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PROJECT CONSORTIUM AGREEMENT

# AUTODRIVE

FOR RESEARCH, DEVELOPMENT AND INNOVATION ACTIONS

FUNDED BY THE  
ECSEL JOINT UNDERTAKING

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**BETWEEN:**

Infineon Technologies AG (“IFAG”),  
the “Coordinator”

**AND:**

AIT AUSTRIAN INSTITUTE OF TECHNOLOGY GMBH (AIT)

AYUNTAMIENTO DE MALAGA (MCC)

AVL LIST GMBH (AVL)

AVL SOFTWARE AND FUNCTIONS GMBH (AVLS)

CENTRO RICERCHE FIAT SCPA (CRF)

COMLIGHT AS (COM)

DAIMLER AG (DAI)

INSTITUTE OF ELECTRONICS AND COMPUTER SCIENCE (EDI)

FEV EUROPE GMBH (FEV)

FLANDERS MAKE VZW (FM)

FORSCHUNGSZENTRUM JULICH GMBH , representedd by ist Board of Directors and acting for its Institute of Energy and Climate Research, Fundamental Electrochemistry (IEK-9) (FZJ)

FRAUNHOFER GESELLSCHAFT ZUR FOERDERUNG DER ANGEWANDTEN FORSCHUNG E.V., acting as legal entity for and on behalf of its Fraunhofer-Institut IISB (FhG)

NXP SEMICONDUCTORS CZECH REPUBLIC SRO (NXPC)

FUNDACION TECNALIA RESEARCH & INNOVATION (TEC)

GEORGII KOBOLD GmbH & Co. KG (GEKO)

HELIOX BV (HX)

IDEAS & MOTION SRL (I&M)

INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM VZW (IMEC)

INDUSTRIAL TECHNOLOGY RESEARCH INSTITUTE INCORPORATED (ITRI)

INFINEON TECHNOLOGIES AUSTRIA AG (IFAT)

INFINEON TECHNOLOGIES DRESDEN GMBH (IFD)

INFINEON TECHNOLOGIES ROMANIA (IFRO)

IRIZAR S COOP (IRIZ\_C)

JAC ITALY DESIGN CENTER SRL (JAC)

KOMPETENZZENTRUM - DAS VIRTUELLE FAHRZEUG, FORSCHUNGSGESELLSCHAFT MBH (VIF)

KROMBERG & SCHUBERT GMBH & CO. KG (KS)

KTH ROYAL INSTITUTE OF TECHNOLOGY (KTH)

LANGE RESEARCH AIRCRAFT GMBH (LRA)

MAGNETI MARELLI S.P.A., Powertrain Business Line (MM)

MICROELETRONICA MASER SL (MAS)  
MURATA ELECTRONICS OY (Murata)  
NXTECH AS (NXT)  
OKMETIC OYJ (OKM)  
ON SEMICONDUCTOR BELGIUM BVBA (ONSE)  
OSTBAYERISCHE TECHNISCHE HOCHSCHULEAMBERG-WEIDEN (OTH AW)  
POLITECNICO DI MILANO (POLM)  
QRTECH AB (QRTE)  
ROBERT BOSCH GMBH (BOSCH)  
STIFTELSEN SINTEF (SINT)  
STMICROELECTRONICS SRL (STI)  
TECHNISCHE UNIVERSITAT DORTMUND (TUDO)  
TECHNISCHE UNIVERSITAET DRESDEN (TUD)  
TECHNISCHE UNIVERSITEIT EINDHOVEN (TUE)  
TECHNISCHE UNIVERSITAET GRAZ (TUG)  
VTT TECHNICAL RESEARCH CENTRE OF FINLAND LTD. (VTT)  
TENNECO AUTOMOTIVE EUROPE BVBA (TEN)  
TTTECH COMPUTERTECHNIK AG (TTT)  
UAB METIS BALTIC (MB)  
UNIVERSITY OF ALCALÁ (UAH)  
UNIVERSITA DI PISA (UNIP)  
VÆRSTE AS (VAG)  
VDL BUS & COACH BV (VDL)  
VILNIUS GEDIMINAS TECHNICAL UNIVERSITY (VGTU)  
VI-GRADE SRL (VIG)  
BRNO UNIVERSITY OF TECHNOLOGY - CENTRAL EUROPEAN INSTITUTE OF TECHNOLOGY (BUT)  
XENOMATIX (XX)  
ZF FRIEDRICHSHAFEN AG (ZF)

hereinafter, jointly or individually, referred to as “Parties” or “Party”

AND:

NEDERLANDSE ORGANISATIE VOOR TOEGEPAST-NATUURWETENSCHAPPELIJK ONDERZOEK TNO (Netherlands Organisation for applied scientific research TNO) a legal entity by public law (i.e. the TNO-wet) duly organised and existing under the laws of the Netherlands and with registered offices at Anna van Buerenplein 1, 2595 DA Den Haag, the Netherlands, hereinafter referred to as „TNO” legally represented by MSc. D.J. de Cloe, Director Mobility & Logistics, acting in full capacity on behalf of the Board of Management of TNO  
as “Associated Partner”

relating to the research project entitled:

**Advancing fail-aware, fail-safe, and fail-operational electronic components, systems, and architectures for fully automated driving to make future mobility safer, affordable, and end-user acceptable.**

in short:

**AUTODRIVE**

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. 19 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 effective as of May 1<sup>st</sup>, 2017, (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 herein, and if not defined herein, the meaning defined in the Grant Agreement including its Annexes, and if not defined there, as defined in the Rules.

#### 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 set out in the GA, unless otherwise agreed in writing by all Parties.

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

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.

**"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; and
- (ii) is Needed to implement the Action or Exploit the Results; or
- (iii) is 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 PCA 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:

- a) (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;
- b) that permission to create modified versions or derivative works of the Work or Derivative Work be granted to any third party;
- c) 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 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 Legal Entity 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 substantial 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.

**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.

**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 or royalty-free conditions, 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 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 each 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 Utilisation** 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: patents, patent applications and other statutory rights in inventions; copyrights (including without limitation copyrights in Software); 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, but excluding rights in Confidential Information and/or trade secrets.

**IPR Directory** means a data summary that provides an overview on all Results developed within the Action and which assumes the format as in Attachment 5.

**Legitimate Interest** means a Party's interest of any kind, in particular a commercial 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 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:

- where IPRs are concerned, that those IPRs would be infringed without Access Rights being granted under the GA and/or this PCA;
- 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 Grant Agreement, meaning any tangible or intangible output of the Action, such as data, 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.

**Steering Committee** means the Consortium Body established in accordance with Section 6.3.2 of this PCA.

**Steering Committee Member** has the meaning attributed to it in Section 6.3.2.1

**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.

### 1.3 Associated Partner

The Parties involve TNO as Associated Partner. The Associated Partner receives no funding from the Funding Authority. To the extent the Associated Partner does not generate any Results in the Action (neither solely nor jointly), only with respect to Sections 5, 8.4.2, 8.5, 10 and 11 of this PCA the Associated Partner shall be regarded as Party and the respective rights and obligations of these Sections shall apply mutatis mutandis to it. To the extent the Associated Partner generates any Results in the Action (either solely or jointly) the Associated Partner shall be regarded as Party to this PCA and insofar all rights and obligations of this PCA shall apply mutatis mutandis to it.

## 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 organisation 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

- (a) A Legal Entity becomes a Party to this PCA upon signature of this PCA by one or more duly authorised representative(s) of such entity.
- (b) This PCA shall have effect from the Effective Date.
- (c) After the Effective Date a Legal 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 authorised 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, 4.1 and 9.9.2.1 of this PCA; (b) for a Defaulting Party upon a decision by the General Assembly in accordance with Section 4.2 and 6.3.1.2 subject, and without limitation to, Sections 3.3, 4.2 and 9.9.2.2 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 and subject to consent of the JU. 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,
- or if funding from a National Funding Authority, which is a condition for a Party's participation, is not granted

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 of this PCA.

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

In connection with the activities of the Parties related to this PCA, the Parties are obliged to desist from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition, guaranteeing advantages, bribery, acceptance of bribes or other corruption crimes on the part of persons employed by the Parties or other third parties. In the event of verifiable violation of the above, the other Parties (majority decision is legally sufficient) have the right to immediately terminate this PCA with the said Party. The PCA will be still in existence between the remaining Parties.

Notwithstanding the above, the Parties are obliged to adhere to all laws and regulations applicable to both itself and the commercial relationship with the other Parties.

### **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.

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, in a timely manner, 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 in a timely manner, in accordance with the governance structure of the Action, any significant information, fact, problem or delay likely to affect the Action.

Each Party shall, in a timely manner, 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, the Parties shall use reasonable endeavours to reach agreement on either (a) or (b) below

- 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
- 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 from the date of receipt of the written notice.

If such substantial breach is not remedied within that period or is not capable of remedy, the General Assembly may decide to declare the Party to be a Defaulting Party and may make reasonable proposals on the consequences thereof which may include termination of its participation in accordance with provisions of Sections 6.2.4.3. and 6.3.1.2 of this PCA and article 50.2 of the Grant Agreement.

#### **4.3 Involvement of third parties**

A Party that enters into a subcontract or otherwise involves third parties in the Action remains responsible for carrying out its relevant part of the Action and for such third party's compliance with the provisions of this CA and of the GA. It has to ensure that the involvement of third parties does not affect the rights and obligations of the other Parties under this CA and the GA.

#### **4.4 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.

#### **4.5 Access Rights by Affiliated Entities**

In case an Affiliated Entity of a Party owns Background or, in accordance with Section 8.3.1, 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 all 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. If a Party becomes aware that it is infringing proprietary rights of a third party and this affects the implementation of the Action or the Exploitation of Results, such Party shall notify the other Parties of such third party proprietary rights.

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 and within a reasonable timeframe. 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; or
- any type of indirect, incidental, punitive, special or consequential loss or damage.

The limitation of liability specified above in this Section 5.2.2 shall not apply in the case of any breach by a Party of its obligations under Section 10 (Confidentiality) of this PCA, subject to the limitations of Section 5.2.3.

### 5.2.3 Financial limit on liability

Subject to the provisions of Sections 5.2.4 and 5.2.5 of this PCA, the aggregate liability of each Party under the provisions of Section 5.2.1 to all of the other Parties collectively in respect of any and all such claims shall not exceed that Party's Action Share.

The financial maximisation of liability specified above in this Section 5.2.3 shall be twice the Party's Action Share with the maximum of one million euros (€1 000,000), but in no event less than once a Party's Action Share, in the case of any breach by a Party of its obligations under (a) Section 10 (Confidentiality), or (b) under Section 8 (Results) of this PCA, or (c) under Section 9.9.3 and 9.9.4 (Controlled License Terms ) or d) in cases of gross negligence.

For the Associated Partner, the aggregate liability towards the Parties and the Parties towards the Associated Partner will be limited to the amount of two hundred and fifty thousand euros (€250,000 in the case of any breach).

### 5.2.4 Exceeding the scope of Access Rights

For the avoidance of doubt and in accordance with applicable statutory liability which shall not be limited by this PCA, the exclusions and limitations stated in Sections 5.2.2 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 and 5.2.3 above shall not apply in respect of any: fraud; death, injury to natural persons caused by the negligence or willful act of such Party, its directors, employees, agents and Subcontractors; willful misconduct, 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 12 weeks after such notification, the transfer of tasks – if any – shall be decided by the competent Consortium Bodies.

Compensation claims shall be excluded in case of Force Majeure such as an unforeseeable restriction resulting from import or export laws and regulations and/or an unforeseeable delay of the granting or extension of the import or export license or other governmental authorization in the event that a Party uses reasonable efforts

to fulfil its tasks properly and in time and provided that such Party has filled a complete application for these necessary export licenses and/or governmental authorizations in time.

**Section 6: Governance structure**

**6.1 General structure**

The organisational 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** Steering Committee 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.

**6.2 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 Steering Committee shall consist of the following Members:

the representative of the Coordinator together with a representative from each of the following Parties namely:

Partner	Contact Person
AIT AUSTRIAN INSTITUTE OF TECHNOLOGY GMBH (AIT)	
AYUNTAMIENTO DE MALAGA (MCC)	
AVL LIST GMBH (AVL)	
AVL SOFTWARE AND FUNCTIONS GMBH (AVLS)	

VILNIUS GEDIMINAS TECHNICAL UNIVERSITY (VGTU)	
VI-GRADE SRL (VIG)	
BRNO UNIVERSITY OF TECHNOLOGY - CENTRAL EUROPEAN INSTITUTE OF TECHNOLOGY (BUT)	
XENOMATIX (XX)	
ZF FRIEDRICHSHAFEN AG (ZF)	
NEDERLANDSE ORGANISATIE VOOR TOEGEPAST-NATUURWETENSCHAPPELIJK ONDERZOEK (TNO)	

The Parties shall use reasonable endeavours to maintain their representation in the Steering Committee.

## 6.2.2 Preparation and organisation of meetings

### 6.2.2.1 Convening meetings

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

	Ordinary meeting	Extraordinary meeting
General Assembly	At least once a year	At any time upon written request of the Steering Committee or 1/3 of the General Assembly Members
Steering Committee	At least quarterly	At any time upon written request of any Steering Committee 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 Steering Committee Meeting

The chairperson of an Steering Committee Meeting shall give notice in writing of a meeting and provide the agenda for such meeting to each Steering Committee 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 the meeting, add an item to the original agenda provided all Members of a Consortium Body are present and a majority of two thirds 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. below) of all Members of the Consortium Body. Such document shall include the 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 than 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** A Party may not veto decisions relating to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the Consortium or the consequences of them.

#### **6.2.5 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 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 authorised to deliberate and decide on all matters listed in Section 6.3.1.2. 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 Steering Committee for the allocation of the Action's budget in accordance with the GA, and review and propose budget reallocations to the Parties;
- proposals to the Parties for the review and/or amendment of the terms of the GA;
- decide upon material changes to the Action Plan;
- decide upon proposals from the Steering Committee for the plan for use and the Dissemination of Results;
- proposal to the Parties for modifications to Attachment 1;
- 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 made a Defaulting Party;
- 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 Steering Committee.

#### 6.3.1.3 Minutes of meetings

Minutes of General Assembly meetings shall include new additions to Attachment 3, if any, and will be sent by the Coordinator to the General Assembly Members for information.

### 6.3.2. Steering Committee

#### 6.3.2.1 Steering Committee Members

The Steering Committee shall consist of representatives of the Coordinator and of the Parties as agreed under Section 6.2.1 of this PCA (hereinafter referred to as "**Steering Committee Members**"). Any changes to the membership of the Steering Committee shall be subject to approval by the General Assembly.



The Coordinator shall chair all meetings of the Steering Committee, unless decided otherwise by a majority of two-thirds of the Steering Committee Members.

### **6.3.2.2 Minutes of meetings**

Minutes of Steering Committee 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 Steering Committee shall prepare the meetings, propose decisions and prepare the proposals for the General Assembly according to Section 6.3.1.2 above.

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

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

**6.3.2.3.4** The Steering Committee shall monitor the effective and efficient implementation of the Action.

**6.3.2.3.5** In addition, the Steering Committee shall collect information at least every 6 months on the progress of the Action, updates on the IPR Directory, 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. The IPR Directory can be updated until the end of the implementation of the Project. Should the Steering Committee not take place at that time, the update shall be sent to the Coordinator to be forwarded to all Parties.

**6.3.2.3.6** The Steering Committee 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;
- keep an updated list of the IPR Directory and include the list as attachment to the Minutes of Meetings.
- propose to the General Assembly the plan for using and 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.

In the case of abandoned or revised tasks as a result of a decision of the General Assembly, the Steering Committee shall advise the General Assembly on ways to rearrange tasks and budgets of the Parties

concerned. Such rearrangement shall take into consideration the legitimate commitments taken prior to the decisions, which cannot be cancelled.

## **6.4. Coordinator**

**6.4.1** The Coordinator 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.

**6.4.2** In particular, the Coordinator shall

- monitor compliance by the Parties with their obligations;
- keep the address list of the Parties and other contact persons updated and available;
- collect, review to verify consistency and submit reports, other deliverables (including financial statements and related certifications) and specific requested documents to the Funding Authority;
- administer and prepare the minutes and provide these to the chair of the General Assembly and the Steering Committee (in respect of providing the chair of the General Assembly and the Steering Committee, solely if nothing is decided otherwise in accordance with Sections 6.3.1.1 and/or 6.3.2.1 of this PCA, respectively), and follow-up the decisions of the General Assembly and the Steering Committee;
- transmit documents and information connected with the Action to any other Parties concerned;
- 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;
- 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 or other justified reasons (e.g. audits);
- 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 Exploitation 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.

## Section 7: Financial provisions

### 7.1. Financial Consequences of the termination of the participation of a Party

A Party leaving the Consortium shall refund all payments it has received except the amount of contribution accepted by the Funding Authority or another contributor. Furthermore a Defaulting Party shall, within the limits specified in Section 5.2 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:

- a) notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references;
- b) perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts;
- c) keep the records and financial accounts relevant for the Funding Authority financial contribution and to inform the Funding Authority of its distribution thereof; and
- d) undertake to keep the financial contribution to the Action separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.

**7.2.2** 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, 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. The Coordinator is equally entitled to withhold payments to a Party when this is required by or agreed with the Funding Authority in accordance with the conditions of the Grant Agreement.

## Section 8: Results

### 8.1. Ownership of Results

Results shall be owned by the Party whose employee(s) generated such Results (or in the case of Swedish universities, by the employees themselves) or on whose behalf such Results have been generated by a **Subcontractor**. Notwithstanding, Swedish universities will contractually bind its employees in order to ensure that no Access Rights of any Party to this PCA will be affected.

## 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:

- (a) they have jointly generated them; and
- (b) it is not possible to:
  - (i) establish the respective contribution of each Party; or
  - (ii) separate them for the purpose of applying for, obtaining or maintaining their protection.

The other provisions of Article 26.2 of the Grant Agreement shall not apply. Instead, this Section 8.2 shall apply. However, 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 an equal, undivided interest in and to a joint Result as well as in and to resulting Intellectual Property Rights in all countries, unless otherwise provided in this Section 8.2, or in a joint ownership agreement between the joint owners concerned.

**8.2.3** 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 (including the right to grant non-exclusive licenses to third parties) the jointly owned Result as they see fit, without obtaining any consent from, paying compensation to, or otherwise accounting to any other joint owner(s).

**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 that the proposed infringement action would be prejudicial to its Legitimate Interests. If only one or more of the joint owners decides to bring the action for infringement of jointly owned Intellectual Property Rights, all costs and expenses associated with any such action shall be the responsibility of the Party bringing the action, including reasonable costs and expenses of the consenting joint owner, provided that any monetary recovery in the action shall be due to the Party bringing the action.

**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, 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 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. The Relinquishing Owner shall have the right to transfer its share in the joint Result to any third party. However, in accordance with point 29 (d) of the Framework for state aid for research and development and innovation, the other joint owner shall have the right of first refusal over any offer presented by a Party or a third Party for the Relinquishing Owner’s share in the joint Result. In the event that the Relinquishing Owner receives no offer for its share in the joint Result, then 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, which shall be royalty-free and fully paid-up, 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 assign title (i.e. transfer ownership or co-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 notification to any other Party.

**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. 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 notification to any other Party. The transferring Party shall, however, upon another Party's request, inform the requesting Party of such transfer. During the implementation of the Action, any Party may add any further third party to Attachment 3.

**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 prior 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.

**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 of this PCA.

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 Results**

During the Action and for the period of time as stated in Section 10.2 of this PCA, the Dissemination of own Results by one or several Parties including but not restricted to publications of whatever form (excluding patent applications(s) and other registrations of IPRs), shall be governed by the procedure of Article 29.1 of the Grant Agreement subject to the following provisions:

Any publication planned by a Party shall be submitted through written notice to the other Parties at least forty-five (45) days before the planned publication submission date. Any objection to the planned publication shall be made in writing to all Parties within thirty (30) days after receipt of the written notice. If no objection is made within the time limit stated above, the publication is permitted.

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

- (a) the protection of the objecting Party's Results or Background would be adversely affected; or

- (b) the proposed publication includes Confidential Information of the objecting Party; or
- (c) the objecting Party's Legitimate Interests would be significantly harmed as sufficiently proven by the objecting Party.

Any and all objection(s) shall include, to the extent possible, a precise request for necessary modifications.

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 before publication) and whereby the scientific quality of the publication is maintained. 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 of another Party's owned or jointly-owned Results (which are not publically available or protected by IPR), Background and/or Confidential Information, it needs to first obtain that Party's prior written approval.

Any publication planned by a Party shall be submitted through written notice to the other Parties at least forty-five (45) days before the planned publication submission date. Any objection to the planned publication shall be made in writing to all Parties within thirty (30) days after receipt of the written notice. If no objection is made within the time limit stated above, the Party who proposed the publication will send a reminder to the other Parties. In case no objection is made within fifteen (15) days after receipt of the reminder, the publication is permitted.

If an objection has been raised, the objecting Party and the publishing Party shall discuss how to overcome the grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting Confidential Information before publication) and whereby the scientific quality of the publication is maintained. The objecting Party shall not unreasonably continue the opposition if appropriate measures are taken following the discussion.

#### **8.4.3 Co-operation obligations**

- (i) 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.
- (ii) In accordance with Section 8.4.1 of this PCA, prior to submitting any planned publication and/or any planned Dissemination activity of Results, Parties shall undertake reasonable efforts to refrain from including in such planned publication and/or such planned Dissemination activity any of other Party's Confidential Information and Results or Background.

#### **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 Steering Committee, 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.

The proposed contribution shall not be made until the expiry of the Objection Period. Any objection accompanied by evidence indicating, *prima facie*, that the objection is justifiable, is hereinafter referred to as a "**Justifiable Objection**". Following the end of the above mentioned period, the Steering Committee 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 contribution 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"

**9.1.1** Each Party identifies in **Attachment 1** 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 1 a reference to any of its Background not yet so listed. To the extent applicable and limited to the cases identified in subsection 9.1.3 which shall apply *mutatis mutandis*, each Party shall also identify in Attachment 1 any restrictions associated with each Background item listed that may have an impact on the other Parties' Access Rights.

**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 1 to this PCA ("**Unlisted Background**"), unless introduced into the Action as in the definition of "Background" under iii. 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 iii, 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 1.

**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.
- 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 1.
- 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 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 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 PCA 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-six (36) months after the date of termination of the Action as follows from Article 3 of the Grant Agreement. The Party receiving Access Rights must **provide reasons why 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 PCA, and unless stated otherwise in Sections 9.4.1 and/or 9.4.2 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 PCA include the right of Indirect Utilisation 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 regarding Results and Background for implementation

Access Rights to Results and Background in any known and unknown kinds of use made available for Access Rights in accordance with Section 9.1.1 or 9.1.2, and Needed for the implementation of the Action are hereby requested (in accordance with the requirements of the GA), and shall be 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 9.2 of this PCA.

### 9.4 Access Rights regarding Results and Background for Exploitation and Internal and External Research and Teaching

#### 9.4.1 Access Rights to Results

Access Rights to Results Needed for internal research, development (i.e. excluding contract research, but including research in national and European funded subsidy projects, however, no access rights can be granted to the parties in those national and European funded subsidy projects) and internal 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 Reasonable Conditions subject to the following:

- (1) Between all Parties who are not academic partners or research institutions (as defined in the project proposal Section 3.3.2), Access Rights to Results Needed for any other Exploitation for use of its own Results 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;
- (2) In all other cases, Access Rights to Results for Exploitation shall be granted on Fair and Reasonable Conditions if the Result is listed on the last updated IPR Directory as forwarded to all Parties. Fair and Reasonable Conditions to the potential benefit of the requesting Party will also take into account if such Party and the granting Party have collaborated in the Action to their mutual benefit. Such conditions may result in better than market conditions, including royalty-free. For the avoidance of doubt, Results not listed in the IPR Directory shall be granted on a royalty-free basis

#### 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, if Needed for Exploitation of a Party's own Results, will 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 Sub-Licensing for Affiliated Entities

When granting any Access Rights under this PCA, each Party hereby grants, or shall cause any Affiliated Entities owning any Background and/or Results to grant, to any other Party, a royalty-free and fully paid up sub-license right, on any Access Rights to which such Party is granted Access Rights under this PCA, solely and exclusively for the benefit of such Party's Affiliated Entities, 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, to all Parties and their Affiliated Entities (subject to such other Affiliated Entities also having accepted the same obligations), on terms identical to Access Rights granted under this PCA by the Parties hereto. In sub-licensing any Access Rights to its Affiliated Entities, each Party shall ensure that its Affiliated Entities are bound by the relevant and applicable rights and obligations provided in this PCA, including without limitation appropriate undertaking as to Confidentiality but excluding obligations to implement the Action and to provide Action deliverables.

Access Rights granted to any Affiliated Entity are subject to the conditions attached to the Party granting such sub-license (if any) and subject to continuation of the Access Rights of the Party to which it is affiliated, and shall automatically terminate upon termination of the Access Rights granted to such Party, without affecting the Access Rights granted by, of on behalf, of such Affiliated Entity.

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) 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 Results 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 Background, Results and 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 and Confidential Information 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 of this PCA.

## **9.8 Access Rights for Parties entering or leaving the Consortium**

### **9.8.1 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 other than any breach of such Party's obligations under this PCA, 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.

### **9.8.2 Parties leaving the Consortium**

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

The obligations contained in this PCA with regards to Access Rights to Results and Background Needed for the Exploitation of a Party's Results, to be granted to or by a leaving Party as, shall continue in effect until the end of the period of time referred to in Article 9.2.4 calculated as from such effective date of termination of the PCA for such leaving Party.

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

#### **9.8.2.2 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.

## **9.9 Specific provisions on Software**

### **9.9.1 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 9.9.

**9.9.2** 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 the such Access Rights.

**9.9.3** The intended introduction of material (including, but not limited to Software) under Controlled License Terms in the Action by a Party requires the unanimous written approval of the Parties to this PCA to implement such introduction into the Action Plan in each single case, except if they are already included in Attachment 4 to this PCA. The other Parties must be provided with all necessary information on the concerned Software under Controlled License Terms in writing prior to the request for consent. While the Parties will not unreasonably withhold consent, there is no right to consent. Any consent given can be revoked if the provided information was incorrect or incomplete. If a Party objects to give its consent, it shall state so in writing within 30 calendar days; if the request for approval remains without an answer for 30 calendar days, the consent of that silent Party shall be deemed granted, with the exception of Daimler AG which shall provide its prior written approval or objection within such 30 calendar days upon being directly contacted by the Party intending to introduce the Controlled License Terms.

If a Party uses Software under Controlled License Terms in Results or Background to be contributed to the Action, such Party is responsible for complying with all obligations in connection with the use, modification and distribution of the Software under Controlled License Terms. In addition, such Party must enable the other Parties to also fully and properly meet the obligations in connection with the use, modification and distribution of Software under Controlled License Terms at all times. Along with handing over the Results or Background containing Software under Controlled License Terms, such Party must also provide each of the other Parties with the Source Code of the Software under Controlled License Terms on a separate data carrier along with the respective license of such Software under Controlled License Terms.

The above provisions also apply to modifications of the Software under Controlled License Terms and its derivatives (including new versions) used in Results or Background to be contributed to the Action.

**9.9.4** 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.

### **9.9.5 Access Rights to Software**

Access Rights to Software that are Results are subject to Section 9.4.1. and shall comprise:

- (i) Access to the Object Code; and
- (ii) where normal use of such an Object Code requires an API, access to the Object Code and such an API; and
- (iii) 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.

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

### **9.9.6 Software license and sub-licensing rights**

#### **9.9.6.1 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 of this PCA, as far as Needed for the Exploitation of Results, comprise the right:

- (i) to make an unlimited number of copies of Object Code and APIs; and
- (ii) to distribute, 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

- (iii) to use the Object Code and API in research and development, and to create or market 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 Results.

#### **9.9.6.2 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 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 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 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

#### **9.9.6.3 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 of this PCA, such Access Rights exclude the right to sub-license. Such sub-licensing rights may, however, be negotiated between the Parties.

#### **9.9.6.4 Results - Rights of a Party (Source Code)**

Where, in accordance with Section 9.9.5, a Party has Access Rights Needed for Exploitation of said Party's own Results to Source Code that is a Result, then 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, 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.

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

Access Rights to Source Code under this Section 9.9 for the Exploitation of Results shall include the right to sub-license Source Code solely for purpose of error correction, maintenance and/or support of the Software.

#### **9.9.6.7 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.

#### **9.9.6.8 Specific formalities**

Each sub-license granted according to the provisions of Section 9.9.6 of this PCA where possible 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 is "Confidential Information".

**10.2** The Parties shall have the right to refuse to accept any information under this PCA prior to any disclosure and nothing herein shall obligate either Party to disclose any particular information.

**10.3** 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 to any third party other than its Affiliated Entities and Subcontractors and to third parties involved in Indirect Utilisation pursuant to Section 9.2.8 as extended workbenches 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 Affiliated Entities and/or Subcontractors or extended workbenches 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.;

**10.4** 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 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.

**10.5** 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.

**10.6** 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: Miscellaneous

### 11.1 Attachments, inconsistencies and severability

This PCA consists of this core text and:

- Attachment 1 (Background Included)
- Attachment 2 (Declaration of Accession)
- Attachment 3 (List of third parties for simplified transfer according to Section 8.3.2 of this PCA)
- Attachment 4 (Controlled License Terms 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 the 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.

#### a) Formal notices:

If it is required in this PCA (Sections 4.2, 5.4, 9.9.2.2 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.

#### b) Other communication:

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

Any change of persons or contact details shall be 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 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 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 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.

### 11.10 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 12: Signatures

### AS WITNESS:

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



**AIT AUSTRIAN INSTITUTE OF TECHNOLOGY GMBH (AIT)**

Signature(s)

Name(s)

Title(s)

Date

**AYUNTAMIENTO DE MALAGA (MCC)**

Signature(s)

Name(s)

Title(s)

Date

**AVL LIST GMBH (AVL)**

Signature(s)

Name(s)

Title(s)

Date

**AVL SOFTWARE AND FUNCTIONS GMBH (AVLS)**

Signature(s)

Name(s)

Title(s)

Date

**CENTRO RICERCHE FIAT SCPA (CRF)**

Signature(s)

Name(s)

Title(s)

Date

**COMLIGHT AS (COM)**

Signature(s)

Name(s)

Title(s)

Date

**DAIMLER AG (DAI)**

Signature(s)

Name(s)

Title(s)

Date

**INSTITUTE OF ELECTRONICS AND COMPUTER SCIENCE (EDI)**

Signature(s)

Name(s)

Title(s)

Date



## FEV EUROPE GMBH (FEV)

Date

Aachen,

Aachen,

Signatures

Dr. Norbert W. Alt

Chairman of the Executive Board

i.A.

Dipl.-Ing Christof Schernus

Director Business Development Research & Innovation

**FLANDERS MAKE VZW (FM)**

Signature(s)

Name(s)

Title(s)

Date

**FORSCHUNGSZENTRUM JULICH GMBH (FZJ)**

Jülich, (Date)\_\_\_\_\_

Signature:\_\_\_\_\_

Name: i.V. Prof. Dr. Rüdiger-A. Eichel

Position: Director of Institute of Energy and Climate Research,  
Fundamental Electrochemistry (IEK 9)

Jülich, (Date)\_\_\_\_\_

Signature:\_\_\_\_\_

Name: i.V. Dr. Jens Dreyer

Position: Head of External Funding Management

FRAUNHOFER GESELLSCHAFT ZUR FOERDERUNG DER ANGEWANDTEN FORSCHUNG E.V. (FhG)

Signature(s)

Name(s)

Title(s)

Rüdiger Dorner  
Head of Department  
Public and EU Projects

Martin Paulmichl  
Legal Counsel  
Public and EU Projects

Date

**NXP SEMICONDUCTORS CZECH REPUBLIC SRO (NXPC)**

Signature(s)

Name(s)

Title(s)

Date

**FUNDACION TECNALIA RESEARCH & INNOVATION (TEC)**

Signature(s)

Name(s)

Title(s)

Date

**GEORGII KOBOLD GmbH & Co. KG (GEKO)**

Signature(s)

Name(s)

Title(s)

Date

**HELIOX BV (HX)**

Signature(s)

Name(s)

Title(s)

Date



**IDEAS & MOTION SRL (I&M)**

Signature(s)

Name(s)

Title(s)

Date

**INTERUNIVERSITAIR MICRO-ELECTRONICA CENTRUM VZW (IMEC)**

Signature(s)

Luc Van den hove  
President & CEO

Date

**INDUSTRIAL TECHNOLOGY RESEARCH INSTITUTE INCORPORATED (ITRI)**

Signature(s)

Name(s)

Title(s)

Date

**INFINEON TECHNOLOGIES AUSTRIA AG (IFAT)**

Signature(s)

Name(s)

Title(s)

Date

**INFINEON TECHNOLOGIES DRESDEN GMBH (IFD)**

Signature(s)

Name(s)

Title(s)

Date

**INFINEON TECHNOLOGIES ROMANIA (IFRO)**

Signature(s)

Name(s)

Title(s)

Date

**IRIZAR S COOP (IRIZ\_C)**

Signature(s)

Name(s)

Title(s)

Date

**JAC ITALY DESIGN CENTER SRL (JAC)**

Signature(s)

Name(s)

Title(s)

Date



**KOMPETENZZENTRUM - DAS VIRTUELLE FAHRZEUG, FORSCHUNGSGESELLSCHAFT MBH (VIF)**

Signature(s)

Name(s)

Title(s)

Date

**KROMBERG & SCHUBERT GMBH & CO. KG (KS)**

Signature(s)

Name(s)

Title(s)

Date

**KTH ROYAL INSTITUTE OF TECHNOLOGY (KTH)**

Signature(s)

Name(s)

Title(s)

Date

**LANGE RESEARCH AIRCRAFT GMBH (LRA)**

Signature(s)

Name(s)

Title(s)

Date

**MAGNETI MARELLI S.P.A., Powertrain Business Line (MM)**

Signature(s)

Name(s)

Title(s)

Date

## MICROELETRONICA MASER SL (MAS)

Signature(s)

Name(s)

Title(s)

Date

**MURATA ELECTRONICS OY (Murata)**

Signature(s)

Name(s)

Title(s)

Date

**NXTECH AS (NXT)**

Signature(s)

Name(s)

Title(s)

Date



**OKMETIC OYJ (OKM)**

Signature(s)

Name(s)

Title(s)

Date

**ON SEMICONDUCTOR BELGIUM BVBA (ONSE)**

Signature(s)

Mr Marc Dierickx  
Managing Director

Date

**OSTBAYERISCHE TECHNISCHE HOCHSCHULEAMBERG-WEIDEN (OTH AW)**

Signature(s)

Name(s)

Title(s)

Date

**POLITECNICO DI MILANO (POLM)**

Signature(s)

Name(s)

Title(s)

Date

**QRTECH AB (QRTE)**

Signature(s)

Name(s)

Title(s)

Date

**ROBERT BOSCH GMBH (BOSCH)**

Signature(s)

Name(s)

Title(s)

Date

**STIFTELSEN SINTEF (SINT)**

Signature(s)

Name(s)

Title(s)

Date

**STMICROELECTRONICS SRL (STI)**

Signature(s)

Orio BELLEZZA

Director

Date

Signature(s)

Carmelo PAPA

Managing Director

Date



**TECHNISCHE UNIVERSITÄT DORTMUND (TUDO)**

Signature(s)

Name(s)

Title(s)

Date

**TECHNISCHE UNIVERSITAET DRESDEN (TUD)**

Signature(s)

Name(s)

Title(s)

Date

**TECHNISCHE UNIVERSITEIT EINDHOVEN (TUE)**

Signature(s)

Name(s)

Title(s)

Date

**TECHNISCHE UNIVERSITAET GRAZ (TUG)**

Signature(s)

Name(s)

Title(s)

Date

VTT TECHNICAL RESEARCH CENTRE OF FINLAND LTD. (VTT)

Signature(s)

Name(s)

Title(s)

Date

**TENNECO AUTOMOTIVE EUROPE BVBA (TEN)**

Signature(s)

Name(s)

Title(s)

Date

**TTTECH COMPUTERTECHNIK AG (TTT)**

Signature(s)

Name(s)

Title(s)

Date

**UAB METIS BALTIC (MB)**

Signature(s)

Name(s)

Title(s)

Date



**UNIVERSITY OF ALCALÁ (UAH)**

Signature(s)

Name(s)

Title(s)

Date

**UNIVERSITA DI PISA (UNIFI)**

Signature(s)

Name(s)

Title(s)

Date

**VÆRSTE AS (VAG)**

Signature(s)

Name(s)

Title(s)

Date

**VDL BUS & COACH BV (VDL)**

Signature(s)

Name(s)

Title(s)

Date

**VILNIUS GEDIMINAS TECHNICAL UNIVERSITY (VGTU)**

Signature(s)

Name(s)

Title(s)

Date

**VI-GRADE SRL (VIG)**

Signature(s)

Name(s)

Title(s)

Date

## BRNO UNIVERSITY OF TECHNOLOGY

Signature

Prof. RNDr. Ing. Petr Štěpánek, CSc., dr. h. c.  
rector

Date

**XENOMATIX (XX)**

Signature(s)

Name(s)

Title(s)

Date



**ZF FRIEDRICHSHAFEN AG (ZF)**

Signature(s)

Name(s)

Title(s)

Date