

**PROJECT CONSORTIUM AGREEMENT**

 **AIDOaRt**

**NUMBER: 101007350**

**AI-augmented automation for efficient DevOps, amodel-based framework for continuous development At RunTime in cyber-physical systems.**

**ECSEL – HORIZON 2020 Model Consortium Agreement for Research, Development and Innovation Actions funded by the ECSEL JOINT UNDERTAKING**

BETWEEN:

1. MAELARDALENS HOEGSKOLA SE (MDH- 999881530)
2. AIT AUSTRIAN INSTITUTE OF TECHNOLOGY GmbH (AIT-999584128)
3. AUTOMATED SOFTWARE TESTING GmbH (AST-895686070)
4. AVL LIST GmbH (AVL- 999952243)
5. DYNATRACE AUSTRIA GmbH (DT-895401472)
6. TECHNISCHE UNIVERSITAET GRAZ (TUG-999977948)
7. UNIVERSITAET LINZ (JKU-999892976)
8. CAMEA, SPOL S.R.O. (CAMEA-998129031)
9. VYSOKE UCENI TECHNICKE V BRNE (BUT -999873091)
10. ABO AKADEMI FI (ABO-999903355)
11. ANDERS INNOVATIONS OY (AND-896957740)
12. QENTINEL OY (QEN-935968909)
13. CLEARSY SAS FR (CSY-999916062)
14. INSTITUT MINES-TELECOM (IMTA-999849326)
15. PREVISION.IO (PIO-895693442)
16. SOFTEAM FR (SOFT-906436677)
17. ABINSULA SRL (ABI-951632372)
18. INTECS SOLUTIONS SPA IT (INT- 918599119)
19. RO TECHNOLOGY SRL IT (ROTECH- 956952240)
20. TEKNE SRL IT (TEK- 917522322)
21. UNIVERSITA DEGLI STUDI DELL'AQUILA IT (UNIVAQ- 999859511)
22. UNIVERSITA DEGLI STUDI DI SASSARI (UNISS-999465594)
23. ACORDE TECHNOLOGIES S.A. (ACO-999796267)
24. FUNDACIO PER A LA UNIVERSITAT OBERTA DE CATALUNYA (UOC-995992024)
25. HI IBERIA INGENIERIA Y PROYECTOS S.L. (HIB-996346074)
26. INSTITUTO TECNOLOGICO DE INFORMATICA (ITI-998565337)
27. PRODEVELOP SL (PRO-996571696)
28. UNIVERSIDAD DE CANTABRIA (UCAN-999880075)
29. BOMBARDIER TRANSPORTATION SWEDEN AB SE (BT-974564433)
30. VOLVO CONSTRUCTION EQUIPMENT AB (VCE-985826424)
31. RISE RESEARCH INSTITUTES OF SWEDEN AB (RISE-999613422)
32. WESTERMO TELEINDUSTRI AB (WESTMO-906739123)

hereinafter, jointly or individually, referred to as ‘Parties’ or ‘Party’

relating to the research project entitled:

The project idea is focusing on AI-augmented automation supporting modeling, coding, testing, and monitoring as part of a continuous development in Cyber-Physical Systems (CPSs).

in short:

AIDOaRT

hereinafter referred to as the “Action”

**WHEREAS**

* The ECSEL Joint Undertaking is a partnership between the private and the public sectors for electronic components and systems. It is established within the meaning of Article 187 of the Treaty on the Functioning of the European Union for the implementation of the Joint Technology Initiative on 'Electronic Components and Systems for European Leadership' for a period up to 31 December 2024.
* The ECSEL Joint Undertaking has been established by COUNCIL REGULATION (EU) No 561/2014 of 6 May 2014 (the “**Council Regulation**”). With a view to ECSEL rules for participation and dissemination, Art. 17 of said Regulation stipulates that Regulation (EU) No 1290/2013 shall apply to the actions funded by the ECSEL Joint Undertaking.
* Consequently, this Project Consortium Agreement is based upon REGULATION (EU) No 561/2014 establishing the ECSEL Joint Undertaking in connection with REGULATION (EU) No 1290/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2013 laying down the rules for the participation and dissemination in “Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020)” (hereinafter referred to as “**the Rules**”), and the European Commission Multi-beneficiary General Model Grant Agreement and its Annexes, and is made on April 1st, 2021 (hereinafter referred to as the “**Effective Date**”).
* The Parties have submitted a proposal for the Action to the ECSEL Joint Undertaking acting as the Funding Authority.
* The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the Rules, as well as of the specific Grant Agreement to be signed by the Parties and the Funding Authority.

**IT IS NOW AGREED AS FOLLOWS:**

**Section 1: Definitions**

**1.1 Definitions**

Words beginning with a capital letter shall have the meaning defined either herein or in the Rules or, in the Grant Agreement including its Annexes.

**1.2 Additional Definitions**

**Access Rights** means rights to implement and/or Exploit Results or Background under the terms and conditions laid down in the Rules, the Grant Agreement and this PCA.

**Accession Date** means the date of the signature of the Declaration of Accession by a Party joining the Action in accordance with the provisions of the GA and this PCA.

**Action Plan** means the description of the Action and the related estimated costs as first defined in Annex 1 of the GA.

**Action Share** means, for each Party, that Party's share of the total cost of the Action as initially set out in the GA, unless otherwise agreed by all Parties.

**AENEAS** means the French association with registered office at 44 rue Cambronne 75015 – Paris, France.

An **Affiliated Entity** of a Party means:

(a) any legal entity directly or indirectly Controlling, Controlled by, or under common Control with that Party, for so long as such Control lasts;

For the above purposes, "**Control**" of any Legal Entity shall exist through the direct or indirect:

* ownership of more than 50% of the nominal value of the issued share capital of the Legal Entity or of more than 50% of the issued share capital entitling the holders to vote for the election of directors or persons performing similar functions, or
* right by any other means to elect or appoint directors of the Legal Entity (or persons performing similar functions) who have a majority vote.

Common Control through government does not, in itself, create Affiliated Entity status.

**Applicable Law** means the law applicable to this PCA as determined in Section 11.7

**Application Programming Interface** or **API** means the application programming interface materials and related documentation containing all data and information to allow skilled Software developers to create Software interfaces that interface or interact with other specified Software.

**ARTEMIS-IA** means the Dutch association with registered office at High Tech Campus 69, 5656 AG, Eindhoven.

**“Background”** means any and all, data, information, know-how and/or IPRs that is/are:

(i) owned or controlled by a Party prior to the Effective Date; or

(ii) developed or acquired by a Party independently from the work in the Action even if in parallel with the performance of the Action, but solely to the extent that such data, information, know-how and/or IPRs are introduced into the Action by the owning Party.

**Confidential Information** has the meaning given in Section 10.1 of this PCA.

**Consortium** means the Parties to this Agreement at any point in time.

**Consortium Bodies** means the bodies which are constituted in accordance with Section 6 of this PCA.

**Controlled License Terms** means terms in any license that require that the use, copying, modification and/or distribution of Software or another copyright work ("**Work**") and/or of any copyright work that is a modified version of or is a derivative work of such Work (in each case, "**Derivative Work**") be subject, in whole or in part, to one or more of the following:

1. (where the Work or Derivative Work is Software) that the Source Code be made available as of right to any third party on request, whether royalty-free or not;
2. that permission to create modified versions or derivative works of the Work or Derivative Work be granted to any third party;
3. that a royalty-free license relating to the Work or Derivative Work be granted to any third party.

For the sake of clarity, terms in any license that merely permit (but do not require any of) these things mentioned in (a) to (c) are not Controlled License Terms.

**Coordinator** means the Party first mentioned above, which is identified as such.

**Council Regulation** has the meaning attributed to it in the second preamble**.**

**Declaration of Accession** means a declaration, in the form provided for in **Attachment 2** to this PCA, signed by a Party in order to join the Action and this PCA as a Party.

**Defaulting Party** means a Party which the General Assembly has identified to be in breach of this PCA and/or the GA as specified in Section 4.2 of this PCA.

**Dissemination** means the public disclosure of the results by any appropriate means (other than resulting from protecting or exploiting the results), including by scientific publications in any medium.

**Effective Date** has the meaning attributed to it in the third preamble.

**EPoSS** means the European Technology Platform on Smart Systems Integration, with registered office at *S*teinplatz 1, 10623, Berlin, Germany.

**Executive Board** means the Consortium Body established in accordance with Section 6.3.2 of this PCA.

**Executive Board Member** has the meaning attributed to it in Section 6.3.2.1.

**Exploitation** or **Exploit** means the direct or indirect use of Background and/or Results in i) further research activities other than those covered by the Action, or ii) in developing, creating and marketing a product, or process, or iii) in creating and providing a service, or iv) in standardization activities. For purposes of clarification, whenever a Party has the rights to market and sublicense Results and Background, such Party may exercise such rights through third-party distributors, resellers, OEMs or other third parties subject to agreements legally sufficient to ensure that such Party is in compliance with its obligations hereunder.

**Fair and Reasonable** shall have the meaning given to it in the definition of **Fair and Reasonable Conditions** in the GA, namely, expressed in the terminology of this PCA: "appropriate conditions including possible financial terms taking into account the specific circumstances of the request for Access Rights, for example the actual or potential value of the Results or Background to which Access Rights are requested and/or the scope, duration and characteristics of the Exploitation envisaged, as well as the extent to which a Party desiring Access Rights has cooperated in the Action with the Party, granting the Access Right, to their mutual benefit”; and shall include the following understanding: to fall within Fair and Reasonable conditions, the conditions must also be non-discriminatory.

**Force Majeure** means any one or more events beyond the reasonable control of the relevant Party which occur after the date of signing of this PCA, were not reasonably foreseeable at the time of signing of this PCA, and the effects of which are not capable of being overcome without unreasonable expense and/or unreasonable loss of time to the Party concerned. Events of Force Majeure shall include (without limitation) war, civil unrest, acts of government, natural disasters, exceptional weather conditions, breakdown, or pandemic, epidemic, general unavailability of transport facilities, accidents, fire, explosions, and general shortages of energy.

**Funding Authority** means the ECSEL Joint Undertaking.

**General Assembly** means the Consortium Body established in accordance with Section 6.3.1 of this PCA.

**General Assembly Member** means a representative of a Party in the General Assembly.

**Grant Agreement** or **GA** means the written agreement between the Parties and the ECSEL Joint Undertaking for the carrying out of the Action, including any agreed amendment to such written agreement that may from time to time be in force.

**Indirect Utilization** means a third party making or providing, only for the account of and for the use, sale or other disposal by a Party and its Affiliated Entities, products and/or services while making use of Background or Results.

**Intellectual Property Rights** or **IPR(s)** means: trade and business secrets, patents, patent applications and other statutory rights in inventions; copyrights (including without limitation copyrights in Software and algorithm); registered design rights, applications for registered design rights, unregistered design rights and other statutory rights in designs; and other similar or equivalent forms of statutory protection, wherever in the world arising or available.

**Legitimate Interest** means a Party’s interest of any kind, in particular a legal, commercial or academic interest, that may be claimed in the cases provided for in this PCA such as : (i) for protection the Party must show that failure to take account of its interest would result in its suffering disproportionately high level of harm, (ii) for Dissemination the Party has to state and show that its legitimate interests in relations to its Results or Background could suffer disproportionately great harm.

**Legal Entity** means any natural person, or any legal person created and recognised as such under national law, Union law or international law, which has legal personality, and which may, acting in its own name, exercise rights and be subject to obligations.

**Member** means any Party that is a member of a Consortium Body.

**National Funding Authority** or **NFA** means any public authority of a country, that co-funds one or more of the Parties hereto in the Action, independent from the Funding Authority.

**National Grant Agreement** means an agreement or other legally binding arrangement, in force and applicable between an NFA and one or more Parties hereto, in which funding for the Action is granted to this Party, or these Parties, by such NFA.

**Needed** means, in respect of executing or carrying out the Action, and/or in respect of "Exploitation of Results", technically essential and:

1. where IPRs are concerned, that those IPRs would be infringed without Access Rights being granted under the GA and/or this PCA;
2. where Confidential Information is concerned, only Confidential Information which has been disclosed during the Action, except as otherwise agreed between the Parties.

**Object Code** means Software in machine-readable compiled and/or executable form including, but not limited to, binary code form and in form of machine-readable libraries used for linking procedures and functions to other Software.

**Project Consortium Agreement or PCA** means this agreement, including all Annexes attached hereto.

**Result(s)** shall have the meaning given to it in the Rules, meaning any tangible or intangible output of the Action, such asdata, knowledge and information whatever their form or nature, whether or not they can be protected, which are generated in the Action as well as any rights attached to them, including Intellectual Property Rights.

**Rules** has the meaning attributed to it in the third preamble.

**Subcontractor** means any third party engaged by a Party to carry out any of that Party's tasks in relation to the Action.

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

**Source Code** means Software in human-readable form normally used to make modifications to it, including but not limited to comments and procedural code such as job control language and scripts to control compilation and installation.

**Section 2: Purpose**

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

**Section 3: Entry into force, duration and termination**

**3.1 Entry into force**

1. An entity becomes a Party to this PCA upon signature of this PCA by one or more duly authorized representative(s) of such entity.
2. This PCA shall have effect from the Effective Date.
3. After the Effective Date an entity becomes a Party to the PCA, subject to the approval of the General Assembly, upon signature of the Declaration of Accession (*Attachment 2*) by one or more authorized representative(s) of the new Party and the Coordinator. Such accession shall have effect from the date identified in the Declaration of Accession.

**3.2 Duration and termination**

This PCA shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the GA and under this PCA.

However, this PCA or the participation of one or more Parties to it may be terminated:

* (a) for a non-Defaulting Party by the Coordinator upon the mutual written consent of the Parties and subject without limitation to Sections 3.3 (*Survival Rights of obligations),* 4.1 (*Responsibilities of parties, general principles*) and 9.9.2.1 *(Access Rights granted to and by a leaving Non-Defaulting Party)* of this PCA;
* (b) for a Defaulting Party upon a decision by the General Assembly in accordance with Section 4.2 (*Responsibilities of the parties, Breach)* and 6.3.1.2 (*Decisions*) subject, and without limitation to, Sections 3.3 (*Survival Rights of obligations*), 4.2 (*Responsibilities of the parties, Breach)* and 9.9.2.2 (*Access Rights granted to a leaving Defaulting Party*) of this PCA and
* (c) by the mutual written consent of all of the Parties on the termination of this PCA for all Parties, on terms to be agreed. All terminations are subject to and without prejudice to the necessary consent and rights of the Funding Authority pursuant to the GA.

If the GA:

* is not signed by the Funding Authority or a Party, or
* is terminated,
* or if a Party's participation in the GA is terminated,

then this PCA shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Section 3.3 (*Survival Rights of obligations*) of this PCA.

The termination of the participation of a Party shall not affect this PCA for the remaining Parties. The Consortium and the Action continues in such case.

**3.3 Survival of rights and obligations**

All provisions of this PCA which by nature should survive the termination of this PCA shall so survive such termination. This shall include without limitation the provisions relating to Definitions (*Section 1),* Results (*Section 8),* Access Rights (*Section 9)* and Confidentiality (*Section 10*), for the time period mentioned therein, as well as for Liability (*Section 5),* Applicable law and Miscellaneous (*Section 11*), all of this PCA.

Without prejudice to Section 9.9.2, termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination of this PCA, unless otherwise agreed between the General Assembly and the leaving Party.

**Section 4: Responsibilities of Parties**

**4.1 General principles**

Each Party undertakes to take part in the efficient implementation of the Action, and to co-operate, perform and fulfil, without undue delay, all of its obligations under the GA and this PCA as may be reasonably required from it and in a manner of good faith, whether or not as prescribed by Applicable Law.

Each Party undertakes to notify without undue delay, in accordance with the governance structure of the Action, any significant information, fact, problem or delay likely to affect the Action.

Each Party shall without undue delay, provide all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks.

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

In the event that any of the Parties requests termination of its participation in the Action or in case of termination of a Defaulting Party´s participation in the Action, the Parties shall use reasonable endeavours to reach agreement on either (a) or (b) below:

1. reallocation of the requesting Party's work and contribution in order that the aims and objectives of the Action can still be met after the proposed withdrawal, and submitting details of it to the Funding Authority; or
2. the drafting of a restructured Action Plan and submitting it to the Funding Authority.

**4.2 Breach**

In the event that a responsible Consortium Body identifies a substantial breach by a Party of its obligations under this PCA or the GA (e.g. the improper implementation of the Action), the Coordinator or, if the Coordinator is the Party in substantial breach of its obligations, a Party appointed by the General Assembly to that purpose, will, unless the breach is not capable of remedy, give formal notice to such Party in breach requiring that such substantial breach must be remedied within 30 calendar days.

If such substantial breach is not remedied within that period or is not capable of remedy, the General Assembly may decide to:

* (i) declare the Party to be a Defaulting Party and may make reasonable proposals on the consequences thereof which may include termination of its participation in accordance with provisions of Sections 6.2.3.4 (*Veto Rights)* and 6.3.1.2 (*Decisions)* of this PCA and article 50.2 of the Grant Agreement,
* or (ii) impose on such Defaulting Party a financial remedy within the limits of Section 5.2.3 (*Financial Limit on Liability)* of this PCA.

**4.3 Involvement of Subcontractors**

A Party that involves a Subcontractor in the Action remains liable for carrying out its relevant part of the Action.

It shall further be liable to ensure that the involvement of Subcontractor does not affect the rights and obligations of the other Parties under this PCA and the GA.

A Party involving a Subcontractor in the execution of the Action, shall ensure, and procure from the Subcontractor concerned, that any Results generated by such Subcontractor in the execution of the Action shall be fully owned by the Party having involved such Subcontractor or that the Party obtains sufficient rights to these Results in another manner sufficient to meet the Party´s obligations under this PCA to the other Parties.

**4.4 Access Rights by Affiliated Entities**

In case an Affiliated Entity of a Party owns Background or, in accordance with Section 8.3.1 (*Transfer of Results),* owns Results, the relevant Party shall ensure that such Affiliated Entity will grant Access Rights to such Background or Results to the other Parties, as if it were a Party to this PCA.

**Section 5: Liability towards each other**

**5.1 No warranties**

Each Party undertakes to use reasonable endeavours to ensure the accuracy of the information furnished to other Parties under the Action. Without prejudice to the previous sentence, in respect of any information or materials (including Results and Background) supplied by one Party to another under the Action, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore,

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

However, and notwithstanding anything to the contrary, each Party undertakes to not knowingly use for the Action any proprietary rights of a third party for which such Party has not acquired the corresponding right to use and to grant Access Rights to the other Parties in accordance with this PCA.

Upon notification or discovery that a Party has submitted defective, or incorrect information to another Party at any time during the performance of the Action, such Party shall promptly notify the affected Parties in writing and correct and redeliver such corrected information at its own expense.

Upon notification or discovery of infringement of any proprietary rights of third parties in connection with the Action, the notified or discovering Party shall promptly notify the affected Parties in writing.

**5.2 Limitations of contractual liability**

**5.2.1 Liability: general**

Subject to the following provisions of this Section 5.2, the general provisions of the Applicable Law governing liability (including both contractual and non-contractual liability) shall apply to any claim between the Parties for loss or damage caused by a Party, its employees, agents and Subcontractors and arising in connection with the Action.

Each Party undertakes to perform its work at its own risk and under its sole liability. In particular, each Party shall individually be liable to comply with the terms and conditions of this PCA and with the Grant Agreement.

**5.2.2 Excluded liabilities**

To the extent permissible under applicable law and except as otherwise provided specifically below in this Section 5.2, in no event shall any Party be liable towards another Party hereto in connection with this PCA or the GA for any of the following, however caused or arising, on any theory of liability, and even if such Party was informed or aware of the possibility thereof:

* loss of profits, revenue, income, interest, savings, shelf-space, production and business opportunities;
* lost contracts, goodwill, and anticipated savings;
* loss of or damage to reputation or to data;
* costs of recall of products

**5.2.3 Financial limit on liability**

Subject to the provisions of Sections 5.2.4 *(Exceeding the scope of Access Rights) and* 5.2.5 (*Other exceptions*) of this PCA, the aggregate liability of each Party under the provisions of Section 5.2.1 (*Liability: General)*to all of the other Parties collectively in respect of any and all such claims shall not exceed the higher of:

* 50% of once that Party's Action Share, or
* the sum of THREE hundred fifty thousand euros (€350,000)

**5.2.4 Exceeding the scope of Access Rights**

For the avoidance of doubt, the exclusions and limitations stated in Sections 5.2.2 (*Excluded Liabilities)* and 5.2.3 above shall not apply in respect of any infringement of the IPRs of any other Party or any Affiliated Entity of any other Party, which is the result of any activity or use of such IPRs that exceeds the scope of the Access Rights granted by the GA or this PCA, or that is not in compliance with the associated terms and conditions upon which the Access Rights have been granted.

**5.2.5 Other exceptions**

The exclusions and limitations stated in Sections 5.2.2 (E*xcluded liabilities)* and 5.2.3 (*Financial Limit on Liability)* above shall not apply in respect of any: fraud; death, injury to natural persons or damage to real or immovable property caused by the negligence or willful act of such Party, its directors, employees, agents and Subcontractors; willful misconduct, gross negligence, willful breach by a Party of any obligation accepted under the GA and this PCA or otherwise in so far as mandatory applicable law overrides such exclusions and limitations.

**5.3 Damage caused to third parties**

Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party’s activities within the Action, either by itself or on its behalf under this PCA or from its use of Results or Background.

**5.4 Force Majeure**

No Party shall be considered to be in breach of this PCA if it is prevented from fulfilling its obligations under the PCA by Force Majeure.

Each Party will notify the competent Consortium Bodies in writing of any Force Majeure without undue delay, describing the Force Majeure event, its anticipated duration and use reasonable efforts to resume performance as soon as possible.

If the consequences of Force Majeure for the Action are not overcome within 8 weeks after such notification, the transfer of tasks – if any – shall be decided by the competent Consortium Bodies.

**5.5. Covid 19**

This PCA has been concluded during the pandemic of coronavirus (“COVID-19”), which has entailed a range of governmental initiatives and measures implemented by national authorities, including bans and recommendations, having a significant influence on the Partys’ ordinary activities. This includes physical shut down of public universities and suspension of a range of laboratory activities. If a Party is prevented from fulfilling its obligations under this PCA caused by COVID-19 and the related governmental initiatives or related measures of national authorities including recommendations, this shall not be regarded as a breach. A Party prevented from fulfilling its obligations must inform the other Parties hereof in writing, and the Parties will jointly agree on necessary actions due to the non-fulfilment.The Coodinator will take the necessary steps on informing the Funding Authority especially regarding any delays in the Project.

**Section 6: Governance structure**

**6.1 General structure**

The organizational structure of the Consortium shall comprise the following Consortium Bodies:

**6.1.1** General Assembly as the ultimate decision-making Consortium Body.

**6.1.2** Executive Board as the supervisory Consortium Body for the implementation of the Action which shall report to and be accountable to the General Assembly.

The Coordinator is the Legal Entity acting as the intermediary between the Parties and the Funding Authority. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the GA and this PCA.

**6.1.3.** This organizational structure includes the following Parties: Project Coordinator (PC), Project Manager (PM), Quality Manager (QM), Technical & Scientific Manager (TSM), Innovation & Exploitation Manager (IEM), Project Management Team Advisors (A), Work package Leader (WPL), Task Leader (TL) and Use Case Leader (UCL).

**6.2 General operational procedures for all Consortium Bodies**

**6.2.1 Representation in meetings**

Any Members:

* should be represented at any meeting of the General Assembly
* may appoint a substitute through a proxy to attend and vote at any meeting on the Member’s behalf; and
* shall participate in a co-operative manner in the meetings.

The composition of the Executive Board shall consist of the following Members:

* It is chaired by the Project Coordinator.
* and will be constituted by the QM, TSM, IEM, as well as, all WPL and UCL.

The Parties shall use reasonable endeavours to maintain their representation in the Executive Board.

**6.2.2 Preparation and organization of meetings**

**6.2.2.1 Convening meetings**

The chairperson of a Consortium Body shall convene meetings of that Consortium Body in accordance with the following:

|  |  |  |
| --- | --- | --- |
|  | Ordinary meeting | Extraordinary meeting |
| General Assembly | At least once a year | At any time upon written request of the Executive Board or 1/3 of the General Assembly Members  |
| Executive Board | At least quarterly  | At any time upon written request of any Executive Board Member |

**6.2.2.2 Notice of a General Assembly meeting**

The chairperson of the General Assembly shall give notice in writing of a meeting and provide the agenda for such meeting to each General Assembly Member as soon as possible and no later than 21 calendar days, or if it concerns an extraordinary meeting, 10 calendar days, prior to such meeting.

**6.2.2.3 Notice of an Executive Board Meeting**

The chairperson of an Executive Board Meeting shall give notice in writing of a meeting and provide the agenda for such meeting to each Executive Board Member as soon as possible and no later than 21 calendar days prior to such meeting.

**6.2.2.4 Adding agenda items**

Any Member of a Consortium Body may, during and before the meeting, add an item to the original agenda provided all Members of a Consortium Body are present and a majority of two thirds (2/3) of the Members agree to add such agenda item.

**6.2.2.5** Any decision may also be taken without a meeting if the Coordinator circulates to all Members of the Consortium Body a written document which is then agreed by the defined majority (see Section 6.2.3. *Specific Operational Procedures for the Consortium Bodies*) of all Members of the Consortium Body.

Such document shall include a reasonable deadline for responses.

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

**6.2.3. Voting rules and quorum**

**6.2.3.1** Each Consortium Body shall not deliberate and decide validly unless two-thirds (2/3) of the Members of that Consortium Body are present or represented by proxy (quorum).

If the quorum is not reached, the chairperson of the Consortium Body shall promptly convene another meeting within 15 calendar days.

If in this second meeting the quorum is not reached then this second meeting shall nevertheless be entitled to decide.

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

**6.2.3.3** Defaulting Parties may not vote.

**6.2.4 Veto rights**

**6.2.4.1** A Party which can show that its own work, time for performance, costs, liabilities, Intellectual Property Rights, Access Rights or other Legitimate Interests would be severely affected by a decision of a Consortium Body may exercise a veto with respect to the corresponding decision or relevant part of the decision.

**6.2.4.2** A Party may veto such decision within 15 calendar days after the draft minutes of the meeting have been sent. In case of exercise of veto, the Members of the related Consortium Body shall make every reasonable effort to resolve the matter which occasioned the veto to the general satisfaction of all Parties.

**6.2.4.3:** When a decision has been taken without a meeting a Member may veto such decision

within twenty-one (21) calendar days after written notification by the chairperson of the

outcome of the vote.

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

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

**6.2.5 Minutes of meetings**

**6.2.5.1.** The chairperson of a Consortium Body shall produce written minutes of each meeting which shall be the formal record of all decisions taken. The chairperson shall send the draft minutes to all Members within 10 calendar days counting from the date on which the meeting was held, informing the Members within how many days objections to the minutes, if any, must be submitted to the chairperson.

**6.2.5.2** Each Member of a Consortium Body that has attended the meeting, shall have the right to request that a factual inaccuracy be corrected. The minutes shall be considered as accepted if, within 15 calendar days from sending, no Member has sent an objection in writing to the chairperson with respect to the accuracy of the draft of the minutes. The Coordinator shall provide authenticated duplicates of the minutes to all Parties.

**6.3 Specific operational procedures for the Consortium Bodies**

**6.3.1 General Assembly**

In addition to the rules described in Section 6.2 (*General operational procedures for all Consortium bodies)* above, the following rules apply:

**6.3.1.1 General Assembly Members**

 The General Assembly shall consist of all General Assembly Members.

Each General Assembly Member is authorized to deliberate and decide on all matters listed in Section 6.3.1.2. *(Decisions)* of this PCA.

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

**6.3.1.2. Decisions**

Decisions in the General Assembly shall be taken by a majority of two-thirds (2/3) of the votes cast, except for accession of a new party where unanimous vote is required.

The following decisions can only be taken by the General Assembly:

* decide upon any proposal made by the Executive Board for the allocation of the Action's budget in accordance with the GA, and review and propose budget reallocations to the Parties;
* make proposals for the review and/or amendment of the Grant Agreement terms (if necessary), including the annual update of the Description of Work (Annex I of the Grant Agreement);
* decide upon material changes to the Action Plan;
* decide upon proposals from the Executive Board for the plan for the Dissemination of Results;
* proposal to the Parties for modifications or withdrawals to Attachment 1A/B;
* proposals to the Parties for the accession of a new Party to the Consortium and approval of the settlement on the conditions of the accession of such a new Party;
* proposals to the Parties for the withdrawal of a Party from the Consortium and the approval of the settlement on the conditions of the withdrawal;
* identification of a substantial breach by a Party of its obligations under this PCA or the GA;
* declaration, remedies and termination of a Defaulting Party;
* proposals to the Funding Authority for a change of the Coordinator if Defaulting Party is identified;
* proposals to the Funding Authority for suspension or termination of all or part of the Action; and
* the appointment - if necessary - of any vacancy to the Executive Board.
* decide on control mechanisms and audit procedures;
* make decisions regarding transfer of knowledge to post-project organisations

**6.3.2. Executive Board**

**6.3.2.1 Executive Board Members**

The Executive Board shall consist of representatives of the Coordinator and of the Parties as agreed under Section 6.2.1 (*Representation in meetings)* of this PCA (hereinafter referred to as “**Executive Board Members**”). Any changes to the membership of the Executive Board shall be subject to approval by the General Assembly.

The Coordinator shall chair all meetings of the Executive Board, unless decided otherwise by a majority of two-thirds (2/3) of the Executive Board Members.

**6.3.2.2 Minutes of meetings**

Minutes of Executive Board meetings shall be sent by the Coordinator to the General Assembly Members for information.

**6.3.2.3 Tasks**

**6.3.2.3.1** The chairperson of the Executive Board shall prepare the meetings, propose decisions and prepare the proposals for the General Assembly according to Section 6.3.1.2 (*Decisions*) above.

**6.3.2.3.2** It shall seek a consensus among the Executive Board Members and shall decide by a simple majority.

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

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

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

**6.3.2.3.6** The Executive Board shall:

* make proposals to the General Assembly for allocation of the Action's budget in accordance with the GA, review and propose budget reallocations to the Parties;
* manage the Action;
* propose to the General Assembly procedures and tools for the marking and handling of information exchanged between Parties in the performance of the Action;
* decide upon measures in the framework of controls and audit procedures to ensure the effective day-to-day coordination and monitoring of the progress of the technical work affecting the Action as a whole;
* decide upon the technical roadmaps with regard to the Action;
* propose to the General Assembly the plan for disseminating the Results;
* make proposals to the General Assembly that the General Assembly should serve notice on a Defaulting Party and that the General Assembly decide to assign the Defaulting Party's tasks to one or more specific Legal Entity(ies) (preferably chosen from the remaining Parties);
* support the Coordinator in preparing meetings with the Funding Authority and in preparing related data and deliverables; and
* prepare and implement the content and timing of press releases and joint publications by the Consortium or proposed by the Funding Authority in respect of the procedures of Article 29 of the Grant Agreement.
* make decisions concerning any important technical issues arising
* definition of a comprehensive and attainable strategy for completion of project objectives, with appropriate levels of control
* overall coordination of the macro issues which affect the running of the project, including management of financial, technical, planning, control and exploitation matters in order to achieve the project objectives in the best possible way;
* specific progress control of resources and utilisation with respect to the work plan.
* preparation of any subsequent contractual agreements.
* definition of appropriate corrective actions to be agreed by the General Assembly in the case of progress problems or conflicts.
* project Risks will be reviewed at each EB meeting.
* re-adjust work packages in case of overlapping, lack of coherence or bottlenecks, and as required by the reviewers;
* Monitor the performance of the networking activities, particularly regarding progress in integration, progress in spreading excellence, and progress in joint research activities.

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

**6.3.3. Network Office**

The Network Office gives financial and administrative support to the Project Manager and the EB. The Network Office will be operated by the Project Management team at Mälardalen University formed by a Project Manager and several Project Assistants. The Network Office will:

* Monitor the costs and produce the financial statements for the EU;
* Provide the Project Manager and the GA and EB with the financial data for the proper management of AIDOaRt;
* Prepare decisions regarding readjustments of the budget (if necessary);
* Receive the funds from the EC and distribute them to the participants;
* Elaborate standardised planning, reporting and documentation forms;
* Maintain a project calendar available for the team members;
* Support the organisation of project meetings, conferences and workshops.

**6.4. Project Coordinator (PC)**

**6.4.1** The Project Coordinator is the Legal Entity acting as the intermediary for efficient and correct communication between the Parties and the Funding Authority and shall, in addition to its responsibilities as a Party, perform all tasks assigned to it as described in the GA and in this PCA.

The Project Coordinator is responsible for the day-to-day management and operation of AIDOaRT. The main responsibility of the PC is to ensure the timely and effective overall progress of the Action according to the PCA. It is also the interface between the consortium and the EC; the PC will communicate with the EU on behalf of the consortium.

**6.4.2** In particular, the Coordinator shall:

* ensure the timely and effective overall progress of the Action;
* monitor compliance by the Parties with their obligations
* organise meetings and the project reviews;
* submit the reports and results and realize their advice;
* monitor and control the project work plan and implement corrective actions (if necessary);
* be responsible for the management of risks, changes and information;
* make sure that the deliverables are produced on time within the required quality level.
* transmit documents and information connected with the Action to any other Parties concerned and provide, upon request, the Parties with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims;
* administer the financial contribution of the Funding Authority and fulfilling the financial tasks described in Section 7.2 of this PCA;
* verify whether the Parties identified in the GA comply with the requirements to be a Party to the GA in accordance with the GA;
* maintain details of approvals given in relation to material that is subject to Controlled Licence Terms; and
* maintain and on request circulate both during and for four years (after the period of the Action set out in Article 3 of the Grant Agreement) a brief annual synopsis of Exploitations as envisaged by Article 28.1 of the Grant Agreement as disclosed by the Parties to the Coordinator when requested by the Coordinator to the Parties.

If one or more of the Parties is late in submission of any Action deliverable, the Coordinator may nevertheless submit the other Parties’ Action deliverables and all other documents required by the GA to the Funding Authority in time.

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

**6.4.4** The Coordinator shall have no other functions unless otherwise agreed upon by the General Assembly.

**6.4.5** If the Coordinator fails in its coordination tasks, the General Assembly may propose a new Coordinator to the Funding Authority.

**6.5. Project Manager (PM)**

PM is appointed by the PC. The PM and has primarily the following roles:

* Convene meetings, prepare decisions and compose reports for the Executive Board;
* Prepare, convene the meetings of the General Assembly;
* Coordinate contract-related activities across the Action;
* Coordinate the dissemination and exploitation events (in association with the Dissemination Manager).
* Guarantee the correct circulation of respective information and communications.

**6.6. Quality Manager (QM)**

The QM will be responsible for all the results and the quality assurance activities and is the main point of contact for all issues regarding the implementation of the quality policy and of all quality aspects in research & development. The QM needs to investigate and consequently ensure that related quality is applied and sets up reviewers, assures style and template, and controls the review process. The QM shall also contribute to the Project and Quality Assurance Handbook. Furthermore, the QM will support the development of the Project Management Plan (PMP).

**6.7. Technical and Scientific Manager (TSM)**

The main responsibility of the TSC is to coordinate all technical activities outlined in the project’s work plan and is responsible for the day- to-day liaison between consortium partners to consolidate inputs into project planning, progress monitoring and technical milestone reporting. The TSM is also responsible for the scientific excellence of the project, including the supervision of the scientific communication and the organization of scientific contributions. The TSM will have to manage the risks, and define detailed objectives, tasks and milestones related to their activity responsibility.

**6.8. Innovation and Exploitation Manager (IEM)**

The IEM will support the TSM in the technical and strategic orientation of the project, especially in relation to innovation aspects, so marketing understanding in the domains addressed by the project is required.

The IEM will support the project team in creating ideas to improve existing products by using developments and innovations made in the project. The IEM will coordinate all exploitation, dissemination and training project activities.

The IEM is also responsible for the Exploitation plan and follows up on this plan, coordinating, exploitation activities across partners, as well as the dissemination plan, communication, project web sites, cooperation platforms (wiki, project repository, mailing lists), and other communication mechanisms.

The IEM will have to manage the risks, and define detailed objectives, tasks and milestones related to their activity responsibility.

**6.9. Advisors on the Project Management Team (A)**

Advisor from the AIDOaRT Consortium are invited to take part in the PMT. The advisors take part in the management team to help in ensuring the effective continuity between MegaM@Rt2 and AIDOaRt, both from a technical and scientific point of view. Also, we reserve to leave this list open to support every need that may arise during the project.

 **6.10. Work Package Leader (WPL)**

Each work package consists of a project team with a Work Package Leader. The Work Package Leader is a member of the Executive Board.

The WPL will be responsible for the following activities:

* Coordinating and ensuring suitable progress of technical activities involved in a particular WP group by defining detailed objectives, tasks and milestones for the work package.
* Coordination of the work package, task meetings and activities, planning and control, and reporting progress and costs to the Executive Board for further consideration.
* Being responsible for the results and the quality assurance of the work package.
* Managing risks related to their work package.

Each work package has deliverables with an assigned participant in charge. The Work Package Leader will call the project team of the work package to meetings as often as necessary.

**6.11. Task Leaders (TL)**

Progress will be reported in periodical technical meetings (to be held every 3 months) coordinated by the TSM who will also ensure communication with the GA.

**6.12. Use case leaders (UCL)**

The UCL within different domains (as maritime, railway, aerospace, automotive and catering) where the demonstrators are run in the AIDOaRT Project.

**6.13. Advisory bodies International Advisory Committee (IAC)**

The International Advisory Committee will consist of external and independent experts of recognized knowledge in different kinds of backgrounds and areas of expertise. The identified experts will be installed by the Executive Board at the kick-off meeting of the project. The IAC will have as their main objective the review of project outcomes supporting quality and innovation management in the project. To collect IAC recommendations and advice, two meetings will be organized throughout the duration of the project. The IAC will be chaired by the TSM and the domains from which the board is assembled are the following: safety-critical systems development, cyber-security, cloud computing, and system architecture. The IAC meets on a yearly basis and advises the EB in scientific and organizational affairs. If urgent matters arise, the EB shall call extraordinary meetings of the IAC.

**6.14. The Ethic and Data Management Committee (EDMC)**

It will consist of external experts and will be installed by the Executive Board at the kick-off meeting. The EDMC will have a twofold objective: to drive and control the aspect of ethical issues when involved in the technical activities of the project and verify the appropriateness of the used solutions when dealing with data protection, and privacy issues. The EDBC will be chaired by the Data Protection Coordinator DPC - who is part of the Network office - and will be composed of the Data Protection Officers (or similar) from the consortium. The EDMC meets on a yearly basis and advises the EB in scientific and organizational affairs. Deliverables where Data Protection is at stake will also be reviewed by the EDMC.

**Section 7: Financial provisions**

**7.1 General Principles**

**7.1.1 Distribution of the Funding Authority’s Funds**

The financial contribution of the Funding Authority to the Project shall be distributed by

the Coordinator according to:

* Project Consortium Agreement and the Grant Agreement
* the approval of reports by the Funding Authority, and
* the provisions of payment in this Section

**7.1. 2. Financial Consequences of the termination of the participation of a Party**

A Party leaving the Consortium shall refund all payments it has received except the amount of contribution payments accepted by the Funding Authority or by another contributor. Furthermore, a Defaulting Party shall, within the limits specified in Section 5.2 (*Limitations of contractual liability)* of this PCA, upon its termination bear any reasonable and justifiable additional costs occurring, as a consequence of such termination, to the other Parties in order to perform its and their tasks.

**7.2. Payments**

**7.2.1** Payments of funding from the Funding Authority to Parties are the exclusive task of the Coordinator.

In particular, the Coordinator shall:

* notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references;
* perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts;
* keep the records and financial accounts relevant for the Funding Authority financial contribution and to inform the Funding Authority of its distribution thereof; and
* undertake to keep the financial contribution to the Action separated from its normal business accounts, its own assets and property.

**7.2.2** With reference to Articles 21.2 and 21.3.2 of the Grant Agreement, no Party shall before the end of the Action receive more than its allocated share of the maximum grant amount from which the amounts retained by the Funding Authority for the Guarantee Fund and for the final payment have been deducted.

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

Funding of costs will be included in the Action Plan and will be paid to the Parties after receipt from the Funding Authority without undue delay and in conformity with the provisions of the GA. Costs accepted by the Funding Authority will be paid to the Party concerned.

The Coordinator is entitled to withhold any payments due to a Defaulting Party (upon decision of General Assembly according to Section 4.2) when this is suggested by or agreed with the Funding Authority, or to a beneficiary to the GA that has not yet signed this PCA.

**7.2.4** The Coordinator is entitled to recover any payments already paid to a Defaulting Party except for payments which have been effectively used in the Action and have been accepted by the Funding Authority. The Coordinator is equally entitled to withhold payments to a Party when this is suggested by or agreed with the Funding Authority.

**Section 8: Results**

**8.1. Ownership of Results**

Results shall be owned by the Party whose employee(s) generated such Results, or on whose behalf such Results have been generated by a Subcontractor.

**8.2. Joint ownership**

**8.2.1** In accordance with the first paragraph of Article 26.2 of the Grant Agreement, two or more Parties shall own Results jointly if:

1. they have jointly generated them; and
2. it is not possible to:
	1. establish the respective contribution of each Party; or
	2. separate them for the purpose of applying for, obtaining or maintaining their protection.

The joint owners shall be at liberty to agree in writing something different to what follows in this Section 8.2, so long as such different agreement does not adversely affect the Access Rights or other rights of the other Parties provided under the GA or this PCA.

**8.2.2**. Each joint owner shall have a pro-rata part in and to a joint Result as well as in and to resulting Intellectual Property Rights in all countries with regard to their respective intellectual contribution, unless otherwise provided in this Section 8.2, or in a joint ownership agreement between the joint owners concerned. If the pro-rata part cannot be determined, each joint owner shall have an equal, undivided part.

**8.2.3.** Notwithstanding anything to the contrary in the provisions of Article 26.2 of the Grant Agreement and unless otherwise agreed in a joint ownership agreement between the joint owners concerned, each of the joint owners and their Affiliated Entities shall be entitled to exploit the jointly owned Result, excluded those Results which are protected by Intellectual Property Rights according to the definition of article 1 of this PCA, as they see fit, and shall be entitled to grant non-exclusive licenses to any third party, without notifying, without obtaining any consent from, paying compensation to, or otherwise accounting to any other joint owner(s).

The joint owners shall be entitled to use the Results, even if they are Intellectual Property Rights according to the definition of article 1 of this PCA, on a royalty free basis for noncommercial research activities only. Non-commercial research activities shall be entitled on a royalty-free basis. “Non-commercial research activities” shall mean academic purposes and internal research, and shall not have other meaning than the meaning is inferred from Article 9.4.1.

When the Results due to their nature are protected by Intellectual Property Rights according to the definition of article 1 of this PCA, unless agreed otherwise in a separate agreement, each of the joint owners and their Affiliated Entities shall be entitled to otherwise exploit the jointly owned Results and to grant non-exclusive licenses to third parties (without any right to sub-license), if the other joint owners are given:

* (a)at least 45 calendar days advance notice, and
* (b)Fair and Reasonable conditions

For the foregoing, Article 9.5.2 (Cessation of affiliated entities) shall apply accordingly.

**8.2.4** Each joint owner of Intellectual Property Rights protecting such jointly owned Result shall have the right to bring an action for infringement of any such jointly owned Intellectual Property Rights only with the consent of the other joint owner(s). Such consent may only be withheld by another joint owner who demonstrates within 30 days that the proposed infringement action would be prejudicial to its commercial interests.

**8.2.5.** Following generation of a joint Result, the joint owners shall enter into good faith discussions in order to agree on an appropriate course of action for filing application(s) for Intellectual Property Rights in such joint Result, including the decision as to which Party is to be entrusted with the preparation, filing and prosecution of such application(s) and in which countries of the world such application(s) for Intellectual Property Rights are to be filed.

Except for any application(s) for protection that is/are urgently required in order to safeguard priority, the filing of any application(s) for Intellectual Property Rights on joint Results shall require mutual agreement between the Parties. Save as otherwise explicitly provided herein or in a joint ownership agreement between the joint owners, all costs related to application(s) for Intellectual Property Rights in joint Results and Intellectual Property Rights resulting from such application(s) shall be shared on a pro-rata basis as it is stipulated on article 8.2.2. If the pro-rata part cannot be determined, the costs shall be shared equally between the joint owners.

In the event that one of the joint owners of an Intellectual Property Right or an application for an Intellectual Property Right on a joint Result wishes to abstain from participation in the application or at a later time wishes to discontinue the payment of its share of the maintenance fees or other costs in any particular country or territory (the “**Relinquishing Owner**”), the Relinquishing Owner shall promptly notify the other joint owner(s) of its decision, and the other owner(s) may take over the payment of such share.

The Relinquishing Owner shall forthwith relinquish to the other owner(s) who continue(s) such payments, its right, title to and interest in such jointly owned Intellectual Property Right for the countries or territories concerned, subject, however, to the retention of a non-transferable, non-exclusive license, on Fair and Reasonable conditions to be agreed (which may also be royalty-free conditions) without the right to grant sub-licences, for implementation of the Action and for Exploitation, for the lifetime of the Intellectual Property Right in or for the countries or territories concerned in favour of, and for the use by, the Relinquishing Owner as well as such Relinquishing Owner’s Affiliated Entities.

**8.3. Transfer of Results**

**8.3.1** Each Party may transfer ownership of its own Results (including without limitation its share in Results that it owns jointly with another Party or Parties and all rights and obligations attached to such Results) to any of its Affiliated Entities without prior notification to any other Party.

Until the transferring Party notified the other Parties, he shall stay responsible for the granting of all Access Rights and decisions in regards to jointly owned Results as if he were still owner.

**8.3.2** Each Party may identify in Attachment 3 to this PCA specific third party(ies) if it intends to transfer the ownership of any of its own Results and shall ensure that the rights of the other Parties will not be affected by such transfer.

Each Party may transfer ownership of its own Results (including its share in Results that it owns jointly with another Party or Parties and all rights and obligations attaching to it) to any third party(ies) it identified in Attachment 3 without prior notification to any other Party.

The transferring Party shall, however, upon another Party’s request, inform the other Parties of such transfer as long as the other Parties have the rights to receive Access Rights or are joint owners. Until the transferring Party notified the other Parties, he shall stay responsible for the granting of all Access Rights and decisions in regards to jointly owned Results as if he were still owner. During the implementation of the Action, any Party may add any further third party to Attachment 3 by providing written notice to the Coordinator within a reasonable period prior to a transfer to such further third party becoming effective.

**8.3.3** The Parties hereby agree that in the framework of a merger or an acquisition, which, for the sake of clarity, shall mean to include any assignment of ownership of any of the Parties’ Results, no notification of intended transfer of ownership need be given, due to confidentiality obligations arising from national and/or community laws or regulations, for as long as such confidentiality obligations are in effect and/or for as long as such notice is prohibited under applicable EU and/or national laws on mergers and acquisitions. As soon as such notice as these restrictions on giving notice no longer exist the notification has to be given immediately. Until the transferring Party notified the other Parties, he shall stay responsible for the granting of all Access Rights and decisions in regards to jointly owned Results as if he were still owner.

**8.3.4** Any transfer of ownership of Results made under this Section 8.3 shall be made subject to the Access Rights, the rights to obtain Access Rights and the right to Disseminate Results, that are granted to the other Parties and their Affiliated Entities in the GA and/or this PCA.

Therefore, each transferor shall ensure that such transfer does not prejudice such rights of the other Parties or their Affiliated Entities, and the transferor shall pass on its obligations regarding the transferred Results to the transferee, including the obligation to pass them on to any subsequent transferee.

The obligations under this Section 8.3 apply for as long as other Parties have - or may request - Access Rights to Results, as provided in Section 9 (*Access Rights)* of this PCA.

Except as provided in this agreement, Each Party hereby waives any right to prior notification of and to object to any transfer that is made in compliance with this Section 8.3.

**8.4 Dissemination**

**8.4.1 Dissemination of own Results**

For the avoidance of doubt, nothing in this Section 8.4 has impact on the confidentiality obligations set out in Section 10.

A beneficiary that intends to disseminate its results must give advance notice to the other beneficiaries of, unless agreed otherwise, at least 45 days, together with sufficient information on the results it will disseminate. Any other beneficiary may object within, unless agreed otherwise, 30 days of receiving notification, if it can show that its legitimate interests in relation to the results or background would be significantly harmed. In such cases, the dissemination may not take place unless appropriate steps are taken to safeguard these legitimate interests. If a beneficiary intends not to protect its results, it may, under certain conditions (see Article 26.4.1 of the Grant Agreement), need to formally notify the JU before dissemination takes place.

An objection to a planned publication by a Party is justified if:

1. the protection of the objecting Party's Results or Background is adversely affected; and
2. the proposed publication includes Confidential Information of the objecting Party; or
3. the objecting Party's Legitimate Interests, academic or commercial, in relation to its Results or Background would be significantly harmed.

Any and all objection(s) shall include, to the extent possible, a precise request for necessary modifications seeking that the scientific quality of the publication will be maintained.

If an objection has been raised on one or more of the above mentioned grounds, the objecting Party and the publishing Party shall discuss how to overcome the justified grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting Confidential Information or applying for intellectual property rights before publication) and the objecting Party shall not unreasonably continue the opposition if appropriate measures are taken following the discussion.

**8.4.2 Dissemination of another Party’s unpublished Results or Background**

In case a Party wishes to include in a Dissemination activity another Party's Results (which are not publicly available), Background and/or Confidential Information, it needs to first obtain that Party's prior written approval.

The mere absence of an objection according to Section 8.4.1 (*Dissemination of Results)* of this PCA is not considered as an approval.

**8.4.3 Co-operation obligations**

1. The Parties undertake to co-operate to allow the timely submission, examination, publication and defense of any dissertation or thesis for a degree which includes their Results, Background and/or Confidential Information, subject to the confidentiality and publication provisions agreed in this PCA.
2. In accordance with Section 8.4.1 (*Dissemination of Results)* of this PCA, prior to submitting any planned publication and/or any planned Dissemination activity of Results, Parties shall not include in such planned publication and/or such planned Dissemination activity of any other Party’s Confidential Information.

**8.4.4 Use of names, logos or trademarks**

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

**8.5 Contributions to Standards**

Except as explicitly provided in Annex 1 (Description of the action) of the GA, or as otherwise stated in an Attachment to this PCA, no Party shall have any obligation pursuant to this PCA to make any contribution for incorporation of its own Result, in any European or other standard.

No Party shall have the right to contribute to a standard or allow the contribution to a standard of any data which constitutes Result, Background or Confidential Information of another Party, even where such data is amalgamated with such first Party’s Result, Background, or Confidential Information or other information, document or material. Any such contribution without such other Party’s written agreement justifies, in addition to any other available remedies, objection to the contribution by the Party concerned.

Subject to a decision by the General Assembly that the Consortium shall contribute to European or other standard, a copy of each proposed contribution of Results to a meeting of such approved standard’s organisation, (a “Scheduled Meeting”), for the purpose of incorporation in a standard, shall be distributed in detail and in writing to the Parties, by the Party proposing to submit the contribution, no later than 60 days prior to the date of the meeting (“Review Period”).

Any Party may submit a written objection, to such contribution to the Party proposing the standard’s contribution and to the Executive Board, within a period of thirty (30) days, (hereinafter referred to as the “Objection Period”) after receipt of a copy of the proposed contribution on either or both of the following grounds:

(i) that the objecting Party considers that the protection of the objecting Party’s Result would be adversely affected by the proposed contribution;

(ii) that the proposed contribution includes the Results, Background, or Confidential Information of the objecting Party.

iii) that the objecting Party´s Legitimate Interests would be significantly harmed.

The proposed contribution shall not be made until the expiry of the Objection Period. Any objection accompanied by evidence indicating, prime facie, that the objection is justifiable, is hereinafter referred to as a “Justifiable Objection”. In the absence of any Justifiable Objection on either or both of the above grounds within the above mentioned period, it is deemed that the Parties agree to the proposed contribution. Following the end of the above mentioned period, the Executive Board shall inform the Parties whether or not any objection has been received and whether such objection(s) is/are Justifiable Objections.

In the event that a Justifiable Objection is raised on either or both of the above defined grounds within the Objection Period, the Party proposing the publication and the Party objecting shall seek in good faith to agree a solution on a timely basis whereby the Justifiable Objection is resolved. No such standard contribution shall be made in respect of which any Justifiable Objection remains unresolved.

**Section 9: Access Rights**

**9.1. Background included: “Positive List”**

**Option 1**

**9.1.1** Each Party identifies in **Attachment 1A** references to its Background which means it is prepared to grant Access Rights for the implementation of the Action or Exploitation of any Results. In addition, each Party may, during the term of the Action, add to Attachment “1A” a reference to any of its Background not yet so listed.

**9.1.2** There shall be no obligation to grant, and no right to be granted, Access Rights to any Background that is not listed as included in Attachment 1A to this PCA (“**Unlisted Background**“), unless introduced into the Action as in the definition of “Background” under ii. Each Party agrees not to use, in the implementation of the Action, any of its Unlisted Background unless introduced into the Action as in the definition of “Background” under ii, if such use would result in such Unlisted Background being Needed by any other Party for implementation of the Action or Exploitation of Results.

However, notwithstanding the first sentence of this sub-paragraph, if a Party uses any of its Unlisted Background held by it in a manner that such Unlisted Background becomes Needed by any other Party for the implementation of the Action or Exploitation of any Results, then such Unlisted Background shall be deemed included in Attachment 1A.

**9.1.3** Regarding Unlisted Background, the following shall apply:

a) In deviation to Section 9.1.2 of this PCA, if Unlisted Background includes all or part of a commercially available product of a Party or of a third party, the terms and provisions governing the access to and use of such commercially available product shall be the prevailing terms as determined by the Party that owns such Unlisted Background.

b) In deviation to Section 9.1.2 of this PCA, if the terms under the GA and/or this PCA regarding Access Rights to Background are in conflict with the terms of a pre-existing agreement between the owning Party and a Party or a third party, the terms and provisions of the pre-existing agreement shall be the prevailing terms.

c) Notwithstanding Section 9.1.2 of this PCA, if for Unlisted Background the grant of Access Rights under the GA and/or this PCA would require any form of consent of or compensation to a Party or a third party, such Unlisted Background is deemed to remain not listed in Attachment 1A.

d) Notwithstanding Section 9.1.2 of this PCA, if Unlisted Background is or at any time becomes essential to a standard adopted by a standard setting body, the terms and provisions governing the access to such Unlisted Background via the standard shall be the prevailing terms.

**9.2. General Principles**

**9.2.1** Subject to Section 9.1 (*Background included)* of this PCA and as provided in Article 25 (*Access Rights to background)* of the Grant Agreement, Parties shall inform each other before signature of the GA of any limitation known to them as affecting the granting of Access Rights to their Background.

Parties also shall inform each other as soon as possible of any other restriction which might substantially affect the granting of Access Rights. If the General Assembly considers that the restrictions mentioned in this Section 9.2.1 (*Background included: positive list)* of this PCA have such significant impact, and such restrictions are not foreseen in the Action Plan, it may decide to update the Action Plan accordingly.

**9.2.2** For the sake of clarity, any Access Rights granted under this Agreement expressly exclude any rights to grant sub-licenses, unless expressly stated otherwise in this PCA or agreed in writing between the Parties concerned.

**9.2.3** Save in exceptional circumstances, the granting of Access Rights shall be free of any administrative transfer costs. Any and all Access Rights granted under this PCA shall be granted on a non-exclusive, non-transferable and worldwide basis, if not otherwise agreed in writing by the Parties concerned.

**9.2.4** Any requests for receiving Access Rights to be granted under this PCA shall be made within thirty (30) months after the date of termination of the Action as follows from Article 3 of the Grant Agreement. The Party receiving Access Rights must at all times be able to demonstrate with all due care and in good faith that Access Rights are Needed.

**9.2.5** Results and/or Background shall be used by the non-owning Party only for the purposes for which Access Rights to such Results and/or such Background have been granted and are subject to the conditions set forth in this PCA.

**9.2.6** As far as not deemed granted, including without limitation by means of this Agreement, and unless stated otherwise in Sections 9.4.1 (*Access Rights to all Results for Research and Teaching royalty-free; but other Access Rights to Results on Fair and Reasonable Conditions, with required Access Rights request)*and/or 9.4.2 (*Access Rights to Background)* of this PCA, all requests for Access Rights shall be made in writing.

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

**9.2.8 Have Made Rights**

Any and all Access Rights for Exploitation granted to a Party or its Affiliated Entities pursuant to this Agreement include the right to allow a third Party Indirect Utilization of the Background or Results to which such Access Rights are granted.

**9.2.9 Employee’s Rights**

In addition to the obligations pursuant to the GA, each Party shall, to the fullest extent it can lawfully do so, ensure that it can, and its Affiliated entities can, grant Access Rights and fulfill the obligations under the GA and this PCA notwithstanding any rights of its employees or Subcontractors in Results so created.

**9.3 Access Rights for implementation**

Access Rights to Results and Background made available for Access Rights in accordance with Section 9.1.1 or 9.1.2 (*Background Included: Positive List),* and Needed for the implementation of the Action are hereby requested (in accordance with the requirements of the GA), and shall be deemed granted, as of the date of the GA entering into force, on a royalty-free basis to and by all Parties, and shall either terminate automatically upon completion of the Action or upon termination of a Party’s participation in accordance with Section 9 9.2 ( *Parties leaving the Consortium) of* this PCA.

**9.4 Access Rights for Exploitation and Internal and External Research and Teaching**

**TO RESULTS**

**9.4.1 Access Rights to all Results for Research and Teaching royalty-free; but other Access Rights to Results on Fair and Reasonable Conditions, with required** **Access Rights request**

Access Rights to Results Needed for internal research**,** including research with third parties, development and teaching are hereby requested (in accordance with the requirements of the GA), and shall be deemed granted, as of the date of the Result arising, on a royalty-free basis to and by all Parties for whom such Access Rights are Needed.

Access Rights **to Results Needed for any other Exploitation** (whether or not for Use of own Results) shall be granted on Fair and ReasonableConditions subject to the following:

(i) The Party requiring the grant of such Access Rights (the “**Requesting Party**”) shall make a written request to the Party (the “**Granting Party**”) from which it requires the Access Rights.

(ii) The written request shall identify the Results concerned.

(iii) Any such Access Rights shall only be granted upon the signature of a written agreement between the Granting Party and the Requesting Party and shall not be otherwise deemed granted.

**ACCESS RIGHTS TO BACKGROUND**

**9.4.2** Access Rights to Background made available for Access Rights in accordance with Section 9.1.1 or 9.1.2 (*Background Included: Positive List),* if Needed for Exploitation of a Party’s own Results, or for internal research, development and teaching, as demonstrated to the satisfaction of the Party owning or controlling such Background, shall be granted upon written request, on Fair and Reasonable Conditions to be negotiated in good faith between the concerned Parties.

**9.5 Access Rights for Affiliated Entities**

**9.5.1** Each Party hereby grants Access Rights to Results and Background to any Affiliated Entity of any other Party as if such Affiliated Entity was a Party to this PCA, and subject to the condition that such Affiliated Entity undertakes to grant Access Rights to Background or Results, if it owns any in accordance with Section 8.3.1 (*Transfer of results)*, on terms identical to Access Rights granted under this PCA by the Parties hereto, to all Parties and their Affiliated Entities (subject to such Affiliated Entities also having accepted such obligations) and (without prejudice to the Parties' obligations to carry out the Action and to provide Action deliverables) to fulfill all confidentiality and other obligations towards the ECSEL Joint Undertaking and the other Parties accepted by the Parties under the GA or this PCA as if such Affiliated Entity was a Party.

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

Further, if an Affiliated Entity fails in any material respect to comply with the undertaking given by it as above and fails to rectify the non-compliance after being given a reasonable opportunity to do so, all Access Rights granted to it based upon that undertaking shall terminate, without affecting the Access Rights granted by it.

For the avoidance of doubt, this Section 9.5 of this PCA is intended to confer a benefit on Affiliated Entities of the Parties by affording them the opportunity to obtain Access Rights, but it shall not oblige any Affiliated Entity of any Party to accept the granting of any Access Rights to it.

**9.5.2 Cessation of Affiliated Entities**

a) **Rights granted to Affiliated Entities**

Upon any Legal Entity ceasing to be an Affiliated Entity of a Party, any Access Rights granted to such Legal Entity shall lapse, provided however that the provisions of paragraphs (A) and (B) below will apply with respect to:

(i) any Results, or Background to which such Legal Entity has been granted Access Rights pursuant to the GA and this PCA; and

(ii) any Party's Confidential Information that has been used by such Legal Entity in accordance with the provisions of the GA and this PCA,

and that, at the time of cessation of such Legal Entity's Affiliated Entities’ status, the Background or Foreground to which Access Rights were granted have been:

* incorporated into the products, processes or services of such entity (hereinafter referred to as "**Products, Processes and Services**"); or
* amalgamated with such Legal Entity's own information.

(A) With respect to such Confidential Information: such Legal Entity may continue to use the Confidential Information in its current and future Products, Processes and Services in a manner in which the Confidential Information was being used prior to the time of cessation of such Legal Entity's Affiliated Entity status.

(B) With respect to such Background, and Results other than Confidential Information: at the request of such Legal Entity, the Parties shall grant non-exclusive licenses to such Legal Entity under such Background, and Results for use in such Legal Entity's Products, Processes and Services on the same terms and conditions as the corresponding Access Rights granted in accordance with the GA and this PCA to the Party of which such Legal Entity was an Affiliated Entity, provided that no Legitimate Interest of such Parties opposes the grant of such licenses.

b) **Rights granted by Affiliated Entities**

Upon any Legal Entity ceasing to be an Affiliated Entity of a Party, the Access Rights previously granted by such Legal Entity to any Party and/or its Affiliated Entities under or in respect of Background, or Results, as well as the obligation to grant Access Rights upon request in the period after such ceasing, during which the Parties can still request Access Rights, shall continue in full force and effect.

**9.6 Additional Access Rights**

For the avoidance of doubt, any grant of Access Rights not covered by the GA or this PCA shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be negotiated and ultimately agreed between the owning and a receiving Party(ies).

**9.7 Inability to grant Access Rights due to third party rights**

When a Party is unable, because of third party rights, to grant Access Rights to its own Background, it will notify the other Parties as set out in Section 9.2.1 (*General Principles)* of this PCA.

**9.8 Access Rights to third parties**

Subject to obligations in relation to Confidential Information but notwithstanding anything else in this PCA, each Party may enter into a technical co-operation or licensing arrangement with a third party in respect of its own Results even if there are minor amounts of Results owned by another Party, or even of Background made available for Access Rights in accordance with Section 9.1.1 or 9.1.2 (*Background included: ‘Positive List’)* (associated with that other Party's Result), unavoidably incorporated into or amalgamated with such own Result, subject to the receipt of a licenses as stipulated hereinafter, provided such Party obtains the prior written approval of the owner of such Background or Results.

In such circumstances, and upon request of the Party entering the co-operation or arrangement, the Parties shall negotiate in good faith for reasonable terms and conditions for a grant of non-exclusive rights to permit such co-operation or arrangement against terms and conditions to be agreed, provided such grant does not adversely affect a Legitimate Interest of the other Party.

**9.9 Access Rights for Parties entering or leaving the Consortium**

**9.9.1 New Parties entering the Consortium** As regards to Results generated by any Party before the Accession Date of a new Party, said new Party will be granted Access Rights to such Results as of the Accession Date of said new Party as if such Results were Background under the same terms and condition as Access Rights to Background are granted to any other Party to this PCA.

The new Party is hereby deemed a third party in respect of any Confidential Information, including Confidential Information that is part of Background made available to the Action, disclosed by a Party with respect to whom this PCA has been terminated for any reasons at an effective date prior to the Accession Date of said new Party, unless otherwise provided in writing by the Party with respect to whom this PCA has been terminated.

**9.9.2 Parties leaving the Consortium**

**9.9.2.1 Access Rights granted to and by a leaving Non-Defaulting Party**

A leaving Non-Defaulting Party shall have Access Rights to the Results developed until the date of the termination of its participation. It may request Access Rights within the period of time referred to in Article 9.2.4 *(General Principles)* calculated as from such effective date of termination of the PCA for such leaving Party. The obligations of the leaving-non defaulting party contained in this PCA with regards to Access Rights to Results and Background Needed for the Implementation of the Action or the Exploitation of a Party’s Results, to be granted by a leaving Party as, shall continue in effect as if it had remained a Party for the whole duration of the Project.

Notwithstanding anything to the contrary in this PCA, Access Rights granted by a leaving Party shall continue after the effective date of termination.

**9.9.2.2 Access Rights granted to a leaving Defaulting Party**

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

A Defaulting Party shall continue to grant Access Rights pursuant to the GA and this PCA in respect of its Background and Results existing at the time of such termination as prescribed in the present PCA, as if it were still a Party to the PCA.

A Defaulting Party shall immediately return any and all other Party’s materials, equipment, and any other element that can be requested by a Party (including without limitation Confidential Information capable of being returned) in its possession at its own cost. However, a Defaulting Party may keep one copy if legally required.

**9.10 Specific provisions on Software**

**9.10.1 Specific Provisions for Access Rights to Software**

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 of this PCA are applicable also to Software as far as not modified by this Section 9.10.

**9.10.2** Parties’ Access Rights to Software do not include any right to receive i) Source Code, or ii) Object Code ported to a certain hardware platform, or iii) any right to receive Source Code, Object Code or respective Software Documentation in any particular form or detail, but only as available from the Party granting such Access Rights.

**9.10.3** The intended introduction of material (including, but not limited to Software) under Controlled License Terms in the Action requires the unanimous approval of the Parties to this Agreement to implement such introduction into the Action Plan.

**9.10.4** No Access Rights to any Background or Results shall include the right to sub-license such Background or Results upon Controlled License Terms (and accordingly none of them shall be sub-licensed upon Controlled License Terms) unless agreed expressly in writing by the Party granting the Access Rights.

**9.10.5 Access Rights to Software**

Access Rights to Software that are Results are subject to Section 9.4.1 *(Access Rights to all Results for Research and Teaching royalty-free; but other Access Rights to Results on Fair and Reasonable Conditions, with required Access Rights request)* and shall comprise:

* Access to the Object Code; and
* where normal use of such an Object Code requires an API, access to the Object Code and such an API; and
* if a Party can show that the execution of its tasks under the Action or the Exploitation of its own Results is technically impossible without Access to the Source Code, access to the Source Code to the extent Needed, this being however conditioned to the approval of the party being requested Access to the Source Code.

Background shall only be provided in Object Code unless otherwise agreed between the Parties concerned.

**9.10.6 Software license and sub-licensing rights**

**9.10.6.1 Results - Rights of a Party (Object Code)**

Where a Party has Access Rights for Exploitation to Object Code and/or APIs that are Results, such Access Rights shall, in addition to the Access for Exploitation foreseen in Section 9.4 (Results) of this PCA, as far as Needed for the Exploitation of the Party’s own Results, comprise the right:

1. to make an unlimited number of copies of Object Code and APIs; and
2. to distribute including through third parties, import or export, make available, communicate to the public, market, sell and offer for sale (including using services of a third party) such Object Code and APIs alone or as part of or in connection with products, processes or services of the Party having the Access Rights; and
3. to use the Object Code and API in research and development, and to create or market and support/update/upgrade any product, process or service, and to use them to create or provide any service.

provided however that any such product, process or service has been developed by the Party having the Access Rights in accordance with its rights for the Exploitation of Object Code and APIs for the Party’s own Results.

If it is intended to use the services of a third party for the purposes of this Section 9.10.6.1, the Parties concerned shall agree on the terms thereof with due observance of the interests of the Party granting the Access Rights as set out in Section 9.2 of this PCA.

**9.10.6.2 Results - Rights to grant sub-licenses to end-users (Object Code)**

Access Rights to Object Code shall, as far as Needed for the Exploitation of a Party’s own Results, comprise the right to grant to end-user customers buying/using the product/services, a sub-license to the extent as necessary for the normal use of the current or future relevant product or service to use the Object Code or APIs alone or as part of or in connection with or integrated into products and services of the Party having the Access Rights and, as far as Needed:

* to maintain and update such product/service;
* to create for its own end-use interacting interoperable software in accordance with the Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs.

**9.10.6.3 Background as provided under Section 9.4**

Where a Party has Access Rights for Exploitation to Object Code and/or APIs that is Result and which is Needed and to Background as provided under Section 9.4 (*Results)* of this PCA, such Access Rights exclude the right to sub-license. Such sub-licensing rights may, however, be negotiated between the Parties.

**9.10.6.4 Results - Rights of a Party (Source Code)**

Where, in accordance with Section 9.10.5 (*Access Rights to software)*, a Party has Access Rights Needed for Exploitation of said Party’s own Results to Source Code that is a Result, such Access Rights shall comprise a worldwide right to perform, to make or have made copies, to modify or have modified, to develop, to adapt Source Code for research and for exploitation, to create/market a product/process and to create/provide a service against Fair and Reasonable conditions. Such rights on the Source Code, however, do not include the right to grant a sub-license to any third parties other than Affiliated Entities or distributors subject to appropriate protective agreements, unless otherwise agreed between the Parties.

**9.10.6.5 Results – Rights to grant sub-licenses to end-users (Source Code)**

Access Rights to Source Code of one Party under this Section 9.10 as far as needed for the Exploitation of another Party’s own Results shall include the right to sub-license Source Code solely for purpose of error correction, maintenance and/or support of the Software~~,~~ but only if agreed upon such right to sub-license and upon the related conditions with the granting Party.

**9.10.6.7 Background (Source Code)**

For the avoidance of doubt, where a Party has Access Rights to Source Code that is Background for Exploitation, such Access Rights exclude the right to sub-license to any third parties (other than Affiliated Entities). Such sub-licensing rights may, however, be negotiated between the Parties.

**9.10.6.8 Specific formalities**

Each sub-license granted according to the provisions of Section 9.10.6 (*Software license and sub-licensing rights)* of this PCA shall be made by a written agreement specifying and protecting the proprietary rights of the Party or Parties concerned.

**Section 10: Non-disclosure of Confidential Information**

**10.1** All information in whatever form or mode of communication, which is disclosed by a Party (the “**Disclosing Party**”) to any other Party (the “**Recipient**”) in connection with the Action during its implementation and which has been explicitly marked as “confidential” or "secret" at the time of disclosure, or when disclosed orally has been identified as confidential at the time of disclosure is “**Confidential Information**”.

**10.2** The Recipient hereby undertakes, for a period of 5 years after the end of the Action:

a) not to use Confidential Information otherwise than for the purpose for which it was disclosed;

b) not to disclose Confidential Information without the prior written consent by the Disclosing Party, wherein the Recipient must ensure that an arrangement is in place prior to such disclosure that subjects the approved receiving party to provisions at least as strict as provided in this Section 10;

c) to apply for the security of Confidential Information at least the same degree of care as it applies for the security of its own Confidential Information (but in any case shall apply not less than reasonable care); and

d) to ensure that internal distribution of Confidential Information by a Recipient, its Affiliated Entities and Subcontractors shall take place on a need-to-know basis;

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

(a) the Confidential Information has become publicly available by means other than a breach of the Recipient’s confidentiality obligations hereunder;

(b) the Disclosing Party has informed the Recipient in writing that the Confidential Information is no longer confidential;

(c) the Confidential Information has been communicated to the Recipient without any obligation of confidentiality by a third party who is to the best knowledge of the Recipient in lawful possession thereof and under no obligation of confidentiality to the Disclosing Party;

(d) the Confidential Information was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or

(e) the Confidential Information was already known to the Recipient prior to disclosure without any obligation of confidence to the Disclosing Party or

(f) the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provisions of Section 10.5 hereunder.

**10.4** Each Recipient shall promptly advise the Disclosing Party in writing of any unauthorized disclosure, misappropriation or misuse of Confidential Information after it becomes aware thereof.

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

**Section 11: Personal Data**

10.8 The Parties agree that any Background, Results, Confidential Information and/or any and all other data and/or information that is provided, disclosed or otherwise made available between the Parties during the implementation of the Action and/or for any Exploitation activities (“Shared Information”), shall not include personal data as defined by Article 4 Section 1 of the General Data Protection Regulation ( (EU) 2016/679) (hereinafter referred to as “Personal Data”).

Accordingly, the Parties agree that they will take all necessary steps to ensure that all Personal Data is removed from the Shared Information, made illegible, or otherwise made inaccessible (i.e. de-identify) to the other Parties prior to providing the Shared Information to such other Parties.

Should any Party come into contact with Personal Data during the implementation of the Action and/or during any Exploitation activities (“Recipient of Personal Data”) which has been provided, disclosed or otherwise made available by any other Party (“Provider of Personal Data”), then such Provider of Personal Data hereby instructs the Recipient of Personal Data to de-identify such information on the Provider of Personal Data’s and/or its Affiliated Entities’ behalf and authorises Recipient of Personal Data to process the information containing Personal Data in accordance with such Provider of Personal Data’s and/or its Affiliated Entities’ obligations as data processor(s), and Recipient of Personal Data undertakes to keep the Shared Information containing Personal Data confidential and secure until the information has been de-identified; all under and in accordance with applicable data protection laws.

**Section 12: Miscellaneous**

**11.1 Attachments, inconsistencies and severability**

This PCA consists of this core text and:

* Attachment 1 (Background included (1A) and Background excluded (1B))
* Attachment 2 (Declaration of Accession)
* Attachment 3 (List of Third Parties for simplified transfer according to Section 8.3.2 (*(Transfer of Results)* of this PCA)
* Attachment 4 (List of Software)

In case the terms of this PCA are in conflict with the mandatory terms of the GA, the terms of the latter shall prevail. In case of conflicts between the attachments and the core text of this PCA, the latter shall prevail. In case the terms of any National Grant Agreement are in conflict with the terms of this PCA or the GA, the terms of the latter shall prevail.

Should any provision of this PCA become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this PCA. In such a case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

**11.2 No representation, partnership or agency**

No Party shall be entitled to act or to make legally binding declarations on behalf of any other Party or of the Consortium. Nothing in this PCA shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

**11.3 Notices and other communication**

Any notice to be given under this PCA shall be in writing to the addresses and recipients as listed in the most current address list kept by the Coordinator.

1. **Formal notices:**

If it is required in this PCA (Sections 4.2 (*Breach),* 5.4 (*Force majeure),* 9.9.2.2 (*Access Rights granted to a leaving Defaulting Party*) and 11.3 (b) of this PCA) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorized representative of a Party and shall either be served personally or sent by mail with recorded delivery or telefax with receipt acknowledgement.

1. **Other communication:**

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

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

**11.4 Assignment and amendments**

Except as set out in Section 8.3 (*Transfer of results)* of this PCA, no rights or obligations of the Parties arising from this PCA may be assigned or transferred, in whole or in part, to any third party, other than to Affiliated Entities, without the other Parties’ prior formal approval.

Amendments and modifications to the text of this PCA require a separate written agreement to be signed between all Parties.

**11.5 Mandatory national law**

Nothing in this PCA shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.

**11.6 Language**

This PCA is drawn up in English, which language shall govern all documents, notices, meetings, court/arbitral proceedings and processes relative thereto.

**11.7 Applicable law**

This PCA shall be construed in accordance with and governed by the laws of Belgium (“the **Applicable Law**”)\_excluding its conflict of law’s provisions.

**11.8 Settlement of disputes**

**11.8.1**. The Parties shall reasonably endeavour to settle their disputes amicably. If, however, no settlement of any dispute under this PCA has been possible to achieve, after the Parties’ reasonable endeavours to settle such dispute(s) amicably, the provisions of Section 11.8.2 of this PCA shall be applicable to any such dispute’s settlement.

**11.8.2 ICC Arbitration**

All disputes directly arising under this PCA (other than disputes relating to the infringement and/or validity of IPR which shall be the exclusive jurisdiction of the competent court), which cannot be settled amicably, shall be submitted to settlement proceedings under the International Chamber of Commerce Mediation Rules.

If the dispute has not been settled pursuant to the said Rules within forty-five (45) days following the filing of a Request for Mediation or within such other period as the Parties may agree in writing, such dispute 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 of Arbitration.

The place of arbitration shall be Brussels, Belgium.The chairman of such arbitration shall be of legal education. The arbitral proceedings shall be conducted in English. The award of the arbitration will be final and binding upon the Parties.

The foregoing shall be without prejudice to the right of any Part to seek injunctive relief or other equitable compensation before any court in any place where any unauthorized use of its Intellectual Property Rights or Confidential Information occurs or threatens to occur.

**11.9. Membership of stakeholder associations involved as private members in ECSEL**

Any Party which is not a member of at least one of the stakeholder associations AENEAS, ARTEMIS-IA and EPoSS, that act as the three private members of the ECSEL Joint Undertaking, will become a member of at least one of these three associations before the start date of the Action. **11.10 Parties having concluded a National Grant Agreement**

Any Party, having concluded a National Grant Agreement with a National Funding Authority, is individually and solely liable for complying with the provisions of that National Grant Agreement. There shall be no joint and several liability of the other Parties hereto, for any obligations under any such National Grant Agreement. The definition of "Grant Agreement" in this PCA does not include any National Grant Agreements. No National Grant Agreement shall affect the obligations of any Party hereunder.

**Section 13: Signatures**

**AS WITNESS:**

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

Signature(s)
Name(s)
Title(s)

Date

**Attachment 1A: Background included XXXX**

**Attachment 2: Declaration of Accession**

DECLARATION OF ACCESSION

of a new Party to

[Acronym of the Action]

GA No [INSERT NUMBER] Dated [INSERT DATE]

PCA, dated [INSERT DATE]

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE Grant Agreement]

Hereby consents to become a Party to the PCA identified above and accepts all the rights and obligations of a Party starting [date], “the Accession Date”.

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE Grant Agreement]

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

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

[Date and Place]

 [INSERT NAME OF THE NEW PARTY]

Signature(s)
Name(s)
Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]

Signature(s)
Name(s)
Title(s)

**Attachment 3: List of Third Parties for simplified transfer according to Section 8.3.2. of this PCA**

* ITI
* UOC

**Attachment 4: List of Software - under Controlled License Terms for which the introduction in the Action is already approved and the intended use of the Controlled License Terms)**

**XXX**