this Consortium Agreement. In such a case, the Contractors shall be entitled to demand that a valid and practicable provision be negotiated which most nearly fulfils the purpose of the invalid or impracticable provision.

Article 20 – Restrictions

The activities contemplated by this Consortium Agreement are subject to any mandatory rules or regulations that may be applicable in the countries in which the Contractors' activities occur. Nothing in this Agreement shall be deemed to be an agreement to violate such rules or regulations. To the extent any such rules or regulations forbid or restrict any of the activities contemplated hereunder, the Contractors agree, subject to Article 19, that this Consortium Agreement shall not obligate either Contractor to conduct such activity.

Article 21 - Applicable Law

This Consortium Agreement shall be construed in accordance with, and governed by, Belgium law.

Article 22 - Disputes

The Contractors agree to use reasonable endeavors to try to amicably settle any dispute arising among them in relation to the implementation of the Contract and/ or of this Consortium Agreement and for such purpose, to bring the dispute at the appropriate body level.

Failing to reach an amicable settlement, the dispute arising out of or in connection with the present Consortium Agreement 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 [Zurich, Switzerland].

The language to be used in the arbitral proceedings shall be English.

IN WITNESS WHEREOF, the Contractors have executed this Consortium Agreement in ... original copies.

Authorised to sign on behalf of _____

By (signature):

Name (block letters):

Title:

Date:

Authorised to sign on behalf of _____

By (signature):

Name (block letters):

Title:

Date: