

Consortium Agreement for the Network of Excellence

Communication by Gaze Interaction (COGAIN)

THIS AGREEMENT is made

BETWEEN:

(1) University of Tampere established in Finland whose registered office is at Kalevantie 4, Tampere, the *Co-ordinator*,

(2) IT University of Copenhagen established in Denmark whose registered office is at Glentevej 67, København NV,

(3) Bispebjerg Hospital established in Denmark whose registered office is at Department of Neurology, Bispebjerg Bakke 23, København NV,

(4) Danish Centre for Technical Aids for Rehabilitation and Education established in Denmark whose registered office is at Gregersensvej, Taastrup,

(5) Risoe National Laboratory established in Denmark whose registered office is at Frederiksborgvej 399, Roskilde,

(6) Danmarks Tekniske Universitet established in Denmark whose registered office is at Engelundsvej 1, Bygning 101A, Kgs. Lyngby,

(7) Technische Universitaet Dresden established in Germany whose registered office is at Helmholtzstrasse 10, Dresden,

(8) Universitaet Koblenz-Landau established in Germany whose registered office is at Isaac-Fulda-Allee 3, Mainz,

(9) Universität zu Lübeck established in Germany whose registered office is at Ratzeburger Allee 160, Lübeck,

(10) Hewlett Packard Italiana SRL established in Italy whose registered office is at Via G. Di Vittorio 9, Cernusco Sul Naviglio,

(11) Politecnico di Torino established in Italy whose registered office is at Corso Duca Degli Abruzzi 24, Torino,

(12) Siauliu Universitetas established in Lithuania whose registered office is at Vilniaus 88, Siauliai,

(13) Permobil AB established in Sweden whose registered office is at Per Uddens väg 20, Timrå,

(14) Tobii Technology established in Sweden whose registered office is at Saltmätargatan 8A, Stockholm,

(15) ACE Centre Advisory Trust Ltd established in the United Kingdom whose registered office is at 92 Windmill Road, Headington, Oxford,

(16) The Chancellor, Masters and Scholars of the University of Cambridge established in the United Kingdom whose registered office is at The Old Schools, Trinity Lane, Cambridge,

(17) University of Derby established in the United Kingdom whose registered office is at Kedleston Road, Derby,

(18) De Montfort University established in the United Kingdom whose registered office is at The Gateway, Leicester,

(19) Tokyo Institute of Technology established in Japan whose registered office is at 2-12-2 Oh-okayama, Meguro-ku, Tokyo,

(20) Universität Zürich established in Switzerland whose registered office is at Raemistrasse 71, Zürich,

herein individually or collectively referred to as a “*Party*” or the “*Parties*”

Preamble

WHEREAS:

(A) In consideration of 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), (OJEC L 232/1) and of Regulation (EC) No. 2321/2002 (OJEC L 355/23) 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,

(B) The *Parties*, possessing considerable excellence in the field concerned, have submitted as *Consortium* a *Proposal for a Network of Excellence Project* entitled **Communication by Gaze Interaction** to the *Commission* in the Sixth Framework Programme and intend to perform and execute such *Party* according to the terms and conditions of a *Contract* and its Annexes to be entered into between the *Parties* and the *Community*,

(C) The *Parties* wish to specify, define or supplement, between or among themselves their respective rights and obligations in relation to the implementation of the *Project* and the provisions of the *Contract*, and, in line with Annex II.3.1(b) of the *Contract*, wish to lay down general rules related to the organisation of the work, the management of the *Project* and to specify their agreement, including, without limitation, with respect to financing, *Access rights*, as well as liability, etc.,

(D) The *Parties* wish to achieve increased complementarity, coordination and integration in the field set forth in Annex I of the *Contract*,

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

Article 1: Definitions

(1) Words and expressions defined in the *Contract*, including its Annexes II and III, have the same meaning in this *Agreement*.

(2) Without prejudice to the meaning of words or expressions that may be defined in other articles of this *Agreement*, the further additional definitions shall apply:

Agreement means this *Network of Excellence Consortium Agreement*, including all its Attachments;

Default means any non-performance or shortcoming, including delay, in performance of a *Party*, whether with respect to the obligations under the *Contract* or with respect to the obligations under this *Agreement*;

Network means the *Parties'* co-operation as described and agreed in this *Agreement* to perform the *Project* and its related activities;

Network Budget means the allocation of resources, including the *Community* financial contribution and the *Parties'* contributions of own resources, to the *Network* activities; the *Network Budget* shall be a special part of the *Plan of Activities* and be agreed for every period of twelve months;

Plan of Activities means the description of activities, contributions and any other obligations of the *Parties* under this *Agreement*, agreed for a period of every twelve-months, as set forth in Article 14 of this *Agreement*; it includes the work to be carried out under the *Joint Programme of Activities* and defines the obligations of the *Parties* as well as the resources to be provided by the *Parties* for its performance according to the *Network Budget*;

Additional Agreement(s) mean agreements between two or more of the *Parties* beyond the scope and/or duration of this *Agreement*, whose legal validity shall be independent from the validity of this *Agreement*, but which are concluded during or as a result of the *Project* in the fields set forth in Annex I of the *Contract* in order to achieve a durable integration of activities and/or the sharing of assets or in order to otherwise determine details and modalities of intensifying co-operation of the *Parties* in such fields;

(3) The words and expressions defined in this Article or elsewhere in this *Agreement* appear in italics beginning with capital letters.

Section A: Subject, Purpose and Duration

Article 2: Subject and Scope

(1) The subject of this *Agreement* is to specify with respect to the *Project* the organisation of the work between the *Parties*, to organise the management of the *Project*, to define rights and obligations of the *Parties*, including, but not limited to, their contribution, liability and indemnification, and to supplement the provisions of the *Contract*, including those concerning *Access rights* and to set out any other rights and obligations of the *Parties* related to the *Project*, but not conflicting with those of the *Contract*.

(2) For the avoidance of doubt, the rights set forth in this *Agreement* shall only extend to the *Parties* hereto in their own legal personality and capacity and shall not extend to any third persons or parties even if such third party should be an affiliate of a *Party*. No special rights or status are recognised for affiliates of *Parties*, which are not *Parties* to this *Agreement* in their own right. Unless provided otherwise in this *Agreement* or by mandatory law, no such rights may be assigned by a *Party* to a third party without having obtained the prior written agreement from all other *Parties*.

Article 3: Purpose

The purpose of the *Project* and of this *Agreement*, is to take steps for achieving progressive complementarity and integration among the *Parties* in the field set forth in Annex I of the *Contract* and to establish durable structures to this end, on terms and conditions to be agreed upon between the *Parties* during the course of the *Project* and in accordance with the provisions of the *Contract*.

Article 4: Agreements on Integration

(1) The provisions of this *Agreement* shall apply to and thus rule and regulate all activities, contributions and obligations agreed upon among the *Parties* in the current *Plan of Activities*.

(2) In order to achieve the purpose of this *Agreement*, *Parties* may also conclude, during and/or as a result of the *Project*, *Additional Agreements* in the fields set forth in Annex I of the *Contract* beyond the scope and duration of this *Agreement*, in order to achieve a durable integration of activities and/or the sharing of assets or in order to otherwise determine details and modalities of intensifying co-operation of the *Parties* in such fields. In such case, the *Parties* concerned will conclude agreements in writing to specify their respective mutual rights and obligations. The *Parties* concerned shall inform beforehand the other *Parties* in the *Assembly* of their intent to conclude such an *Additional Agreement*.

Article 5: Duration

(1) A person or entity becomes a *Party* to this *Agreement* upon signature of this *Agreement* by a duly authorised representative.

(2) Upon and as from the date of signature by at least five *Parties*, this *Agreement* shall enter into force for these *Parties*. For all other *Parties* signing this *Agreement* before signature of the *Contract*, it enters into force upon signature.

(3) For all and any parties intending to accede to this *Agreement* after signature of the *Contract*, the provisions of Article 38 of this *Agreement* shall apply. For those *Parties* this *Agreement* shall enter into force as from the date of signature of such *Party's* declaration of accession to this *Agreement* or the respective decision of accession by the *Assembly*, whichever is the later.

(4) Without prejudice to the provisions of Article 41 of this *Agreement*, this *Agreement* shall continue in full force and effect

a) until the fulfilment the *Contract* and complete discharge of all obligations for the carrying out of the *Project* undertaken by the *Parties* under the *Contract* or under this *Agreement*, whichever is the later, or

b) until terminated earlier in accordance with Articles 39 or 40 of this *Agreement*.

Section B: Organisation and Management

Article 6: Assembly

(1) In order to take decisions on the overall organisation of the *Network*, the *Parties* shall meet in the *Assembly*.

(2) To this end, each *Party* shall appoint an authorised representative to the *Assembly* by notice in writing sent to the *Co-ordinator*. First appointments shall take place not later than 20 days after the entry into force of this *Agreement*. Substitutes for representatives may also be appointed. Replacements of representatives as well as substitutes shall be possible. In meetings of the *Assembly* the representatives may be accompanied by advisors.

(3) The *Parties'* representatives acting in the *Assembly* shall be referred to collectively as “*Assembly*” for the purposes of convenience only and without creating any partnership or agency between or on behalf of the *Parties*.

(4) In the *Assembly*, the *Parties* shall, in accordance with this *Agreement* and the *Contract*, take the necessary decisions relating to the *Network* and shall in this regard particularly deal with the following:

- i) with respect to the *Parties* obligations under the *Contract* and their relation with the *Community*, any revision of the current *Joint Programme of Activities* and adoption of any new *Joint Programme of Activities*;
- ii) on a twelve-months basis, adoption and any revision of the *Plan of Activities* in accordance with Article 14 of this *Agreement*;
- iii) on a twelve-months basis, agreement on the *Network Budget* (as part of the *Plan of Activities*)
- iv) exchange of information on any third party receipts by a *Party* in relation to the *Network* activities;
- v) in accordance with Article 8 of this *Agreement*, establishment of *Task Forces* for the implementation of the *Plan of Activities* as well as appointment and revocation of appointment of the respective *Task Forces*' chairpersons and, after the first year of the *Project*, of the chairperson of the *Steering Board*;
- vi) (omitted);
- vii) in a manner not unduly obstructing the timely delivery of such reports, approval of any reports to be delivered under the *Contract*;
- viii) acceptance of new parties to this *Agreement*;
- ix) proposals to the *Parties* regarding the acceptance of new parties to the *Contract*, in consideration of the respective steps to be taken in such case in accordance with the *Contract* including the modalities of the accession process;
- x) proposals to the *Parties* for the conclusion of *Additional Agreements* and information on any *Additional Agreements* planned to be concluded between one or more of the *Parties*;
- xi) proposals to the *Parties* for the amendment of terms of this *Agreement*;
- xii) proposals to the *Contractors* for the review and/or for amendments of terms of the *Contract*;
- xiii) subject to and in accordance with the provisions of Article 37(4) of this *Agreement*, deciding on additional procedures and policies on management of *Knowledge*;
- xiv) in case of the *Default* of a *Party*, decision on any actions to be taken, including decisions on serving any notices required and a request to the *Commission* for an audit on *Contract* issues, and proposals to the *Parties* to assign such *Party*'s tasks and if appropriate to agree upon a new entity to join the Consortium for that purpose; in case of a *Default* of the *Co-ordinator* in the performance of its tasks as a *Co-ordinator*, this also includes the possible nomination of a new *Co-ordinator*;
- xv) establishment of any advisory committees, including agreement on appointment and revocation of appointment of its members in accordance with Article 11 of this *Agreement*;
- xvi) appointing additional *Signatories* for the withdrawal of funds in accordance with Art. 22 of this *Agreement*;
- xvii) agreement on the suspension of all or part of the activities under this *Agreement* or the *Project*, or to terminate all or part of the *Contract*, and the modalities for such suspension or termination, including bringing forward such proposal to the *Commission*;
- xviii) any decision to instruct the *Co-ordinator* to ask the *Commission* on behalf of the Consortium to terminate the participation of one or more *Contractors*.

(5) The *Parties* acting in the *Assembly* may, upon request by a *Party* and after hearing the members of the *Steering Board*, also overrule any decision taken by the *Steering Board*.

(6) Each *Party* shall have one vote in the *Assembly*. The *Parties* shall not deliberate and are not able to decide validly in the *Assembly* unless all of the *Parties* but two are represented in the respective meeting and the *Assembly* has been duly convened in accordance with the provisions of Article 7(4) of this *Agreement*. This provision is without prejudice to the possibility of the *Parties* to take a decision in accordance with Article 7(5) of this *Agreement*.

(7) A unanimous decision shall be required with respect to the items mentioned in Article 6, paragraph 4 i), ii), iii), v), viii) and xiii) of this *Agreement*. In all other cases, decisions shall be taken by a majority of two thirds of the votes of the *Parties*. For decisions relating to the Default of a *Party* the vote of such *Party*, shall not be required nor counted.

Article 7: Assembly Meetings

(1) The first meeting of the *Assembly* shall take place not later than thirty (30) calendar days after the starting date of the *Project* in order to take the first decisions for setting up the *Network*. Thereafter, the *Assembly* meetings shall take place at least once every twelve (12) months.

(2) Additional meetings shall be convened at any time upon a written request by one *Party* to the *Co-ordinator*.

(3) The meetings of the *Assembly* shall be prepared by the *Steering Board*.

(4) The meetings shall be convened by the *Co-ordinator* by a notice to be sent to the representatives of all the *Parties* not less than thirty (30) calendar days before the date of the meeting. The notice shall be accompanied by the draft agenda prepared by the *Steering Board*. All necessary background information on any decisions proposed to be taken shall be delivered in parallel in readable format by any regular means of communication. Each *Party* may suggest any additional agenda items by notice to all other *Parties* at least seven (7) calendar days prior to the meeting date.

(5) In appropriate situations, determined as such by the *Co-ordinator* and two other members of the *Steering Board*, meetings of the *Assembly* may also be held:

(i) without the prior notices required in the preceding paragraph, and/or

(ii) via audio- or video-teleconferences and/or

(iii) decisions required to be taken or permitted to be taken by the *Assembly* may be taken via email.

In any such cases, in derogation of Article 6 paragraph (6) of this *Agreement*, a decision taken in such way or in such meeting is only taken validly, if a consent in writing, setting forth the decision so taken, is signed by all *Parties'* representatives to the *Assembly* and sent to the *Co-ordinator*.

(6) If not decided otherwise by the *Assembly*, the meetings shall be chaired by the representative of the *Co-ordinator* appointed to the *Assembly*. A vice-chairperson shall be elected from among the other representatives.

During deliberations and decisions relating to the tasks of the *Co-ordinator*, the meeting shall be chaired by the vice-chairperson or, failing the presence of the vice-chairperson in a meeting, by a chairperson to be elected from among the other *Parties'* representatives present at the meeting.

(7) Unless decided otherwise in the *Assembly*, the *Co-ordinator* may also invite one or more representatives from the *Commission* to attend the meetings of the *Assembly* during its deliberations related to the *Contract*. In such case, the representatives of the *Commission* shall have speaking rights.

(8) The meetings in the *Assembly* shall be minuted by the *Co-ordinator*. The minutes shall record inter alia all decisions taken. A draft of the minutes shall be sent to the representatives of the *Parties* to the *Assembly* and all participants to the meeting within thirty (30) calendar days after the closing date of the meeting. The minutes shall be considered as accepted, if within twenty (20) calendar days, no objections against the minutes have been raised. Thereafter, the chairperson and the vice-

chairperson of the *Assembly* meeting shall sign the minutes. The original minutes thus compiled and signed shall be kept by the *Co-ordinator* and serve as prima facie evidence for the decisions taken. The *Co-ordinator* shall distribute copies to all the *Parties'* representatives.

Article 8: Task Forces

(1) In order to achieve and to carry out the *Plan of Activities*, the *Parties* shall establish *Task Forces* not later than thirty (30) calendar days after the agreement on the *Plan of Activities* that defines such *Task Force*.

(2) The *Plan of Activities* shall not foresee more than ten lines of activity, for which *Task Forces* may be established. In case a line of activity requires additional distribution and subdivision, the respective *Task Force* shall be subdivided in *Task Force* Groups.

(3) Each *Task Force* shall consist of a team, to which each of the *Parties* taking part in the respective line of activity appoints one or more team members as decided by the *Assembly* in the respective *Plan of Activities*. Substitutes may be appointed as well. Each *Party* shall have the right to revoke appointment of its team member(s). In such case, the respective *Party* shall immediately appoint a new member.

(4) Each *Task Force* shall be chaired by a *Task Force* member appointed for such task by the *Assembly*. A deputy chairperson shall also be appointed.

(5) Each *Party* participating in a *Task Force* shall be responsible for the coordination of the activities allocated to such *Task Force* in the *Plan of Activities*.

(6) Meetings of the *Task Force* shall take place as required in accordance with the *Plan of Activities*, but not less than once per three months. Meetings may also take place by telephone conferences.

(7) The *Parties* participating in a *Task Force* shall be in particular responsible for:

- i) for each planning period, preparing a work plan and budget plan for its line of activity in preparation of the *Plan of Activities* to be forwarded to the *Steering Board* and the *Assembly*;
- ii) follow-up and report on the use of the *Network Budget* with respect to this *Task Force* in general and in respect of the *Parties* participating in such *Task Force* in detail and report on any reallocations under viii) of this paragraph;
- iii) delivery of quarterly reports to the *Steering Board* on the progress of the *Task Force's* activities, not later than on the dates set out for such delivery in the *Plan of Activities*;
- iv) preparation of deliverables and of their presentation towards the *Commission* via the *Co-ordinator*, satisfying respective reporting requirements;
- v) preparation of proposals to the *Steering Board* for new parties to this *Agreement* and/or proposals for the accession of new parties to the *Contract* for the purpose of participation in the activities of the *Task Force*;
- vi) alerting the *Steering Board* and the *Co-ordinator* in case of a delay in the implementation of the *Task Force* activities or in case of *Default* of any *Party* with respect to its participation in the *Task Force's* activities;
- vii) analysing and documenting any *Default* of a *Party* in relation to the *Task Force's* activities and prepare a respective proposal for an action plan to the *Steering Board*;
- viii) deciding on any transfer of tasks and activities allocated in the *Plan of Activities* – including any financial re-allocations which are neutral to the total of the *Task Force's* budget – between the *Parties* participating in the *Task Force*, except in the case that this

exchange has an impact beyond the scope of the *Task Force* activities within the overall *Plan of Activities*.

(8) Each *Task Force* member shall have one vote. The *Task Force* members shall not deliberate and decide validly unless two thirds of its members are present or represented. In the cases of paragraph (7), sub paragraph i), ii) and viii), decisions shall be taken unanimously by all members of the *Task Force*. In all other cases, while consensus among the *Task Force* members should be a general aim, decisions shall be taken by a majority of two thirds of the votes of the *Task Force* members present or represented. A *Party* shall have no vote in decisions relating to its own *Default*.

(9) The chairpersons of the *Task Forces* shall coordinate each *Task Force*'s activities and maintain the documentation of these activities. The chairpersons of the *Task Forces* shall also present the *Task Forces*' decisions and conclusions to the *Steering Board* and the *Assembly*. They shall further transmit any documents and information in relation to the *Task Force* activities between the *Parties* concerned and to the *Co-ordinator*.

(10) Each *Task Force* meeting shall select a *Task Force* member to keep the minutes. They shall be approved by all *Task Force* members.

Article 9: Steering Board

(1) The *Steering Board* consists of all the *Task Forces* chairpersons; the representative of the *Co-ordinator* appointed according to Article 12(4) of this *Agreement*; and additional members appointed by the *Assembly* so that the *Steering Board* comprises ten (10) persons. In the case of unavailability of a chairperson of a *Task Force*, the deputy chairperson of such *Task Force* shall take his/her place in the *Steering Board*.

(2) The *Steering Board* shall perform the management and coordination of the *Network* and co-ordinate its operability. It shall in particular be in charge of coordinating the activities within the *Network* and prepare the decisions of the *Parties* within the *Assembly*. In particular its members shall in accordance with this *Agreement* and the decisions of the *Assembly* be responsible for the following:

- i) co-ordinating its own tasks and those of the *Task Forces* with respect to the implementation of the current *Plan of Activities*;
- ii) initiating, co-ordinating and adapting the proposals of the *Task Forces* and its plans regarding its own tasks for the next *Plan of Activities* and, on this basis, prepare an overall draft for the *Plan of Activities*, including the *Network Budget*, and present such plan to the *Assembly* for decision;
- iii) the overall follow-up of the performance of the tasks and activities and deliverables to be provided by the *Parties* under the *Contract* and the current *Plan of Activities* as well as information of the representatives of the other *Parties* on any non-performance;
- iv) approval of calls for and the conclusion of any Subcontracts by a *Party*, which were not foreseen in Annex I of the *Contract*;
- v) providing regular information to the *Parties* on the overall *Network* activities and, distribution of any documents and exchange information with respect to the *Network* activities to and between the *Task Forces* and the *Parties* concerned;
- vi) drawing up and compiling the reports to be delivered by the *Consortium* to the *Commission*;
- vii) supporting the *Co-ordinator* in the preparation of meetings with the *Commission* and in the compilation of related data;
- viii) preparing proposals of the *Assembly* for the acceptance of new parties to this *Agreement* and the accession of new parties to the *Contract*, including, in case of a positive decision by the *Assembly* on conducting a Competitive Call ;

- ix) preparing the implementation of any such accession of new parties including the administrative preparation of the accession process and of a Competitive Call;
- x) drawing up proposals to the *Parties* for *Additional Agreements*;
- xi) drawing up proposals to the *Assembly* for the review and/or amendment of terms of the *Contract* or to the *Parties* for the review and/or amendment of terms of this *Agreement*;
- xii) in accordance with the decisions of the *Assembly* and the provisions of this *Agreement* and any amendments thereto, implementing and deciding on the application of measures of controls and audit procedures in order to ensure the effective day-to-day coordination and monitoring of the *Network* activities;
- xiii) omitted;
- xiv) review of a *Task Force's* documentation on the *Default* of a *Party*, compile a report on such *Default* to the *Assembly* and propose actions to be taken against the *Defaulting Party* to the *Assembly* in accordance with Article 6(4) xv) of this *Agreement*;
- xv) subject to other provisions of this *Agreement*, propose modalities for any additional rules for the financial management of funds;
- xvi) propose the establishment of any advisory committees, including the appointment of its members;
- xvii) propose to the *Assembly* the decision to suspend all or part of the *Project* or to terminate all or part of the *Contract*, including the modalities of such termination with respect to ongoing activities; or propose a decision regarding a request by the *Co-ordinator* to the *Commission* to terminate the participation of one or more *Parties* in the *Contract*;
- xviii) co-ordination of agreements or activities in accordance with Annex II.12 of the *Contract* on publications or press releases by *Parties* or by the *Commission* and co-ordinate the required actions and agreements on planned press releases or publications in accordance with the provisions of Article 36 of this *Agreement*.

(3) In case of the *Default* of the *Co-ordinator* in the performance of its tasks as a *Co-ordinator*, at least three members of the *Steering Board* acting jointly shall document such *Default* and bring the issue to the vice-chairperson of the *Assembly*, who shall inform the *Parties* of the issue for a decision to be taken within the *Assembly*.

(4) The *Steering Board* shall be chaired by the representative(s) of the *Co-ordinator* for a period of one year. Thereafter the *Steering Board* shall nominate a chairperson, to be appointed by the *Assembly* for a period of one year. Reappointments of the same chairperson shall be possible. The chairperson of the *Steering Board* shall usually be responsible for the transmission and presentation of the proposals of the *Steering Board* to the *Assembly*.

(5) Meetings of the *Steering Board* shall take place at least once per three months or upon request by any of its members. The meetings shall be convened by the *Co-ordinator* with a notice period of fourteen (14) calendar days. The convocation shall identify the agenda of the meeting, all decisions to be taken and be accompanied by the necessary supporting material and documentation for such decision. Any member of the *Steering Board* may suggest any additional agenda items by giving notice of such request to all other members not later than 36 hours in advance to the meeting. Notice periods may be waived by unanimous *Agreement* from all members of the *Steering Board*.

(6) In the decisions of the *Steering Board* each member of the *Steering Board* shall have one vote. Decisions in meetings of the *Steering Board* shall require a quorum of all members of the *Steering Board* either being present or represented by deputies. Decisions shall be taken by a majority of two thirds of the votes. The chairperson of a *Task Force*, whose tasks or activities are existentially impacted by such decision, may object to such decision. In such case the matter, shall be brought to

and decided in the *Assembly*, where the reasons for the decision as well as the reasons for the objection shall be presented.

(7) Meetings of the *Steering Board* may also be held

(i) without the prior notices required under Article 9 (5) of this *Agreement*, and/or

(ii) via audio- or video-teleconferences and/or

(iii) decisions required to be taken or permitted to be taken by the *Steering Board* may be taken via email, on the pre-condition that all other members of the *Steering Board* receive copies of all related communications from all other members.

(8) All meetings and decisions of the *Steering Board*, including those based on non-personal meetings according to paragraph (7) of this Article, shall be minuted by the *Co-ordinator* and agreed upon by the members who attended that meeting. The minutes shall record inter alia all decisions taken and shall be sent to all members within seven (7) calendar days. The minutes shall be considered as accepted, if until the next meeting of the *Steering Board* no member or attendee has objected against the minutes towards the *Co-ordinator*. Thereafter, the chairperson of the *Steering Board* shall sign the minutes. The original minutes thus compiled and signed shall be kept by the *Co-ordinator* and serve as prima facie evidence for the decisions taken. The *Co-ordinator* shall distribute copies to all members and attendees.

(9) Unless otherwise decided by the *Assembly*, the members of the *Steering Board* shall attend all meetings of the *Assembly*, shall have the right to speak at these meetings and shall give any explanations requested by the *Parties'* representatives to the *Assembly*.

(10) Neither the *Steering Board* nor its chairperson or any of its members, including in their position as *Task Force* chairpersons, shall be entitled to act or to make legally binding declarations on behalf of the *Parties* altogether or on behalf of a single *Party* to this *Agreement* nor shall a member enlarge its role beyond the one described herein.

Article 10: (omitted)

Article 11: Advisory Committees

The *Parties'* representatives may agree in the *Assembly* on the establishment of any advisory committees considered necessary and shall decide on the modalities of such committees.

Article 12: The Co-ordinator

(1) The *Co-ordinator* shall be the intermediary between the *Parties* and the *Commission* in relation to the *Parties'* obligations as *Contractors* under the *Contract*.

(2) The *Co-ordinator* shall promptly perform all tasks assigned to it pursuant to the *Contract* and shall do so in the interest of all *Parties* and as further described in this *Agreement*.

(3) Additional tasks shall be performed by the *Co-ordinator* to the extent as determined in this *Agreement*, or as otherwise agreed upon between the *Parties* in the *Plan of Activities*.

(4) To this end, the *Co-ordinator* shall appoint and make promptly known to all *Parties* and their representatives involved in the *Project*, the person(s) in charge of the execution of the *Co-ordinator's* tasks.

(5) With respect to the *Co-ordinator's* tasks under paragraph (2) of this Article, the *Co-ordinator* shall in particular be responsible for:

- i) assistance in the *Steering Board* in the overall follow-up of the performance of the tasks and activities and deliverables to be provided by the *Parties* under the *Contract* as well as information of the representatives of the other *Parties* on any non-performance;

- ii) upon timely approval by the *Assembly* where necessary, transmission of reports and other deliverables to the *Commission*;
- iii) timely delivery of cost and other statements as well as financial audit certificates from the *Parties* to the *Commission*;
- iv) forwarding any documents and information connected with the *Contract* performance to the *Steering Board* and the *Parties* concerned;
- v) performing in due diligence its tasks in the proper administration of any funds and maintaining financial accounts as provided for in Article 22 and 23 of this *Agreement*;
- vi) arranging for the payment and, in case of *Default*, the withholding of payments allocated among the *Parties* in accordance with the respective *Plan of Activities* and in consideration of any agreement in a *Task Force* in accordance with Article 8 paragraph (7) viii) of this *Agreement*;
- vii) upon prior information to the members of the *Steering Board*, administering and forwarding any unilateral requests for the termination of a *Party's* participation in the *Contract* to the *Assembly* and the *Commission*.

(6) If one or more *Parties* is late in submission of deliverables under the *Contract*, the *Co-ordinator* may submit the other *Parties'* deliverables to the *Commission*. If the *Assembly* is late in the approval of reports, the *Co-ordinator* may submit earlier drafts of the reports to the *Commission*.

(7) Besides its other tasks, the *Co-ordinator* shall also administer and prepare minutes of meetings and shall provide the chairperson of the *Assembly* and, if so determined, the *Steering Board*;

(8) Neither the *Co-ordinator*, nor any of its representatives shall be entitled to act or to make legally binding declarations on behalf of the *Parties* altogether or on behalf of a single *Party* to this *Agreement* or to enlarge its role beyond the one described herein and in the *Contract*.

Article 13: Administrative Support Team

(1) Upon proposal by the *Steering Board*, the *Parties* may decide in the *Assembly* to make personnel or other resources available for administrative support of the *Network* activities.

(2) In such case, the administrative team shall assist the *Steering Board* as well as the *Assembly* and the *Co-ordinator* in the fulfilment of administrative and organisational tasks in accordance with the *Plan of Activities* and respective decisions of the *Steering Board*, to be communicated to the administrative team by the chairperson of the *Steering Board*.

(3) Staff members of the administrative team shall normally be made available by the *Parties*.

(4) The costs of administrative support will be planned by the *Steering Board* and included in the *Network Budget*.

(5) The members of the administrative team shall not be entitled to act or to make legally binding declarations on behalf of the *Parties* altogether nor on behalf of a single *Party* to this *Agreement*.

Section C: Performance responsibilities of the Parties

Article 14: Obligations – Plan of Activities

(1) The obligations of the *Parties* are specified in the *Contract*, including the Joint Programme of Activities, as detailed or supplemented in the *Plan of Activities* agreed upon according to the provisions of this *Agreement*.

(2) The first *Plan of Activities* is based on Annex I to the *Contract* and agreed upon in the first meeting of the *Assembly*. In the adoption of any subsequent *Plan of Activities*, a *Party* may only refuse to contribute additional resources beyond the contributions that would be due to meet the agreed level of integration stated in the most recent Annex I to the *Contract*.

Article 15: Responsibilities of the Parties and liability

(1) Each *Party* hereby undertakes to use all reasonable endeavours to perform and fulfil, promptly, and on time, all of its obligations under the *Contract* and this *Agreement*, to be actively engaged to fulfil the purpose and objectives of the *Project* and act in a spirit of cooperation and mutual trust. For the avoidance of doubt, this includes that the *Parties* shall also make all reasonable endeavours to provide their respective contributions to deliverables, information, and reports as required for the *Task Forces*, the *Steering Board* and the *Co-ordinator* to fulfil their tasks under the *Contract* and this *Agreement*.

(2) Without prejudice to the *Parties'* information obligations under the *Contract*, each *Party* undertakes to notify the *Steering Board* via the appropriate *Task Force* chairperson promptly of any significant problem or delay likely to affect the success of the *Project*.

(3) Each *Party* shall use reasonable endeavours to ensure the accuracy of any information or materials it supplies under this *Agreement* or under the *Contract* and promptly to correct any error therein, of which it is notified. The recipient *Party* shall be entirely responsible for its own use to which it puts such information and materials and the supplying *Party* shall be under no obligation or liability other than as stated in Article 15 (4) of this *Agreement*, 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 latter shall not apply for the *Co-ordinator*, who may rely on the accuracy of the information or materials received for the purpose of transmission to the *Commission*.

(4) Each *Party* agrees not to use knowingly, as part of a deliverable or in the design of such deliverable or in any information supplied hereunder or under the *Contract*, any proprietary rights of a third party for which such *Party* has not acquired the right to grant licences and user rights to the other *Parties* in accordance with the *Contract*, unless all of the other *Parties* have accepted such use in writing, such acceptance not to be unreasonably withheld.

(5) Without prejudice to any specific provisions of the *Contract* or this *Agreement*, each *Party* shall be solely liable for any loss, damage or injury to third parties resulting solely from the performance of its obligations under this *Agreement*.

(6) No *Party* shall be responsible to any other *Party* for indirect or consequential loss or damages such as, but not limited to, loss of profit, loss of revenue, or loss of contracts. A *Party's* liability towards the other *Parties* shall be limited to the total maximum amount such *Party* would have been entitled to receive under the last *Plan of Activities*.

Article 16: Defaults and remedies

(1) For the purposes of this *Agreement*, the non-performance or default, including delay, in performance of its obligations under this *Agreement* or the *Contract* (Default) by a *Party* (in such case referred to as *Defaulting Party*) shall be considered a breach, if it is not due to *Force Majeure* and if it is irremediable or is not remedied within sixty (60) calendar days of a notice in writing from the *Co-ordinator* upon a respective decision by the *Steering Board*, requiring that such non-performance be remedied. The lack of representation of a *Party* in two consecutive meetings of the *Assembly* or in two consecutive meetings of the *Steering Board* shall be considered a breach by the respective *Party* without requiring notice.

(2) In the event of a breach of the *Contract* or any other obligation in relation to this *Agreement* by a *Defaulting Party*, the other *Parties* may decide jointly in the *Assembly* to terminate this *Agreement* in relation to such *Party* by a written notice of not less than thirty (30) calendar days to be sent by the *Co-ordinator*.

(3) In the event of a breach of its obligations under the *Contract*, the *Defaulting Party* shall be deemed to have agreed to the termination of the *Contract* in respect of its participation therein under the relevant provisions of the *Contract*, as the other *Contractors* and/or the *Commission* shall decide.

(4) In the event of a breach, all and any claim to a reimbursement or consideration, if any, related to the obligation breached shall be deemed to be waived by the *Defaulting Party* after the date of receipt of the request to remedy a non-performance.

(5) Unless decided otherwise unanimously by the *Parties* in the *Assembly* and without prejudice to the provisions of Article 15 of this *Agreement*, in the event of a breach by a *Party* and if a respective decision of termination is taken by the other *Parties* in accordance with paragraph (1) of this Article, the following shall apply:

- i) any and all *Access rights* granted to the *Defaulting Party* by the other *Parties* under this *Agreement* as well as under the *Contract*, shall cease immediately while any and all *Access rights* granted by the *Defaulting Party* to the other *Parties* under this *Agreement* as well as under the *Contract* shall remain in full force and effect;
- ii) the work and tasks remaining to be performed by the *Defaulting Party*, may be assigned, by decision of the other *Parties* within the *Assembly*, to one or more of the *Parties* or to third parties, which are acceptable to the *Commission* and agree to be bound by the terms of this *Agreement*;
- iii) the *Defaulting Party* shall, within the limits specified in Article 15 (5) of this *Agreement*:
 - 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 to be performed by the *Defaulting Party* as specified in the *Plan of Activities* defining such work;
 - be liable for any so resulting additional direct cost incurred by the other *Parties*.

Consequently, any further amount required pursuant to any joint liability of the *Parties* to perform the *Contract* shall be equally borne between the *Parties*.

(6) Without prejudice to any other rights of the other *Parties*, the provisions of paragraph (5) of this Article shall also apply in the event that a *Party's* participation in the *Contract* is terminated by the *Commission*.

(7) If a *Party* enters into bankruptcy or liquidation or any other arrangement for the benefit of its creditors, the other *Parties* shall take over the fulfilment of such *Party's* obligations and receive subsequent payments under the *Contract* in respect thereof. In such event all rights and obligations under the *Contract* and this *Agreement* shall in good faith be redistributed among the remaining *Parties* on the basis of the work performed by the affected *Party* prior to the occurrence of the above circumstance.

Article 17: Force Majeure

(1) The *Parties* agree that the definition for *Force Majeure* and the consequences with respect to the *Parties'* rights and obligations in case of *Force Majeure* under this *Agreement* shall be the same as provided for in the *Contract* (Annex II.4) as these may be amended from time to time between the *Parties* and the *Community*.

(2) A *Party* shall promptly notify the *Steering Board* in writing of any *Force Majeure* that may affect the fulfilment of its obligations under the *Contract* or under this *Agreement*.

Article 18: Exchange of Personnel

(1) The *Parties* undertake to encourage the exchange of personnel and staff mobility for the purpose including, without limitation, of providing training, carrying out joint research, coordinating activities and/or implementing common research tools and platform.

(2) The following principles shall apply for exchange of personnel:

- i) The visiting person will continue to be employed by the original employer during the exchange.
- ii) The visiting person will be subject to and required to observe all rules, regulations, policy and requirements of the host *Party*, including but not limited to non-disclosure of confidential information, health and safety, security and export control requirements, conduct, hours of work and predetermined firm holidays.

(3) *Knowledge* developed by the visiting person during his/her assignment shall be handled in accordance with the provisions of Section E on Intellectual Property Rights of this *Agreement*.

(4) Additional provisions or, if legally necessary, modifications on the above principles shall be laid down by the *Parties* concerned in *Additional Agreements*.

Article 19: Subcontracting

(1) Subcontracts planned by a *Party* in relation to its obligations under the *Contract* and which are not clearly identified in Annex I of the *Contract*, shall require the approval of the *Steering Board* and shall be approved by such Committee in the light of the provisions of Annex II.6 of the *Contract*.

(2) In case a *Party* uses a subcontractor in the performance of its obligations under the *Contract* or in the performance of other obligations under this *Agreement*, such *Party* shall remain fully responsible for the performance of any part of such obligations and, unless otherwise approved by the *Assembly*, bear all costs and obligations resulting from such subcontracting.

For the avoidance of doubt, such *Party* shall also be fully responsible for the supervision of its *Subcontractors* and shall ensure that

- (i) such subcontracts fully comply with the requirements of the *Contract*;
- (ii) that obligations of non-disclosure under Article 42 of this *Agreement* are extended to such *Subcontractor* by appropriate contractual obligations;
- (iii) that the other *Parties'* *Access rights* are fully preserved ; and
- (iv) that the third party shall have no access to any other *Party's Knowledge* or *Pre-Existing know-how* without the latter's prior written consent.

Section D: Financial provisions

Article 20: Financial contribution of the Community

The financial contribution of the *Community* shall be distributed according to the *Network Budget*, which reflects the provisions of the *Contract*, this *Agreement* and the decisions of the *Assembly*.

Article 21: Resources

(1) Each *Party* shall make available the resources for performing its obligations as agreed in the *Plan of Activities*. These resources may take the form of money or comprise assets of any other nature.

(2) All resources made available for the performance of the *Network* activities shall be valued and included in the *Network Budget*.

(3) All resources not provided by the *Commission*, shall be valued on a basis of Differential Costs, defined as those costs which would not have been incurred, if the *Network* activities did not exist.

(4) Costs arising from a *Party's* performance or contribution or any participation in the *Network* shall be borne fully and solely by such *Party*, if not explicitly determined otherwise in the *Network Budget*.

Article 22: Custody of funds

Any money made available for the execution of the *Plan of Activities*, including the *Community* financial contribution, shall be received and administered by the *Co-ordinator* in clearly separated and identified special accounts.

Article 23: Payments

(1) Omitted.

(2) Not later than thirty (30) days from a formal *Assembly* decision on the *Network Budget*, the *Co-ordinator* will, on the basis of such authorisation, transfer the amounts available to it and due to the *Parties* concerned, and will notify those *Parties* promptly of the date and composition of the amount transferred to its bank account and shall give the relevant references. The *Co-ordinator* shall maintain financial accounts tracing payments made and identifying what portion of the *Community* financial contribution has been paid to each *Party*.

(3) Notwithstanding the existence of the *Network Budget*, each *Party* shall be solely responsible for demonstrating its costs with respect to the *Project* towards the *Commission* - in accordance with its own financial system as allowed for by the *Commission*. Neither the *Co-ordinator* nor any of the other *Parties* shall be in any way liable or responsible for such demonstration towards the *Commission*.

Article 24: Budgeting specific costs

(1) Costs for management shall be budgeted in the following order:

- i) banking and transaction costs related to the handling of any financial resources made available for the *Network* by the *Co-ordinator*;
- ii) reasonable costs of *Parties* related to the delivery of audit certificates according to Annex II.26 of the *Contract*;
- iii) costs related to calls for new *Contractors*;
- iv) costs related to updating this *Agreement*;
- v) costs for the *Co-ordinator* and the administrative team, if any;
- vi) costs for the tasks of the *Task Force* chairpersons, and tasks of the *Steering Board*;
- vii) any other categories of management costs.

(2) The above sequence shall be taken into account by the *Parties* when agreeing on the *Network Budget*. The *Network Budget* has to cover the reimbursement of the coordination costs that remain from the items above, if the management budget is fully used.

(3) The following costs shall always be separately identified in the *Network Budget*:

- i) costs for the Scientific Advisory Board, if any;
- ii) budget for protection of Intellectual Property, which can be re-distributed to specific Activities.

(4) All other costs are to be handled within the budget lines of the *Task Forces* concerned.

Article 25: Financial planning and reporting data

(1) Each *Party* shall, within the organisational structures set forth in this *Agreement*, make available all relevant financial data as needed for the setting-up of the *Network Budget*.

(2) The *Co-ordinator* shall provide consolidated data about definitive payments by the *Commission* and about the financial statements of all *Parties* as delivered to the *Commission*, in order to be able to prepare new *Network Budgets*.

(3) Each *Party* shall be solely liable for its financial data. No other *Party*, including the *Co-ordinator*, nor their representatives acting within the scope of this *Agreement* may change these data without a written permission of the *Party* concerned.

Article 26. Suspension of payment by the Commission

(1) In case the *Commission* decides to suspend the *Project*, the *Parties* shall meet in the *Assembly* in order to decide unanimously on the further procedure and the modalities of continuation of the *Network* activities.

(2) In case no agreement on the further procedure or continuation of the *Network* activities can be reached, those activities within the *Network*, which are necessary to the other *Parties* in order to continue their activities in the field of the *Network*, shall continue for the current period of the *Plan of Activities*, to the extent that adequate reimbursement and sharing of costs ensuing from such activities has already been agreed upon or can be agreed upon among the *Parties* concerned.

Section E: Intellectual Property Rights

Article 27: Relation to Contract provisions

Each *Party* is bound by the terms and conditions of the *Commission* contractual rules, Annex II General Conditions – Part C entitled “Intellectual Property Rights” as hereby complemented or specified.

Article 28: Pre-Existing know-how

The *Parties* have identified and listed in the Attachment of this *Agreement* the *Pre-Existing know-how* needed for the *Project* and the *Pre-Existing know-how* explicitly excluded from *Access rights*. The *Parties* agree that all other *Pre-Existing know-how* shall be considered as unnecessary for the implementation of the *Project* and/or excluded, provided however the *Parties* may update the Attachment to extend the listed *Pre-Existing know-how*.

Article 29: Ownership of Knowledge

(1) *Knowledge* arising from work carried out under the *Project* shall be the property of the *Party(ies)* carrying out the work leading to that *Knowledge*.

(2) Where several *Parties* have jointly carried out work generating the *Knowledge* and where their respective share of the work cannot be ascertained, they shall have joint ownership of such *Knowledge*. They shall agree among themselves on the allocation and the terms of exercising the ownership of said *Knowledge*.

Subject to any specific agreement between the *Parties* owning the *Knowledge* and to the provisions of the *Contract* and this *Agreement*, each co-owner shall be entitled to use the joint *Knowledge* as it sees fit, without compensation, provided said use does not conflict with the *Network*.

(3) In addition to the obligations pursuant to the Annex II.32.3 of the *Contract*, each *Party* shall ensure that it can fulfil its obligations under the *Contract* and this *Agreement*, notwithstanding any rights of its faculty, employees, post-docs or students under the *Knowledge* or *Pre-Existing know-how*.

Article 30: Protection of Knowledge

(1) The *Parties* shall make reasonable endeavours to protect the *Knowledge* arising out of their performance of the *Project*, according to their own policy and legitimate interest and in observance of their obligations under the *Contract*.

(2) Each *Party* shall be entitled to protect its own *Knowledge* under its own name and at its sole expense unless specifically agreed otherwise between the parties concerned. Such *Party* shall inform the other *Parties* on a timely fashion and, where necessary, under appropriate non-disclosure agreement of any patent filing and other intellectual property rights.

(3) *Parties* will act together to protect jointly owned *Knowledge*. A co-ownership agreement will be established between those *Parties* who share rights to *Knowledge* in accordance with Article 29 of this *Agreement* to define the arrangement between them for applying for, obtaining and/or maintaining the relevant patent protection or any other intellectual property right.

Article 31: Access rights – General principles

(1) For the purpose of clarification, the terms “*Needed*” and “*Commercial*” when used with regard to *Access rights* shall have the following meanings:

- ‘*Needed*’ shall mean that, without the grant of the requested *Access rights*, the *Party*’s work under the *Project*, or its ability to *Use* its own *Knowledge* would be impossible, or would require significant additional resources, or would be significantly delayed. The requesting *Party* bears the burden to demonstrate that the *Access rights* are *Needed*.

- “*Commercial*” shall refer to the transfer of *Knowledge* or *Pre-Existing know-how* to a for-profit organisation [by sale, lease, licence, by inclusion in further research for third parties or any other means including performing contract research service] in such a way that a for-profit organisation is enabled to *Use* this *Knowledge* or *Pre-Existing know-how*.

(2) All *Needed Access rights* shall be granted on a non-exclusive basis and upon written request stating the extent of the *Access rights Needed* and reasons for its need.

(3) No transfer costs shall be charged for the granting of *Access rights*.

(4) Unless explicitly agreed on a case-by-case basis by the *Party* or *Parties* owning the *Knowledge* and/or the *Pre-Existing know-how*, *Access rights* shall not be granted to affiliates of *Parties*, nor include the right to grant sub-licenses.

(5) Upon request of the *Party* granting *Access rights* and without prejudice to the *Contract* provisions, a bilateral agreement will be concluded between the *Parties* to specify the conditions of *Access* but not restricting the principal rights.

Article 32: Access rights for execution of the project

All *Access rights Needed* for carrying out the *Project* are granted on a royalty-free basis.

Article 33: Access rights to Pre-existing know-how for Use of own Knowledge

(1) *Access rights to Pre-Existing know-how Needed for Use of own Knowledge* shall be granted on fair and non-discriminatory market conditions subject to a separate agreement between the *Parties* concerned, unless decided otherwise by the *Party* owning the Pre Existing know-how and/or unless granted for *Use* purposes defined under paragraph (2) hereunder.

(2) *Access rights to Pre-Existing know-how Needed for Use of own Knowledge* in not *Commercial* research that enter into the scope/purpose of the *Network* and this *Agreement* shall be granted on royalty-free conditions subject to a separate agreement between the *Parties* concerned.

Article 34: Access-rights to Knowledge for Use of own Knowledge

(1) The granting of *Access rights to Knowledge Needed for Use of own Knowledge* is made conditional on the conclusion of separate agreements aimed at specifying the terms and conditions of *Use*.

(2) Unless granted for *Use* purposes defined in paragraphs (3) and (4) hereunder, *Access rights to Knowledge Needed for Use of own Knowledge* shall be granted on preferential conditions to be agreed between the parties concerned.

(3) *Access rights Needed for Use of own Knowledge* for teaching and for not *Commercial* research shall be granted on royalty-free conditions.

(4) *Access rights to Knowledge Needed for Use of own Knowledge* for the purpose of carrying out research in collaboration with and/or for a third party shall be granted on royalty-free conditions, provided the research carried out enters into the scope/purpose of the *Network* and this *Agreement* and enhance the *Network*.

Article 35: Identification of restrictive commitments

(1) It is understood that each of the *Parties* may have ongoing research activities in the field as set forth in Annex I of the *Contract*, that are subject to third party obligations, such as, but not limited to grants funded by governmental agencies, contracts with private companies, and material transfer agreements governing the use of third party proprietary materials in the research project.

(2) Each *Party* undertakes to inform promptly the other *Parties* of pre-existing contracts and grant projects which may in its opinion affect *Access rights* as per the provisions of the *Commission* contractual rules, Annex II.36 of the *Contract*. In the event of conflict between the terms of this *Agreement* and those obligations, the obligations undertaken by the *Parties* prior to this *Agreement* shall take precedence.

Article 36: Publication

(1) The *Parties* acknowledge their common interest in publishing the *Knowledge* to obtain recognition and to advance the state of knowledge in the field as set forth in Annex I of the *Contract*. The *Parties* also recognise their common interest in obtaining valid intellectual property protection and in protecting business interests.

(2) It is contemplated that results of the *Project* will be jointly published; in such case authorship on publications will be based on academic standards and custom. The *Parties* each separately have the right to publish their own *Knowledge*.

(3) All written or oral public disclosures concerning *Knowledge* will expressly reflect that it has been developed within the *Network*.

(4) The *Party* or *Parties* wishing to make the publication will provide a copy of the abstract or publication manuscript to the other *Parties* via the *Co-ordinator* at the earliest practicable time, but in any event within at least 30 days prior to any proposed publication of any manuscript or any presentation or other public disclosure date, including abstracts.

(5) The other *Parties* may comment upon, but may not change, the conclusions and content of any such publication or presentation. Each of the other *Parties* is however entitled to request that its proprietary confidential information, *Pre-Existing know-how* and *Knowledge* be deleted from any such publication or communication. Each of the other *Parties* may also object to the publication within a period of 30 days from receipt of the proposed publication, if they consider that the protection of their *Knowledge* would be adversely affected. In such case, the *Parties* agree to delay the publication up to a maximum of 60 days after objection to allow for protection.

(6) 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 *Knowledge* and *Pre-Existing know-how*.

(7) 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 marks, without their prior written approval.

Article 37: Principles for an integrated management of Intellectual Property Rights

The *Parties* intend to cooperate at *Network* level with respect to the management of all matters relating to the protection and exploitation of all *Knowledge* arising from the *Project* and of the intellectual property rights pertaining to such *Knowledge*, with the view to promote innovation.

Section F: Termination and changes in the Consortium parties

Article 38: Accession to the Contract

(1) Third parties may accede to this *Agreement* and the *Contract* subject to a decision by the *Assembly* and, where required, the *Commission*.

(2) When the accession to the *Contract* is the result of a competitive call, the entering party shall be accepted in accordance with this *Agreement* and the additional financial requirements set up in the competitive call.

(3) When the accession to the *Contract* is not the result of a competitive call, the entering party will be accepted in accordance with this *Agreement* and the additional financial requirements set up by the *Assembly*.

Article 39: Termination

(1) This *Agreement* shall automatically terminate without any further required decision in case the *Project* work is not awarded to the *Parties* within a period of 12 months from the entry into force of this *Agreement*.

(2) In the case of a termination of the entire *Contract* by the *Commission* or by the *Parties*, the *Parties* may terminate this *Agreement* by unanimous agreement, provided that decisions can be reached on the modalities of termination or the continuation of ongoing activities within the current *Plan of Activities* between the *Parties* involved in such activities.

(3) Termination of this *Agreement* with respect to an individual *Party* shall be possible according to the provisions of Article 16 or pursuant to the withdrawal of a *Party* in accordance with Article 40 of this *Agreement*.

Article 40: Withdrawal of Parties

(1) No *Party* shall be entitled to withdraw from this *Agreement* and/or participation in the *Project* unless:

- i) that *Party* has obtained the prior written consent of the other *Parties* (such consent not to be unreasonably withheld), and also of the *Commission*, to the withdrawal from, or termination of, the *Contract*; or
- ii) the *Contract* is terminated by the *Commission* in relation to that *Party* for any reason whatsoever.

(2) However, a *Party* shall not by withdrawal or termination be relieved from

- i) its responsibilities under this *Agreement*, including the current *Plan of Activities* or the *Contract* in respect of that part of that *Party's* work on the *Project* 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.

(3) Notwithstanding the provisions of paragraph (1), a *Party* intending to unilaterally terminate its part of the *Contract* or to withdraw from this *Agreement* (“the *Withdrawing Party*”) is entitled to request the other *Parties'* consent with respect to such withdrawal, if:

- a. modifications of its statute prevent the *Withdrawing Party* to further participate in the *Network*, or
- b. a *Party's* activities in the field of the *Network* are substantially impaired due to a substantial decrease in the appropriation of public funds with respect to such activity or if the respective field has been entirely abandoned following a relevant executive decision within that entity or by its sponsors.

(4) If, due to integrative steps taken in fact by the *Parties* during the course of the *Project* without providing for an *Additional Agreement* setting forth details on withdrawal and termination from the concrete integrated activity, the other *Parties* vitally depend on the ongoing performance of technical responsibilities and obligations by the *Withdrawing Party*, the *Withdrawing Party* shall in any case continue to be obliged to perform such technical responsibilities and obligations against full reimbursement of costs for a period to be agreed upon between the remaining *Parties* and the *Withdrawing Party*, but which shall not exceed one year.

Article 41: Survival of provisions

The provisions related to liability, confidentiality, intellectual property rights and publications shall survive the term or termination of this *Agreement* for any reason whatsoever, to the extent needed to enable the *Parties* to pursue the remedies and benefits provided for in those provisions. For the avoidance of doubt, termination or withdrawal shall not affect any rights or obligations incurred prior to the date of the termination.

Section G: General contractual provisions

Article 42: Non-disclosure of information

(1) In respect of all and any information in whatever form or mode of transmission, which has been explicitly marked as “confidential”, acquired prior to or during the period of this *Agreement* by a *Party* (“*Receiving Party*”) from an other *Party* (the “*Disclosing Party*”) relating in any way whatsoever to the *Project* or the activities of the *Parties* within the *Network*, the *Receiving Party* or *Receiving Parties* hereby undertake(s) in addition and without prejudice to any commitment of non-disclosure under the *Contract*, for a period of three years from the date of disclosure of the information:

- i) not to use such information otherwise than for the purpose, for which it was disclosed;
- ii) not to disclose such information to any third person without the prior written consent by the *Disclosing Party*;
- iii) that internal distribution of information by a *Receiving Party* shall take place on a strict need-to-know basis.
- iv) that 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 authorised in writing by the *Disclosing Party*;

- v) to return to the *Disclosing Party* on demand all information which has been supplied to or acquired by the *Receiving Party* including all copies thereof and to delete all information stored in a machine readable form.

The *Receiving Party* shall be responsible for the fulfilment of the above obligations on the part of its employees and shall ensure that its employees shall be respectively obligated, as far as legally possible, during and after the end or after the termination of employment.

(2) The *Receiving Party* shall not be liable for disclosure or use of confidential information, if and in so far as without breach of this provision:

- i) it is in or comes available to the public at any time from a source other than the *Disclosing Party*, or
- ii) is released for disclosure by the *Disclosing Party*, or
- iii) is fully received from third parties, or
- iv) is, at any time, developed by the *Receiving Party* completely independently of any such disclosure by the *Disclosing Party*, or
- v) was already known to the *Receiving Party* prior to disclosure, or
- vi) is disclosed to comply with the law or legal process to which the *Receiving Party* is subject and the *Receiving Party* has exercised its best efforts to obtain reliable assurance that confidential treatment will be accorded to the information disclosed within that process.

(3) The *Receiving Party* shall apply the same degree of care with regard to the confidential information disclosed within the scope of this *Agreement* as with its own confidential and/or proprietary information.

(4) Each *Party* shall promptly advise the other in writing of any disclosure, misappropriation or misuse by any person of information as soon as practicable after it becomes aware of such disclosure, misappropriation or misuse. Each *Party* shall also promptly advise the other *Party* of any request by authorities of disclosure under strict legal requirements (such as legal processes) as soon as such a request is received.

(5) The expiration or termination of this *Agreement* shall not relieve the *Parties* of any rights or any obligations that have arisen under this Article during the term of this *Agreement*.

Article 43: Severability

Should any provision of this *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 *Agreement*. In such a case, the *Party* concerned 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 44: Attachments, Conflicts, Inconsistency

(1) An attachment of this *Agreement*, which is an integral part thereof is:

- Attachment: Excluded *Pre-Existing know-how*

(2) In the event of conflict or inconsistency between any provision contained in the body of this *Agreement* and any provision contained in its Attachment, the provisions contained in the body shall prevail.

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

(4) In the event of conflict or inconsistency in a matter falling under the subject of this *Agreement* between any provision contained in this *Agreement* and an *Additional Agreement* concluded in connection with the integration process of the *Parties*, the conditions of this *Agreement* shall prevail.

Article 45: No Partnership or Agency

This *Agreement* is not intended to and nothing in this *Agreement* shall be deemed to constitute, create, give effect to, or otherwise recognise such creation of a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the *Parties*.

Article 46: Notices

(1) If not explicitly stated in this *Agreement* that a notice shall be in writing, any notices, requests, consents and other communications to be given by a *Party* under this *Agreement* may also be effected by email or by telefax.

Notices in writing shall be deemed to be valid and effective, if the notice

- i) has been personally served, or
- ii) sent by registered prepaid airmail, or
- iii) sent by recorded delivery mail

to the representatives of the *Parties* to the *Assembly* at their addresses listed in the most current address list to be kept by the *Co-ordinator*.

Notices by email or telefax shall be deemed to be valid and effective, if sent to representatives of the *Parties* at the addresses as listed in such address list and if delivery was recorded and a transmission report has been received by the sender.

(2) The address list to be kept by the *Co-ordinator* shall show full addresses and names of the *Parties'* authorised representatives to the *Assembly*. For the purpose of convenience, it shall also show the contact details of other persons designated under the *Contract* or otherwise designated by the *Parties* in connection with the *Project*.

(3) Any change of persons or contact details shall immediately be notified by the respective *Party* to the *Co-ordinator*. The *Co-ordinator* will forthwith distribute a respectively modified address list to all the other contact persons and the *Commission*. The address list shall be accessible to all concerned.

Article 47: Assignment, Amendments

(1) Any rights or obligations of the *Parties* arising from this *Agreement* may not be assigned or transferred in all or in part to any third party without the other *Parties'* prior written approval.

(2) All and any amendments and modifications to the main body of this *Agreement* require consent in writing between all *Parties*, duly signed by respectively authorised representatives of the *Parties*.

(3) The Attachment of this *Agreement* may be amended as specified in Article 28.

Article 48: Language

This *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 49: Governing Law

This *Agreement* shall be construed in accordance with and governed by the laws of the same country, by which the *Contract* is governed.

Article 50: Settlement of Disputes

(1) The *Parties* endeavour to settle disputes amicably.

(2) In the event of any dispute, difference, controversy or claim arising out of or in connection with this *Agreement*, the *Parties* will first attempt to settle such dispute by consultations in at least two minuted meetings on the subject. The second meeting shall be held among the respective *Parties'* representatives to the *Assembly*.

(3) If in application of paragraph (2) of this Article, the *Parties* concerned have not reached a settlement of such dispute at the expiration of sixty (60) days after the second meeting, the dispute shall be finally settled by arbitration in accordance with the Rules of Arbitration of the ICC as presently in force. The number of arbitrators shall be three. In disputes, where the value of the dispute does not exceed 250.000 Euro, the dispute shall be settled by arbitration with a sole arbitrator. The place of arbitration shall be Brussels and the language to be used in the arbitral procedure shall be English.

This *Agreement* shall be executed in one original which shall be kept by the *Co-ordinator*. The *Co-ordinator* shall distribute one copy of the signature pages to all of the other *Contractors*.