

# **Consortium Agreement**

**under the Sixth Framework Programme of the European  
Community (2002-2006)**

## for the project called

### **"A KNOWLEDGE BASED PLATFORM OF SERVICES FOR SUPPORTING MEDICAL-CLINICAL MANAGEMENT OF HEART FAILURE WITHIN ELDERLY POPULATION" ("HEARTFAID")**

This Consortium Agreement is made and entered into force this 11<sup>th</sup> day of January 2006 by and among:

**University of Calabria, Department of Electronics, Informatics, Systems (DEIS) (IT)**

having its registered office at Arcavacata di Rende (CS), 87036 Italy, Via Pietro Bucci, represented by Prof. Giovanni Latorre (Rector) and Prof. Sergio Greco (DEIS Director), VAT identification number IT-00419160783, hereinafter referred to as - "UNICAL"

and

**University "Magna Graecia", Department of Experimental and Clinical Medicine, Cardiovascular Diseases Division (IT)**

having its registered office at \_\_\_\_\_, represented by [insert the name of legal representative or his proxy], VAT identification number \_\_\_\_\_, hereinafter referred to as - "UNICZ"

and

**University of Milano "Bicocca", Department of Clinical Medicine, Cardiology Unit (IT)**

having its registered office at \_\_\_\_\_, represented by [insert the name of legal representative or his proxy], VAT identification number \_\_\_\_\_, hereinafter referred to as - "UNIMIB"

and

**Jagiellonian University Medical College (PL)**

having its registered office at sw Anny 12, 31-008 Cracow, Poland, represented by Prof. Wieslaw Pawlik (Vice-Rector), VAT identification number PL 675 000 22 36, hereinafter referred to as - "JUMC"

and

**Virtual Medical World Solutions Ltd (UK)**

having its registered office at 9 Northlands Road, Whitenap, Romsey, Hampshire SO51 5RU, UK, represented by Dr. Andrew Marsh], VAT identification number GB-787337481, hereinafter referred to as - "VMWS"

and

**Hellenic Telecommunications and Telematics Applications Company (GR)**

having its registered office at Scientific & Technological Park of Crete, Vassilika Vouton, GR71003, Greece, represented by Mr Vassilis Spitadakis, VAT identification number 094444827, hereinafter referred to as - "FORTHnet"

and

**Synapsis S.r.l. (IT)**

having its registered office at \_\_\_\_\_, represented by [insert the name of legal representative or his proxy], VAT identification number \_\_\_\_\_, hereinafter referred to as - "SYNAP"

and

**Consiglio Nazionale delle Ricerche - Istituto di Scienza e Tecnologie dell'Informazione (IT)**

having its registered office at \_\_\_\_\_, represented by [insert the name of legal representative or his proxy], VAT identification number \_\_\_\_\_, hereinafter referred to as - "CNR"

and

**Foundation for Research and Technology - Hellas (GR)**

having its registered office at Science and Technology Park of Crete, P.O. Box 1527 Vassilika Vouton , GR 71110 Heraklion, Crete, Greece, represented by Mr Alkiviades C. PAYATAKES, Chairman of FORTH Board of Directors and/or Mr George THIREOS, Vice-Chairman of FORTH Board of Directors, or their authorised representative, VAT identification number EL090101655, hereinafter referred to as - "FORTH"

and

**Rudjer Boskovic Institute, Department of Electronics (HR)**

having its registered office at Bijencka 54, 10000 Zagreb, Croatia, represented by director dr. Mladen Zinic, VAT identification number 3270289, hereinafter referred to as - "RBI"

and

**Istituto Auxologico Italiano, S.Luca Hospital, Department of Cardiology (IT)**

having its registered office at \_\_\_\_\_, represented by [insert the name of legal representative or his proxy], VAT identification number \_\_\_\_\_, hereinafter referred to as - "AUXOL"

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

**CONTENTS**

**PREAMBLE..... 6**

**TITLE I: SUBJECT OF THE AGREEMENT..... 7**

SECTION 1: SUBJECT, PURPOSE AND NATURE OF THE CONSORTIUM AGREEMENT .....7

*Art. 1.1 Definitions* .....7

*Art. 1.2 Additional definitions*.....7

*Art. 1.3 Purpose of the Consortium Agreement* .....8

SECTION 2: RESPONSIBILITY .....8

*Art. 2.1 Responsibility*.....8

**TITLE II: ORGANISATIONAL PROVISIONS ..... 9**

SECTION 1: PROJECT ORGANISATION AND MANAGEMENT STRUCTURE .....9

*Art. 1.1 Management Structure* .....9

        1.1.1 *Co-ordinator* .....9

        1.1.2 *Management Board (MB)*.....10

        1.1.3 *Scientific and Technological Advisory Board (STAB)* .....10

        1.1.4 *Work Package Leaders Group (WPLG)*.....11

*Art. 1.2 Common rules for the bodies* .....11

**TITLE III: TECHNICAL AND FINANCIAL PROVISIONS..... 13**

SECTION 1: TECHNICAL PROVISIONS .....13

*Art. 1.1 Human and material resources* .....13

SECTION 2: COSTS – PAYMENT .....13

*Art. 2.1 General Principle* .....13

*Art. 2.2 Transfer of payments*.....13

*Art. 2.3 Management of EC contribution*.....13

*Art. 2.4 Management costs* .....13

**TITLE IV: CONFIDENTIALITY AND IPR..... 14**

SECTION 1: CONFIDENTIALITY .....14

*Art. 1.1 Confidentiality* .....14

SECTION 2: INTELLECTUAL PROPERTY RIGHTS.....14

*Art. 2.1 Ownership on Pre-Existing Know-How* .....14

*Art. 2.2 Identification of Pre-Existing Know-How* .....14

*Art. 2.3 Knowledge* .....15

*Art. 2.4 Access-rights* .....15

        2.4.1 *General Principles relating to Access-rights* .....15

        2.4.2 *Access-rights for carrying out the Project* .....15

        2.4.3 *Access-rights for Use* .....15

        2.4.4 *Access rights applied to Software* .....16

*Art. 2.5 Decisions on IPR matters* .....16

SECTION 3: PUBLICATIONS AND PRESS RELEASES .....16

**TITLE V: LEGAL PROVISIONS ..... 18**

SECTION 1: DURATION, WITHDRAWAL AND INCLUSION OF A NEW CONTRACTOR .....18

*Art. 1.1 Duration* .....18

*Art. 1.2 Force majeure*.....18

*Art. 1.3 Suspension and termination* .....18

*Art. 1.4 Withdrawal of a Contractor*.....18

*Art. 1.5 Inclusion of a new Contractor* .....19

SECTION 2: LIABILITY, TERMINATION .....19

*Art. 2.1 Duration of the Agreement* .....19

*Art. 2.2 Liability*.....19

*Art. 2.3 Termination*.....20

*Art. 2.4 Bankruptcy*.....21

SECTION 3: SETTLEMENT OF DISPUTES .....21

SECTION 4: FINAL PROVISIONS .....21

*Art. 4.1 Language*.....21

*Art. 4.2 Notices*.....21

*Art. 4.3 Applicable Law*.....21

*Art. 4.4 Assignment*.....21

Art. 4.5 No Partnership or Agency .....	21
Art. 4.6 Entire Agreement – Amendments .....	21
Art. 4.7 Severability .....	22
Art. 4.8 Annexes and Conflicts.....	22
<b>SIGNATURES.....</b>	<b>23</b>
<b>&lt; UNICAL - COORDINATOR&gt; .....</b>	<b>24</b>
<b>&lt; UNICZ&gt;.....</b>	<b>25</b>
<b>&lt; UNIMIB&gt;.....</b>	<b>26</b>
<b>&lt; JUMC&gt; .....</b>	<b>27</b>
<b>&lt;VMWS&gt;.....</b>	<b>28</b>
<b>&lt; FORTHNET&gt;.....</b>	<b>29</b>
<b>&lt; SYNAP&gt;.....</b>	<b>30</b>
<b>&lt; CNR&gt; .....</b>	<b>31</b>
<b>&lt; FORTH&gt;.....</b>	<b>32</b>
<b>&lt;RUDJER BOSKOVIC INSTITUTE&gt;.....</b>	<b>33</b>
<b>&lt; AUXOL&gt;.....</b>	<b>34</b>
ANNEX A: BUDGET .....	35
ANNEX B: LIST OF THE MEMBERS OF THE MANAGEMENT STRUCTURE .....	36
ANNEX C: PRE-EXISTING KNOW-HOW .....	40
ANNEX D: RECIPIENTS FOR NOTICES .....	41
ANNEX E: BANK ACCOUNT .....	43

## **PREAMBLE**

WHEREAS, the Contractors, having considerable experience in the field of the Project, have submitted a Proposal for the Project to the Commission in consideration of Decision No 1513/2002/EC of the European Parliament and of the Council of 27 June 2002 concerning the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006), (OJEC L 232/1) and of Regulation (EC) No 2321/2002 (OJEC L355) of the European Parliament and of the Council of 30 December 2002 concerning the Rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the European Community sixth framework programme 2002-2006;

WHEREAS the Contractors have decided and agreed to execute and perform the Contract (as such term is defined in the above mentioned Regulation) awarded by the Commission for the Project;

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

WHEREAS the Contractors have agreed on a project called "A KNOWLEDGE BASED PLATFORM OF SERVICES FOR SUPPORTING MEDICAL-CLINICAL MANAGEMENT OF HEART FAILURE WITHIN ELDERLY POPULATION" (HEARTFAID for short), to be carried out in the sixth framework programme of the European Community for research, technological development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006);

WHEREAS the Contractors considers that it is of their mutual benefit to co-operate on the strategic, scientific and technological objectives of the above-mentioned Project

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

|

## Title I: SUBJECT OF THE AGREEMENT

### Section 1: Subject, purpose and nature of the Consortium Agreement

#### Art. 1.1 Definitions

For sake of clarity, words used in this Consortium Agreement shall have the same meaning as that defined in the second article of Regulation (EC) No 2321/2002 (OJEC L355) of the European Parliament and of the Council of 30 December 2002 concerning the rules for the participation of undertakings, research centres and universities and for the dissemination of research results for the implementation of the European Community sixth framework programme 2002-2006 and the same definition and meaning as that contained in the Contract with the European Commission, including its Annex II General Conditions unless otherwise defined herein.

#### Art. 1.2 Additional definitions

**"Budget"** is the budget in Annex A with the *Contractors' Project Shares* agreed upon by the *Consortium* for the execution of the *Project* and according to the total *EC contribution* defined in the *Contract*.

**"Consortium"** means all the *Contractors* participating in the *Project* covered by the *Contract*.

**"Contract"** means the *Contract* related to the *Project*.

**"Contractor"** means a participant defined in the EC Regulation on the rules for participation as a legal entity contributing to an indirect action and having rights and obligations with regard to the Community under the terms of such Regulation or according to the *Contract*.

**"Co-ordinator"** means the *Contractor* identified in the *Contract* who, in addition to its obligations as a *Contractor*, is obliged, as institution, to carry out the specific co-ordination tasks provided for in the *Contract* on behalf of the *Contractors*.

**"Commission" or "EC"** means the Commission of the European Communities.

**"Consortium Agreement" or "Agreement"** means this agreement including its Annexes

**"Defaulting Contractor"** means a *Contractor* breaching its obligations of the *Contract* or the *Consortium Agreement*.

**"EC contribution"** means the financial contribution of the *Commission* to the *Consortium* as defined in the *Contract*.

**"Project"** means the project called with the acronym **HEARTFAID**, project No. **027107**, as set out in the *Programme of Activities* as defined in the *Contract*.

**"Programme of Activities"** means the Description of the Work, as defined in the *Contract*.

**"Project Share"** means for each *Contractors*, that *Contractor's* share of the *Budget* of the *Project* as agreed by the *Consortium* in Annex A.

**"Project Deliverables"** means the deliverables required under the *Contract* and this *Consortium Agreement* (including but not limited to the reports, cost statements and certified audit reports) that have to be delivered by the *Contractors* to the *Co-ordinator* and/or the *Commission*.

**"Software" means:**

- software programs, (i.e. 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 and in any code form). However, it is upon the Parties to agree if they include Source Code form in this definition on a case-by-case basis;
- software information, (i.e. technical information used or, useful in, or relating to the design, development, use or maintenance of any version of a software program);
- software documentation, (i.e. software information in documentary form).

For the purpose of avoiding doubt, **Software may be “Knowledge” or “Pre-existing Know-How”**.

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

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

### **Art. 1.3 Purpose of the Consortium Agreement**

- a. The purpose of this *Agreement* is to specify the organisation of the work between the *Contractors*, to organise the management of the *Project*, to define the rights and obligations of the *Contractors*, including, but not limited to, their liability and indemnification, to supplement the provisions of the *Contract* concerning *Access-rights* and *Intellectual Property Rights* (IPR), and to set out rights and obligations of the *Contractors*, supplementing but not conflicting with those of the *Contract*.
- b. The *Contractors* agree to co-operate pursuant to the terms of this *Agreement* in order to execute and fulfil the *Contract* with the *EC* and perform the tasks designated in the *Programme of Activities*.
- c. The *Consortium Agreement* shall be regarded as connected to the *Contract*. In case of conflict between this *Consortium Agreement* or parts of it and the *Contract*, the latter shall prevail.

## **Section 2: Responsibility**

### **Art. 2.1 Responsibility**

- a. Each *Contractor* hereby undertakes with respect to other *Contractors* all reasonable endeavours to diligently perform and fulfil actively and on time all of its obligations under the *Contract* and this *Consortium Agreement*. Each *Contractor* shall be individually responsible (including for financial matters) to fulfil these obligations.
- b. Each *Contractor* undertakes reasonable endeavours:
  - to promptly prepare and provide the *Management Board*, the *Scientific and Technical Advisory Board*, the *Work Package Leaders Group* or the *Co-ordinator*, as appropriate, with the deliverables, information and reports as they require in order to perform their duties under this *Consortium Agreement* and under *Contract* or as the *Commission* may request;
  - to submit the *Co-ordinator* every six (6) months a cost statement of expenses incurred together with the supporting documents;
  - to address to the *Co-ordinator* an audit certificate in accordance with the relevant article of the *Contract* no later than thirty (30) days after the expiry of each certification period;
  - to notify the *Co-ordinator* promptly of any delay in performance or of any event that may impact the *Project*;
  - to inform the *Co-ordinator* of any relevant communications it receives from third-parties in relation to the *Project*;
  - to ensure the accuracy of any information or materials it supplies to the other *Contractors* or under the *Contract* and to promptly correct any error therein of which it is notified. The recipient *Contractor* shall be responsible for the use to which it puts such information and materials;
  - not to use knowingly any proprietary rights of a third-contractor for which such *Contractor* has not acquired the corresponding right of use and/or to grant licenses;
  - to act at all times in good faith and in a manner that reflects the good name, goodwill and reputation of the other *Contractors* and in accordance with good business ethics;
  - to participate in a co-operative manner to the meetings of the different bodies under this *Consortium Agreement*.



## Title II: ORGANISATIONAL PROVISIONS

### Section 1: Project Organisation and Management Structure

#### Art. 1.1 Management Structure

The HEARTFAID Project organisation shall comprise the following:

- a. *Co-ordinator* is the intermediary to the *European Commission* and is authorised to execute the project management.
- b. *Management Board (MB)* is the principal decision-making body of HEARTFAID Project and shall comprise all *Contractors*.
- c. *Scientific and Technical Advisory Board (STAB)* is the scientific and technical coordination body of HEARTFAID Project, with the specific aim to give scientific and technical advisory support.
- d. *Work Package Leaders Group (WPLG)* is the technical and operative coordination body responsible of the technical and operational management of the Work packages.

#### 1.1.1 Co-ordinator

The *Co-ordinator* shall be the intermediary between the *Contractors* and the *Commission* and shall perform all tasks assigned to it as described in the *Contract* and hereunder. The *Co-ordinator* is responsible for the overall management of the *Project*.

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

Vis-à-vis the *Commission*:

- i. signing the *Contract* with the *Commission* after authorisation by all the *Contractors* representing at least eighty percent (80%) of the *Project Shares*;
- ii. receiving the entire financial contribution from the *Commission*. The *Co-ordinator* will manage this contribution by promptly allocating it to the *Contractors* pursuant to the *Programme of Activities* and the decisions taken by the appropriate bodies and no later than fifteen (15) days from receipt of such contribution from the *Commission*;
- iii. supervising the scientific, technical, financial and administrative progress of the *Project*, and keep informed the *Commission* of all the relevant information as specified in the *Contract*;
- iv. co-ordinating the reporting to the *Commission* on the basis of the information gathered from the *Contractors*;
- v. submitting documentation to the *Commission*, including all reports, *Project Deliverables* and any other necessary information required. If one or more *Contractors* are late in submission of deliverables under the *Contract*, the *Co-ordinator* may submit the other *Contractors'* deliverables to the *Commission*.
- vi. presenting amendments to the *Contract* approved by the *Management Board* to the *Commission*.

Vis-à-vis the other *Contractors*:

- i. organising the activities and chairing the meetings of the *Management Board* and *Scientific and Technological Advisory Board*;
- ii. forwarding any documents and information connected with the *Contract* performance to the *Management Board* and *Scientific and Technological Advisory Board* and the *Contractors* concerned;
- iii. setting up an Handbook for the *Project's* management to be approved by the *Management Board*;
- iv. acting as an intermediate between the *Contractors*;
- v. following up the *Project* expenses and monitoring the cost statements prepared and certified by the *Contractors*;
- vi. transferring sums allocated among the *Contractors* as per their *Project Shares* according to the decisions of the *Management Board* and keeping related records identifying what portion of the payments made by the *Commission* has been allocated and/or paid to each *Contractor*.

Except in its capacity as the representative of the *Contractors* described in the *Contract*, the Co-

*ordinator* shall not be entitled to act or to make legally binding declarations on behalf of any other *Contractor* nor to enlarge its role beyond the one described herein and in the *Contract*. The position of *Co-ordinator* is entrusted to *Contractor* UNICAL.

### **1.1.2 Management Board (MB)**

The *Management Board* shall consist of one representative of each *Contractor*. The *Co-ordinator* shall chair all meetings of the *Management Board*. All decisions will be taken by consensus. If it will not be met, decision will be taken by majority voting. Each representative shall have one vote and may appoint a substitute to attend and vote at any meeting of the *Management Board*. The *Management Board* is in charge of all decisions regarding the management of the Consortium as to budget, project planning, contingency plan and risk management, IPR and relationships with other projects and external organisations.

The *Management Board* shall in particular be entitled for:

- i. deciding political and strategic orientation of the *Project*, its *Programme of Activities* and *Budget*;
- ii. deciding upon the *Programme of Activities* and its major changes;
- iii. deciding upon the allocation of the *Budget* to the *Programme of Activities* and approving the changes of the *Project Shares*, if exceeding 20% of the *EC contribution*;
- iv. deciding upon the Handbook for the *Project's* management prepared by the *Coordinator*;
- v. deciding upon the rules for the management of the funds received from the *Commission*, including the transfer of the payment from the *Co-ordinator* to the *Contractors*;
- vi. supporting the *Co-ordinator* in fulfilling obligations towards the *Commission*;
- vii. if necessary, may decide on staggered payments of the contribution to a *Contractor* for justified reasons;
- viii. deciding upon the review and/or amendment of terms of the *Contract* and this *Consortium Agreement*;
- ix. deciding on the further commitments proposed by the *Scientific and Technological Advisory Board*;
- x. deciding to suspend all or part of the *Project* or to terminate all or part of the *Contract*, or to request the *Commission* to terminate the participation of one or more *Contractors*;
- xi. in case of default of a *Contractor*, agreeing on actions to be taken against the *Defaulting Contractor*;
- xii. agreeing procedures and policies in accordance with the *Commission* contractual rules, Annex II General Conditions - Part B for the management of the *Knowledge*, IPR and Publications matters;
- xiii. settling any dispute arising from the *Project* implementation;
- xiv. deciding upon the enlargement of the *Consortium* and the access of new *Contractors* to the *Contract* and the *Consortium Agreement*, including related Competitive Calls and their procedures;
- xv. supporting the *Co-ordinator* in preparing meetings with the *Commission* and related data;
- xvi. agreeing on press releases of the *Contractors* with regard to the *Project*.

All *Contractors* shall implement the decisions taken by the *Management Board*. Refusal by a *Contractor* to implement a decision of the *Management Board* shall be dealt with as per the provisions on Dispute Settlement.

### **1.1.3 Scientific and Technological Advisory Board (STAB)**

The *Scientific and Technological Advisory Board* shall consist of one representative of each *Contractor* plus four outstanding external scientific advisors. The *Co-ordinator* shall chair all meetings of the *Scientific and Technological Advisory Board*. Each *Contractor's* representative shall have one vote and may appoint a substitute to attend and vote at any meeting of the *Scientific and Technological Advisory Board*. Each external scientific advisor shall have one vote at any meeting of the *Scientific and Technological Advisory Board*.

The STAB shall be entitled for:

- i. identify a common methodological approach for all partners involved in a given WP;
- ii. ensure uniformity of results (as to execution, presentation, etc.);
- iii. prevent specific technical problems that would affect the project schedule;
- iv. explore alternative technical solutions in order to overcome specific hindrances met by the

- project;
- v. monitor the overall progression of the project;
- vi. discuss and present to the MB a range of choices about technical issues affecting the organization and/or schedule of the project.

Moreover, with the end to guarantee a fair and reliable monitoring and an overall evaluation of the scientific and technical development and results of the whole project, the STAB will be completed by the presence of outstanding external scientific advisors, both from the technological domain and the medical-clinical domain, namely:

- Prof. Nada LAVRAC from Jozef Stefan Institute, Department of Knowledge Technologies, Ljubljana, Slovenia;
- M.D. Ph.D. Goran KRSTAČIĆ from Institute for Cardiovascular Diseases and Rehabilitation, Zagreb, Croatia;
- MD Mihai GHEORGHIADÉ from Northwestern University Medical School, Chicago, USA;
- Prof. Daniele CUSI, MD PhD, Full Professor of Nephrology, Faculty of Medicine, University of Milan.

#### **1.1.4 Work Package Leaders Group (WPLG)**

The technical coordination activities will be further carried out and complete by the WP Leaders Group (WPLG), that will have technical responsibility for the WPs and for the adequate progress towards functional and quality goals.

Each WP leader will be nominated by the corresponding partner leader of the given WP, as indicated in the Programme of Activities.

Under the control of and in compliance with the decisions of the *Management Board*, the *WPLG* shall be in charge of the operational management of the *Project*.

The *WPLG* shall in particular be responsible for:

- i. implementing the political and strategic orientation decided by the *Management Board*;
- ii. implementing and updating the *Programme of activity*;
- iii. monitoring the *Project Deliverables*;
- iv. deciding upon measures to ensure effective day-to-day *Project* co-ordination in the framework of controls and audit procedures;

The specific tasks of the WP leaders group will be:

- i. distribute the responsibilities required to adequately accomplish the tasks in each WP between the participant partners considering their assigned manpower;
- ii. coordinate the WP level meetings;
- iii. define the structure and overall index of the WP deliverables, complying with the management directives;
- iv. production of the final WP deliverables;
- v. produce, review and approve WP contributions to periodic reports to the MB and STAB.

#### **Art. 1.2 Common rules for the bodies**

The Procedure Common Rules applicable to the bodies are as follows:

##### **a. Meetings**

The chairman of the body shall convene meetings typically every three (3) months and shall also convene meetings at any time upon written request of any *Contractor* in the case of an emergency situation.

##### **b. Preparation and Organisation of the Meetings**

The Chairman shall provide an agenda to the members of the body (and also a copy to the all *Contractors*, even if not members) not later than ten (10) calendar days in advance of the relevant *Board* meeting. The agenda must give full details and background to any proposed decision.

Should a *Contractor* suggest adding a discussion/decision to the proposed agenda, it shall do so in writing to all other members at least seven (7) calendar days prior to the meeting date.

The Chairman may decide, notifying it with the agenda, that the meeting shall be held by means of electronic mail, video conference, telephone conference or similar communication systems.

c. **Rules of voting**

Each *Contractor's* representative shall have one vote and may appoint a substitute to attend and vote at any meeting.

Meetings of the bodies shall constitute a quorum if more than fifty (50) percent of the members are present or duly represented by proxy.

Decision shall not be taken validly unless a majority of two-thirds (2/3) of its members are present or represented.

In any case, decisions shall be taken by a majority of 75% of the votes of members present or represented, provided always that a *Contractor* may issue its veto only in the case of a decision to accept a new *Contractor* in the *Consortium* if a substantial threat to its commercial or strategic interests is likely to exist which cannot be resolved by any other measure.

d. **Minutes**

The Chairman shall draft the minutes of each meeting to formalise in writing all decisions taken and shall dispatch them to the members (and also a copy to the all *Contractors*, even if not members) within fifteen (15) calendar days of the concerned meeting.

The minutes shall be considered as accepted by the members if, within fifteen (15) calendar days from receipt thereof, nobody has objected in writing to the Chairman, provided that objection shall be either on such formalisation or on a decision that was not part of the agenda and which was not accepted by all members.

## **Title III: TECHNICAL AND FINANCIAL PROVISIONS**

### **Section 1: Technical provisions**

#### **Art. 1.1 Human and material resources**

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

### **Section 2: Costs – Payment**

#### **Art. 2.1 General Principle**

The *Budget* comprises the total costs agreed for each *Contractor* and allocated to each *Project's* activity as defined in Annex A of this *Consortium Agreement*.

The *Budget* includes only eligible costs according to the art. II.19 (General Conditions) of the *Contract*.

#### **Art. 2.2 Transfer of payments**

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

The *Co-ordinator* undertakes to transfer the appropriate sums to the respective *Contractors* with minimum delay no more than fifteen (15) days from receipt, in accordance with the *Contract* and the modalities agreed by the *Management Board*.

The *Co-ordinator* will notify each other *Contractor* promptly of the date and amount transferred to its respective bank account and shall give the relevant references.

#### **Art. 2.3 Management of EC contribution**

The *Co-ordinator* shall manage *EC contribution*, respecting the rules approved by the *Management Board* and shall provide periodically the *Management Board* a report on its management.

#### **Art. 2.4 Management costs**

Each *Contractor* undertakes reasonable endeavours not exceed the ceiling of its management costs, according to the *Project Share*. Duly justified exemptions concerning audit costs should be agreed by the *Management Board*.

Banking and transaction costs related to the payments made by the *Commission* shall be borne by the *Co-ordinator*, while banking and transaction costs related to the handling of any financial resources shall be born by each *Contractor*.

## **Title IV: CONFIDENTIALITY AND IPR**

### **Section 1: Confidentiality**

#### **Art. 1.1 Confidentiality**

All information, directly or indirectly disclosed to a *Contractor* in connection with the *Contract* or with this *Agreement* and labelled in accordance with the *Contract*, shall be treated by the receiving *Contractor* as confidential and shall not be disseminated without prior written consent of the disclosing *Contractor* or be used for any purpose other than the carrying out of the receiving *Contractor's* obligations under this *Agreement* or the *Contract*.

This restriction shall not extend to any information which:

- has been in the possession of the receiving *Contractor* prior to receipt from the disclosing *Contractor*;
- is or has been published or otherwise has become public knowledge, otherwise than through any act of omission on the part of the receiving *Contractor*;
- was rightfully acquired by the receiving *Contractor* from others without any undertaking of confidentiality imposed by the disclosing *Contractor*;
- was developed by the receiving *Contractor* independently of the work of the *Project* as evidence in writing;
- where applicable, is approved for release in writing by the *Management Board*;
- the receiving *Contractor* is specifically required to disclose pursuant to an order of a court of competent jurisdiction in order to fulfil the court order.

Confidential Information will be flagged according to the following:

- if the information is written, a "confidential" mark shall be put on each page, and the document concerned shall be communicated under a sealed envelope;
- if the information is spoken, the confidential parts will be flagged as such by the disclosing *Contractor*. The disclosing *Contractor* and the receiving *Contractor* shall record this exchange of information in a written form within the next thirty (30) working days.

Each *Contractor* undertakes to establish suitable procedures for ensuring that confidential Information related to the *Project* is restricted to those of their employees, subcontractors and all other thirds, needing such information for the purpose of the duties assigned to them and that all such employees, subcontractors and all other thirds are themselves subject to suitable obligations of confidentiality.

Upon completion of the *Project* each *Contractor* shall return to the other *Contractors* any background information communicated by them for the purpose of the *Project*.

The above obligations shall apply for the period in which use of any *Knowledge* or *Pre-Existing Know-How* is to be made available also after the end of the *Consortium Agreement*, following receipt of any confidential Information by a *Contractor* for a maximum of five (5) years.

The obligation of confidentiality is deemed, also, in order to respect the Ethical Rules, in particular those relating to Privacy.

### **Section 2: Intellectual Property Rights**

#### **Art. 2.1 Ownership on Pre-Existing Know-How**

All *Contractors* agree to respect their individual Intellectual Property Rights.

Each *Contractor* is and remains the sole owner of its intellectual and industrial property rights over its *Pre-Existing Know-How*.

#### **Art. 2.2 Identification of Pre-Existing Know-How**

The *Contractors* have identified and listed in Annex C the *Pre-Existing Know-How* over which they may grant *Access-rights* for the *Project* and the *Pre-Existing Know-How* explicitly excluded or affected by restrictions to the access.

The *Contractors* agree that all other *Pre-Existing Know-How* shall be considered as unnecessary for the implementation of the *Project* and/or excluded, provided however that the *Contractors* may update in Annex C to extend the listed *Pre-Existing Know-How* developed between the date of submission of the proposal and the date of award of the *Contract* or before the effective joining of a new *Contractor*. In case a *Contractor* objects to exclusion from access to *Pre-Existing Know-How*, the *Contractor* seek-

ing to exclude access must petition the *Management Board* to decide whether the exclusion can take effect. Until a decision of the *Management Board* is taken, access to *Pre-Existing Know-How* is regarded as denied.

Incorrect declarations made in bad faith may lead to the exclusion of the *Contractor* concerned.

## **Art. 2.3 Knowledge**

No *Contractor* shall obtain the rights to Intellectual Property developed within the *Project* without the agreement of the *Management Board*.

The general principles for the *Knowledge* assignment used by the *Management Board* will be as follows:

- (i) *Knowledge* arising from work carried out under the *Project* shall be the property of the *Contractors* carrying out the work leading to that *Knowledge*.
- (ii) Where several *Contractors* have jointly carried out work generating the *Knowledge* and where their respective share of the work cannot be ascertained, they shall have joint ownership of such *Knowledge*. They shall agree among themselves on the allocation and the terms of exercising the ownership of said *Knowledge*. Subject to any specific agreement between the *Contractors* owning the *Knowledge* and to the provisions of the *Contract* and this *Agreement*, each co-owner shall be entitled to use the joint *Knowledge* as it sees fit, with compensation and subject to prior written consent of other concerned joint owners of such joint *Knowledge* on a case basis as they see fit, provided said use does not conflict with the *Project*.

## **Art. 2.4 Access-rights**

### **2.4.1 General Principles relating to Access-rights**

All *Access-rights* granted in accordance with this *Consortium* are granted on a non-exclusive basis, expressly exclude any rights to sub-license and shall be made free of any transfer costs.

*Knowledge* and *Pre-existing Know-How* shall be used only for the purposes for which *Access-rights* to it have been granted and only for so long as it is necessary for those purposes.

In relation to the granting of *Access-rights* "needed" or "need" shall mean that, without the grant of such *Access-rights*:

- in the case of *Access-rights* granted for the execution of the *Project*, carrying out the tasks assigned to the recipient *Contractor* under the *Programme of Activities* (as amended from time to time) would be impossible, significantly delayed, or require significant additional financial or human resources.
- in the case of *Access-rights* granted for Use, the Use of a defined and material element of the recipient *Contractor's* own *Knowledge* would be technically or legally impossible.

The burden of proof in relation to a claimed need for *Access-rights* shall be on the receiving *Contractor*. Where *Access-rights* are deemed to have been granted, the receiving *Contractor* shall provide such proof to the granting *Contractor* within thirty (30) days of receipt of a written request. Subject to the receiving *Contractor* acting in good faith, *Access-rights* for execution of the *Project* shall remain in force pending the resolution of any dispute between the *Contractors* over the need for *Access-rights*.

### **2.4.2 Access-rights for carrying out the Project**

#### **Conditions for Access**

*Access-rights* to *Knowledge* and *Pre-Existing Know-How* needed for the execution of the *Project* shall be granted on a royalty-free basis only upon written request specifying the scope and duration of their application particularly with respect to *Pre-Existing Know-How*.

#### **Entitlement for Use for the Project**

After conclusion of an agreement, the requesting *Contractor* is entitled to use the *Pre-Existing Know-How* or *Knowledge* for performing the *Programme of Activities*.

### **2.4.3 Access-rights for Use**

#### **Conditions**

*Access-rights* to *Knowledge* and *Pre-Existing Know-How* both needed for Use shall be granted upon bilateral agreement between the *Contractors* concerned. *Access-rights* to *Knowledge* shall be granted on a royalty-free basis; *Access-rights* to *Pre-Existing Know-How* shall be granted on Fair and Non-

discriminatory Conditions. The granting of *Access-rights* shall be made conditional on to the following principles:

- (i) The access to *Pre-Existing Know-How* is limited to the field of application being identified as pertaining to the objectives, content and goals of the *Project* and necessary for the use of own *Knowledge* of the recipient *Contractor*.
- (ii) The royalty-free access to *Knowledge* is limited to the field of application being identified as the objectives and goals of the *Project*. Outside this identified area, access to *Knowledge* may be granted on market conditions only.
- (iii) subject to (i) and (ii) access has to be granted within three (3) months after written request by the potential user to the owning *Contractor*. In case access is not being granted within the above-mentioned period, the *Management Board* will decide this issue.  
*Management Board* also decides on the appropriateness of possible license fees as well as on the conditions for granting access.
- (iv) *Access-rights* exist in full scope until two (2) years after *Project* completion or in case of prior termination of a certain *Contractor* after the time of leaving of such *Contractor* again until two (2) years after *Project* completion.

The involved *Contractors* may agree most favourable conditions.

### **Reimbursements**

Any obligation regarding claims or rights of a third-contractor, including especially rights of employees of the providing *Contractor*, resulting from the royalty-free *Access-rights* granted by the providing *Contractor* must be reimbursed by the receiving *Contractor*.

### **Royalties due to Substantial Commercial Benefits**

A *Contractor* which, having received royalty-free *Access-rights* for Use of the *Knowledge* of another *Contractor*, and which, within the period of up to five (5) years after the end of the *Contract*, has derived substantial commercial benefit from the exploitation of such *Access-rights* shall, without prejudice to the rights and obligations of the *Contractors* concerned, notify such another *Contractor* as soon as possible. The involved *Contractors* shall agree a royalty and the other necessary dispositions.

### **Access-rights for using Knowledge in subsequent Research Activities**

Recognising the *Contractors'* obligations to act in good faith the *Contractors* agree that the *Access-rights* for using *Knowledge* in subsequent research activities are to be for:

- i. in any case, research in the frame of a European Programme;
- ii. internal research;
- iii. third-contractor research, provided the third-contractor does not have direct access to confidential *Knowledge* from the *Project* generated by other *Contractors*.

#### **2.4.4 Access rights applied to Software**

The *Contractors* agree that when applied to *Software*, *Access-rights* do not include automatically access to the *Source Code* but only to *Object Code*. Access rights to *Source Code* may be granted upon request. The *Contractor* owning the *Source Code* may reject any such request unless needed as described in Article 2.4.1 The *Contractors* also agree that *Access-rights* to *Software* are granted exclusively in the field of application as defined in the *Programme of Activities* or that the concerned *Contractors* may agree to extend subsequently.

### **Art. 2.5 Decisions on IPR matters**

The *Management Board* shall take all decisions on the IPR, and, in particular, it shall try a prior settlement of the disputes on the Ownership, *Access-rights*, Dissemination of IPR.

A member of the *Management Board* who is associated with any of the *Contractors* in dispute shall not participate in its deliberations or vote on its decision. The power of decision may be delegated to a Panel convened for that purpose, the membership of which shall be determined by the *Management Board* and shall be acceptable to all *Contractors* concerned.

## **Section 3: Publications and Press Releases**

### **Art. 3.1 Publications and Press Releases**

If the *Work Package Leaders Group* has agreed a *Project Deliverable* to be available to the public, any *Contractor* may publish information included in such *Project Deliverable* without any notifications



to the other *Contractors* and without any other *Contractors'* consent.

For the avoidance of doubt, it is stated that no *Contractor* shall have the right to publish or allow the publishing of data which constitutes another *Contractor's Knowledge, Pre-Existing Know-How* or confidential information, even where such data are amalgamated with such first *Contractor's Knowledge, Pre-Existing Know-How* or other information, document or material. Any use of such other *Contractor's* data justifies, save for further remedies, objection to the publication by the *Contractor* concerned in accordance with the *Contract*.

All the publications shall make reference to the *Project* title, the *Contractor* and to the funding institutions (wording to be defined at the first project team meeting).

This obligation shall remain applicable three (3) years after the end of this *Consortium Agreement* and of the *Contract*.

The publishing *Contractors* must supply their planned publication to the other *Contractors*. Any opposition to the planned publication shall be made on justified grounds in accordance with this *Consortium Agreement* and the *Contract*.

When there is an opposition, the involved *Contractors* shall discuss how to overcome the justified grounds of the opposition by removal of any disclosure of copyright (for example software) owned by a non publishing *Contractor* and the opposing *Contractor* shall not unreasonably continue the opposition if actions are performed following the discussion.

The justified grounds of opposition are:

- for business or other legitimate (oriented to research, public bodies, and not necessarily to private commercial enterprises, bodies) reasons concerning the inclusion of the opposing *Contractor's Knowledge* or *Pre-Existing Know-How*.
- for protection reasons concerning *Knowledge* or *Pre-Existing Know-How* and if the publication of the material identified in opposition would adversely affect such protection.

However a delay to publication, for any reason, must be no longer than two (2) months.

The *Management Board* shall try a prior settlement of the disputes on the matters provided by this article.

## **Title V: LEGAL PROVISIONS**

### **Section 1: Duration, withdrawal and inclusion of a New Contractor**

#### **Art. 1.1 Duration**

This *Consortium Agreement* shall come into force as of the date of its signature by the *Contractors* and shall continue in full force and effect until terminated or until complete discharge of all obligations for carrying out of the *Project* undertaken by the *Contractors* under the *Contract* and under this *Consortium Agreement*, whichever is earlier.

#### **Art. 1.2 Force majeure**

The *Contractors* agree that the definition of Force majeure shall be as per the *Commission* contractual rules, Annex II General Conditions, Part A, Section 1, Article II.5.

Each *Contractor* will notify all the other *Contractors* in writing of any Force majeure as soon as possible.

#### **Art. 1.3 Suspension and termination**

The *Management Board* may suspend or terminate the *Project* due to Force majeure in accordance with the provisions of the *Contract*.

#### **Art. 1.4 Withdrawal of a Contractor**

##### **Withdrawal**

Any *Contractor* may request to terminate its participation in the *Contract* and the *Consortium Agreement*, by giving three (3) months written notice of withdrawal to the other *Contractors*, by means of registered mail with acknowledgement of receipt, indicating the reasons for withdrawal.

The *Management Board* may object to such withdrawal by unanimous vote minus the vote of the withdrawing *Contractor*, indicating the reasons for objection, within a period of forty-five (45) days from receipt of notification.

If the *Management Board* agrees with the withdrawal, the *Co-ordinator* shall inform the *Commission* by means of registered mail with acknowledgement of receipt in accordance of the provisions of the relevant provisions of the *Contract*.

Where the *Management Board* disagrees, the *Co-ordinator* shall submit to the *Commission* a request for assistance, in accordance with the relevant article of the *Contract*.

##### **Consequences of withdrawal**

The consequences of withdrawal shall be as follows:

- a. Confidentiality. The *Contractor* agrees to treat as confidential all received confidential information, as defined in this *Consortium Agreement*, for a period of five (5) years from the date of its withdrawal, and agrees not to apply for any patent or other proprietary right over any information it may have had knowledge of in connection with its participation in the *Project*.
- b. Access-rights. Any *Contractor* withdrawing from the *Consortium*:
  - loses *Access-rights* to *Knowledge* produced and *Pre-Existing Know-How* identified, after its withdrawal;
  - keeps *Access-rights* to *Pre-Existing Know-How* and to the *Knowledge* of the other *Contractors* (in the state existing at the date of withdrawal), provided that (i) it is required, for the use of the *Knowledge* of which it is the owner or co-owner and (ii) such *Access-rights* are requested at least within two (2) years after its withdrawal;
  - keeps its entitlement to royalties generated by the use by the other co-owners or third-contractors of the *Knowledge* produced in the scope of the *Project* of which it is the owner or co-owner. Royalties will be calculated proportionally to its co-ownership share, or pursuant to the co-ownership agreement(s) or licence(s) concluded prior to its withdrawal;

The other *Contractors* keep, for the purposes of the research carried out in the scope of the *Project*, *Access-rights*, to the *Pre-Existing Know-How* (in the state existing on the date of withdrawal) of the withdrawing *Contractor* and to the *Knowledge* produced by it in the scope of the *Project*, according to the terms defined by this *Consortium Agreement*. A withdrawing *Contractor* shall return all equipments or materials provided by the other *Contractors*, or destroy them upon their written request.

- c. Financial consequences for the withdrawing Contractors. The withdrawing Contractor shall pay the following costs:
- the procedure fees to select a new Contractor(s) to carry out the Project, in an amount determined by the Management Board.
  - a financial compensation if the withdrawal impairs the conduct of the Project, in an amount determined by the Management Board.

The withdrawing Contractor is required to honour its financial commitments contracted prior to the effective date of its withdrawal and to refund the EC contribution received except the amount spent for the performance of the Project, with appropriate justifications.

The withdrawing Contractor is not reimbursed for any part of the reserves constituted for the Consortium.

#### **Art. 1.5 Inclusion of a new Contractor**

- a. **Inclusion of new Contractors without any additional contribution from the Commission**  
The Programme of Activities and the Contract determine the changes to the composition of the Consortium requiring a competitive selection procedure.  
The competitive call procedure will be proposed by the Management Board. Upon approval of the Management Board the Co-ordinator will be in charge of implementing the call according to the provisions of the Contract.  
Evaluation will be made with the support of additional experts appointed by the Co-ordinator on behalf of the Management Board.
- b. **Entry of new Contractors with an additional contribution from the Commission**  
The Commission may increase the EC contribution to the Project during the course of its conduct in view of extending it to cover new activities that could involve new Contractors.  
The Commission does so through calls for additional proposals, which it publishes and whose publicity it ensures in accordance with the rules of participation. The Commission shall evaluate and select these proposals in agreement with the Consortium.
- c. **Terms of participation in the Project of the new Contractors**  
Participation in the Project of the new Contractor shall be submitted to a prior formal decision of the Management Board. By joining the Project a new Contractor agrees to participate (through human, material and/or financial means) in the Programme of Activities and to pay the entrance fee, if any, determined by the Management Board.  
The entrance into the Consortium of a new Contractor becomes effective on the date it adheres to the Contract by the signature of form A and to the Consortium Agreement by the signature of it.
- d. **Access-rights**  
Adhering to the Consortium Agreement, the new Contractor shall indentificate his Pre-Existing Know-How and the Pre-Existing Know-How explicitly excluded or affected by restrictions to the access.  
The new Contractor has access to the Pre-Existing Know-How of the other Contractors for the purposes of research, use or dissemination upon written request according to this Consortium Agreement.  
Nevertheless, any Contractor pursuant of the provisions of EC Regulation shall have the right to exclude some of its Pre-Existing Know-How from the new Contractor Access-rights.  
The new Contractor has access to the Knowledge produced in the scope of the Project prior to its arrival for the purposes of research, use or dissemination at market conditions.

## **Section 2: Liability, Termination**

### **Art. 2.1 Duration of the Agreement**

This Agreement will be terminated automatically five (5) years after the end of the Project.

### **Art. 2.2 Liability**

Regarding liability matters, the Contractors shall abide by the conditions set forth in the Contract.  
The Contractors agree to assume all of the financial consequences of their liability in all cases their

liability is asserted on the basis of damage caused to one of them or to a third in the scope of the performance of this *Consortium Agreement*.

Each *Contractor* shall indemnify each of the other *Contractors* in respect of acts or omissions of itself and of its employees, agents and subcontractors.

#### **Exclusion of indirect damages**

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

#### **Liability towards the Commission**

*Contractors* being Public bodies shall only assume their own debts, in accordance with the participation rules and the *Contract*.

Claims by the *Commission* against such *Contractor* will be notified to this *Contractor* through the *Co-ordinator*. The *Contractor* shall immediately take all necessary steps within his competence to prevent or end a dispute. Notwithstanding any collective responsibility of the *Contractors* which may exist towards the *Commission*, each *Contractor* shall be liable towards the others for any losses or damages suffered by the *Commission*, as a consequence of any failure to perform all or part of its obligations under the *Contract* or under this *Consortium Agreement*.

#### **Indemnification by the Defaulting Contractor**

In any case where the *Commission* claims reimbursement in accordance with the collective responsibility of the *Contract* from a *Contractor* other than the *Defaulting Contractor*, the other *Contractors* shall be entitled to seek full indemnification by the *Defaulting Contractor*.

Save the determination of the all further indemnification, a *Contractor* in default of its obligations under the *Contract* and which default causes lawful withholding of payments by the *Commission* to other *Contractors*, shall pay to the other *Contractors* interest on the amount withheld at an annual rate equal to three (3) percentage point above the prime rate of interest on overdrafts charged according to the Euro Interbank Rate (EURIBOR) on the last working day before the *Commission* informed the other *Contractors* of such withholding or on the last working day before which the *Contractors* or the *Co-ordinator* became aware of such withholding (whichever was earlier). Such interest shall accrue on a daily basis until the *Commission* has effectively transferred the withheld amount to the *Co-ordinator*.

#### **Art. 2.3 Termination**

In the event of a breach by a *Contractor* of its obligations under this *Consortium Agreement* or the *Contract* which is irremediable or which is not remedied within thirty (30) calendar days of a written notice from the *Co-ordinator* according to the decision of the *Management Board*, requiring that such breach be remedied, then the other *Contractors* in the *Management Board* may jointly decide to terminate this *Consortium Agreement* with respect to the *Defaulting Contractor* following a minimum of thirty (30) calendar days prior to written notice by the *Co-ordinator*.

Such termination shall take place with respect to the *Defaulting Contractor* and the latter shall be deemed to have agreed to the termination of the *Contract* in respect of its participation therein under the general provisions of *Contract*, as the other *Contractors* and/or the *Commission* shall decide provided always that:

- (a) any and all *Access-rights* granted to the *Defaulting Contractor* by the other *Contractors* as well as under the *Contract*, shall cease immediately; but any and all *Access-rights* granted by the *Defaulting Contractor* to the other *Contractors* shall remain in full force and effect;
- (b) the tasks of the *Defaulting Contractor*, shall be assigned according to the decision of the *Management Board*. The preference shall be granted to one or more of the remaining *Contractors*.
- (c) the *Defaulting Contractor* shall:
  - assume all reasonable direct costs increase (if any), resulting from the assignment referred to in (b) above in comparison with the *Project Shares* of the *Defaulting Contractor* as specified in the Annex B of this *Consortium Agreement*, and
  - be liable for any so resulting additional direct cost caused to the other *Contractors*.

The provisions above shall also apply in the events that:

- any *Contractor's* participation in the *Contract* is terminated by the *Commission* pursuant to the provisions of the *Contract*, then, without prejudice to any other rights of the other *Contractors*;
- any *Contractor* enters into bankruptcy or liquidation or any other arrangement for the benefit of its creditors and the other *Contractors*, subject to approval by the *Commission*, decide to terminate the *Consortium Agreement* with respect to that *Contractor*, to take over the fulfilment of such *Contractor's* obligations and to receive subsequent payments under the *Contract* in respect thereof.

A *Contractor* is entitled to withdraw from the *Project* or to otherwise request the termination of its participation in the *Contract* having obtained firstly the prior written consent of the other *Contractors* in the *Management Board* (such consent not to be unreasonably withheld), and secondly the consent of the *Commission*.

#### **Art. 2.4 Bankruptcy**

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

### **Section 3: Settlement of Disputes**

All disputes or differences arising in connection with this *Consortium Agreement* which cannot be settled amicably shall be finally settled by arbitration under the rules of arbitration of the International Chamber of Commerce by one or more arbitrators to be appointed under the terms of those rules. In any arbitration in which there are three arbitrators, the chairman shall be of juridical education. The award of the arbitration will be final and binding upon the *Contractors* concerned.

### **Section 4: Final provisions**

#### **Art. 4.1 Language**

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

#### **Art. 4.2 Notices**

Any notice to be given under this *Consortium Agreement* shall be in writing to the addresses and recipients as listed in Annex D. It shall be deemed to have been served when personally delivered, or, if transmitted by telefax, electronic or digital transmission when transmitted provided that such transmission is confirmed by receipt of a successful transmission report and confirmed by mail.

#### **Art. 4.3 Applicable Law**

This *Consortium Agreement* shall be governed by the European Law and, where non provided by the latter, according to the *Contract*.

#### **Art. 4.4 Assignment**

No *Contractor* shall, without the prior written consent of the other *Contractors*, partially or totally assign or otherwise transfer any of its rights and obligations under this *Consortium Agreement*. Such consent shall not be unreasonably withheld.

#### **Art. 4.5 No Partnership or Agency**

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

#### **Art. 4.6 Entire Agreement – Amendments**

Amendments or changes to this *Consortium Agreement* shall be valid only if made in writing and signed by an authorised signatory of each of the *Contractors*.

This *Consortium Agreement* and the *Contract* constitute the entire agreement between the *Contractors* in respect of the *Project*, and supersede all previous negotiations, commitments and writings concerning the *Project* including any memorandum of understanding between the *Contractors* (whether or not with others), which relate to the *Project* or its proposal to the European Commission.

#### **Art. 4.7 Severability**

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

#### **Art. 4.8 Annexes and Conflicts**

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

Annex A: Budget

Annex B: List of the members of the management structure

Annex C: Pre-Existing Know-How

Annex D: Recipients for Notices

Annex E: Bank Account

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

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

## **SIGNATURES**

In order to simplify the signing procedure each *Contractor* receives the signature page in 3 originals to be signed by UNICAL acting as the *Co-ordinator*. Signature of this sheet means that every *Contractor* contracts with each of the other *Contractors* named under the *Contract* and is fully aware of the content of this *Consortium Agreement*.

The original of this *Consortium Agreement* with all signed sheets will be available for consultation at the *Co-ordinator* premises. Upon request to the *Co-ordinator* a certified copy will be made available to the *Contractor*.

AS WITNESS the *Contractors* have caused this *Consortium Agreement* to be duly signed by the undersigned authorised representatives the day and year first above written.

< UNICAL - Coordinator >

Signature

Name Title **Prof. Giovanni Latorre**

Authorised to sign on behalf of **Università della Calabria**



**< UNICZ >**

Signature

Name Title

Authorised to sign on behalf of

**< UNIMIB >**

Signature

Name Title

Authorised to sign on behalf of

< JUMC >

Signature

Name Title **Prof. Wieslaw Pawlik Vice-Rector**

Authorised to sign on behalf of **Jagiellonian University Medical College**

<VMWS>

Signature

Name Title **Dr. Andrew Marsh CEO**

Authorised to sign on behalf of **VMW Solutions Ltd**

< **FORTHnet** >

Signature

Name Title **Mr Vassilis Spitadakis**

Authorised to sign on behalf of **FORTHnet S.A.**

**< SYNAP >**

Signature

Name Title

Authorised to sign on behalf of

**< CNR >**

Signature

Name Title

Authorised to sign on behalf of

**< FORTH >**

Signature

Name Title

Authorised to sign on behalf of



**<Rudjer Boskovic Institute>**

Signature

Name Title: Mladen Zinic, dr. sc.

Authorised to sign on behalf of

**< AUXOL >**

Signature

Name Title

Authorised to sign on behalf of

## Annex A: Budget

### <Jagiellonian University Medical College>,

Personnel Costs:	50.000
Equipment:	17.337
Travelling:	8.000
Consumable costs:	1.000
Indirect costs:	15.267
Management costs:	2.000
Total costs:	93.604

### <FORTHnet>,

Personnel Costs	288.000
Equipment:	5.000
Travel:	20.000
Software:	5.000
Management:	9.000
Other costs:	3.714
Indirect costs:	237.600
<b>Total Costs</b>	<b>568.314</b>

### <Rudjer Boskovic Institute>,

Personnel Costs:	72.800
Equipment:	25.000
Travelling:	45.000
Consumables:	1.000
Other specific costs:	9.000
Management:	8.666
Indirect costs:	31.573
Total Costs:	193.039

### <FORTH>

Personnel Costs:	141.900
Travel & Subsistence:	16.836
Management:	1.400
Indirect costs:	170.280
Total Costs:	330.416

## Annex B: List of the members of the management structure

### MANAGEMENT BOARD

As of the date below, *Contractors* have designated the following persons as their representatives in the *Management Board*:

<b>Contractor 1</b>		...
1 <sup>st</sup> Representative		
Phone		
Fax		
Address		
E-mail		
2 <sup>nd</sup> Representative		
Phone		
E-mail		

<b>Contractor 4</b>		<b>Jagiellonian University Medical College</b>
1 <sup>st</sup> Representative		<b>Kalina Kawecka-Jaszcz</b>
Phone		+48 12 4247300
Fax		+48 12 4247320
Address		Kopernika 17 Str., 31-501 Cracow
E-mail		mckaweck@cyf-kr.edu.pl
2 <sup>nd</sup> Representative		<b>Katarzyna Styczkiewicz</b>
Phone		+48 12 4247300
E-mail		krachwal@interia.pl

<b>Contractor 5</b>		<b>VMWS</b>
1 <sup>st</sup> Representative		<b>Dr. Andrew Marsh</b>
Phone		+441794500145
Fax		+441794522558
Address		9 Northlands Road, Romsey, Hampshire SO51 5RU, UK.
E-mail		Andy.marsh@vmwsolutions.com
2 <sup>nd</sup> Representative		Dr. Christos Biniaris
Phone		+441794500145
E-mail		chris.biniaris@vmwsolutions.com

<b>Contractor 6</b>		<b>FORTHnet</b>
1 <sup>st</sup> Representative		<b>Mr Vassilis Spitadakis</b>
Phone		+30 2811 391200
Fax		+30 2811 391207
Address		Scientific & Technological Park of Crete, Vassilika Vouton, P.O.Box 2219, GR71003, Greece,
E-mail		vspit@forthnet.gr
2 <sup>nd</sup> Representative		Mr Manolis Stratakis
Phone		+30 2811 391200
E-mail		mstra@forthnet.gr

<b>Contractor 9</b>	<b>FORTH</b>
1 <sup>st</sup> Representative	<b>Manolis Tsiknakis</b>
Phone	+30-2810-391690
Fax	+30-2810-391428
Address	P.O. Box 1385 Vassilika Vouton GR 71110 Heraklion, Crete, Greece
E-mail	tsiknaki@ics.forth.gr
2 <sup>nd</sup> Representative	Franco Chiarugi
Phone	+30-2810-391658
E-mail	chiarugi@ics.forth.gr

<b>Contractor 10</b>	<b>Rudjer Boskovic Institute</b>
1 <sup>st</sup> Representative	<b>Dragan Gamberger</b>
Phone	++395 1 4561142
Fax	++385 1 4680 114
Address	Bijenicka 54. 10000 ZAGREB, Croatia
E-mail	dragan.gamberger@irb.hr
2 <sup>nd</sup> Representative	Tomislav Smuc
Phone	++385 1 4561085
E-mail	smuc@irb.hr

## SCIENTIFIC AND TECHNOLOGICAL ADVISORY BOARD

As of the date below, *Contractors* have designated the following persons as their representatives in the *Scientific and Technological Advisory Board*:

<b>Contractor 1</b> ...	
1 <sup>st</sup> Representative	
Phone	
Fax	
Address	
E-mail	
2 <sup>nd</sup> Representative	
Phone	
E-mail	

<b>Contractor 4 Jagiellonian University Medical College</b>	
1 <sup>st</sup> Representative	<b>Kalina Kawecka-Jaszcz</b>
Phone	+48 12 4247300
Fax	+48 12 4247320
Address	Kopernika 17 Str., 31-501 Cracow
E-mail	mckaweck@cyf-kr.edu.pl
2 <sup>nd</sup> Representative	<b>Katarzyna Styczkiewicz</b>
Phone	+48 12 4247300
E-mail	krachwal@interia.pl

<b>Contractor 5 WMWS</b>	
1 <sup>st</sup> Representative	<b>Dr. Andrew Marsh</b>
Phone	+441794500145
Fax	+441794522558
Address	9 Northlands Road, Romsey, Hampshire SO51 5RU, UK.
E-mail	Andy.marsh@vmwsolutions.com
2 <sup>nd</sup> Representative	Dr. Christos Biniaris
Phone	+441794500145
E-mail	chris.biniaris@vmwsolutions.com

<b>Contractor 6 FORTHnet</b>	
1 <sup>st</sup> Representative	<b>Mr Vassilis Spitadakis</b>
Phone	+30 2811 391200
Fax	+30 2811 391207
Address	Scientific & Technological Park of Crete, Vassilika Vouton, P.O.Box 2219, GR71003, Greece,
E-mail	vspit@forthnet.gr
2 <sup>nd</sup> Representative	Mr Manolis Stratakis
Phone	+30 2811 391200
E-mail	mstra@forthnet.gr

<b>Contractor 9 FORTH</b>	
1 <sup>st</sup> Representative	<b>Manolis Tsiknakis</b>
Phone	+30-2810-391690

Fax	+30-2810-391428
Address	P.O. Box 1385 Vassilika Vouton GR 71110 Heraklion, Crete, Greece
E-mail	tsiknaki@ics.forth.gr
2 <sup>nd</sup> Representative	Franco Chiarugi
Phone	+30-2810-391658
E-mail	chiarugi@ics.forth.gr

<b>Contractor 10 Rudjer Boskovic Institute</b>	
1 <sup>st</sup> Representative	<b>Dragan Gamberger</b>
Phone	++385 1 4561 142
Fax	++385 1 4680114
Address	Bijencka 54, 10000 ZAGREB, Croatia
E-mail	dragan.gamberger@irb.hr
2 <sup>nd</sup> Representative	Tomislav Smuc
Phone	++385 1 4561085
E-mail	smuc@irb.hr

## Annex C: Pre-Existing Know-How

### <VMWS>

- Propriety data protocols relating to the medical monitoring devices used in the project which are also under NDA agreement with the device manufacturers.
- Non-public details relating to the medical monitoring devices used in the project.
- The 128-bit Encryption algorithm used for data storage and secure message transmission.
- The *iWAND* platform and software core.
- The *iPlayer* platform and software core.

### <FORTHnet>

- Applications for mobile devices (mobile phones, PDA, WDA) over Internet or latest wireless technologies.
- Location based services.
- Content's distribution through various means.
- 2-way communication services available desktop or mobile terminals.
- Instant messaging and SMS text messaging platforms.

### <FORTH>

The following list does not pretend to be exhaustive, but can be considered as a general reference of the Pre-Existing Know-How of FORTH related to the scope of this Project:

- Results of the OpenECG project and other research activities of FORTH ICS in the form of services for consistent implementation of health informatics standards
- Medical protocols and medical device components for prehospital and emergency care
- Requirements analysis, design, implementation of an integrated electronic health record system for emergency care including call centers, ambulances, location tracking, medical protocols, telemetric devices, and medical record.
- Medical device communication/integration components for ECG devices of various brands/models
- ECG viewing, printing and measurement software compatible with several manufacturers and the SCP-ECG standard
- Viewing and communication software for diagnostic imaging compatible with the DICOM standard
- Viewing, printing and communication components integrating different models of spirometers, medical monitors, digital stethoscopes and in general physiological monitoring, to be used in the context of medical consultation
- Algorithms for the detection and classification of atrial fibrillation on surface ECG

### <RBI>

- ILLM - Inductive Learning by Logic Minimization (software)
- SD - Subgroup Discovery (software)
- DMS - Data Mining Server (software platform)



## **Annex D: Recipients for Notices**

**CONTRACTOR<UNICAL >**,  
00000 City, Country,  
Mr.  
Position Project Manager  
Tel. +  
Fax +  
e-mail:

**<Jagiellonian University-Medical College, I Cardiac Department >**,  
Kopernika 17 Str., 31-501 Cracow  
Poland  
Prof. Kalina Kawecka-Jaszcz  
Tel: +48 12 4247300  
Fax: +48 12 4247320  
e-mail: mckaweck@cyf-kr.edu.pl

**<VMWS >**,  
VMW Solutions Ltd, 9 Northlands Road, Whitenap, Romsey, Hampshire SO51 5RU, UK.  
Dr. Andrew Marsh  
CEO  
Tel. +44 1794 500145  
Fax +44 1794 522558  
e-mail: andy.marsh@vmwsolutions.com

**<FORTHnet >**,  
Manolis Stratakis  
Project Manager  
Hellenic Telecommunications and Telematics Applications Company  
Scientific & Technological Park of Crete,  
Vassilika Vouton, P.O. Box 2219,  
GR 71003 Heraklion, Crete  
Greece  
Phone: +30-2811-391200  
Fax: +30-2811-391207  
Email: mstra@forthnet.gr

**<FORTH>**,  
**Project Manager:**  
Manolis Tsiknakis  
Principal Investigator and Leader eHealth Lab.  
Foundation for Research and Technology - Hellas  
P.O. Box 1385 Vassilika Vouton  
GR 71110 Heraklion, Crete  
Greece  
Phone: +30-2810-391690  
Fax: +30-2810-391428  
Email: tsiknaki@ics.forth.gr

**Administrative Issues:**  
Zizi Papatheodorou  
Central Administration, Contract Division  
Foundation for Research and Technology - Hellas

P.O. Box 1527 Vassilika Vouton  
GR 71110 Heraklion, Crete  
Greece  
Phone: +30-2810-391522  
Fax: +30-2810-391555  
Email: [papatheo@admin.forth.gr](mailto:papatheo@admin.forth.gr)

**<Rudjer Boskovic Institute >**,  
10000 Zagreb, Croatia,  
Mr. Dragan Gamberger  
Position Project Manager  
Tel. +385 1 4561142  
Fax +385 1 4680114  
e-mail: [dragan.gamberger@irb.hr](mailto:dragan.gamberger@irb.hr)

Mr. Tomislav Smuc  
Position Deputy Project Manager  
Tel. +385 1 4561085  
Fax +385 1 4680114  
e-mail: [smuc@irb.hr](mailto:smuc@irb.hr)

Mrs. Renata Slovinic  
Position Head of Commercial Dpt.  
Tel. +385 1 4561111  
Fax +385 1 4680250  
e-mail: [rslovinic@irb.hr](mailto:rslovinic@irb.hr)

## **Annex E: Bank Account**

**<Co-ordinator>**,  
00000 City, Country,  
Bank:  
Address:  
Bank Code Number:  
Account Number:

**<JUMC>**,  
Account Holder: Jagiellonian University Medical College  
sw. Anny 12, 31-008 Cracow, Poland

Bank: Bank Przemysłowo-Handlowy; Centrala Banku BPH w Krakowie  
Address: Al.Pokoju 1; 31-548 Cracow, Poland  
Account number: 13 1060 0076 0000 3210 0008 9580  
IBAN: PL 13 1060 0076 0000 3210 0008 9580  
SWIFT: BPHKPLPK

**<VMWS >**,  
VMW Solutions Ltd, 9 Northlands Road, Whitenap, Romsey, Hampshire SO51 5RU, UK.

Bank: Lloyds TSB Bank PLC  
Address: 6 Market Place, Romsey, Hampshire SO51 8YS, UK.  
Bank Code Number: 30-97-14  
Account Number: 86015267  
BIC: LOYDGB21223  
IBAN: GB28 LOYD 3097 1486 0152 67

**<FORTHnet>**,  
Account Holder:  
Name: Hellenic Telecommunications and Telematics Applications Company  
Address: Scientific & Technological Park of Crete, Vassilika Vouton, P.O. Box 2219,  
Town: GR 71003 Heraklion, Crete  
Country: Greece  
VAT Number: 094444827

Bank Name: Piraeus Bank  
Branch Address: Science and Technology Park of Crete (STEP C) Vassilika Vouton  
Town: GR 71003 Heraklion, Crete  
Account Number: 5755 001456 333  
IBAN: GR3101727550005755001456333

**<FORTH>**,  
**Account Holder:**  
Name: "Foundation for Research and Technology – Hellas"  
Address: Vassilika Vouton, P.O. Box 1527  
Town: GR 71110 Heraklion, Crete  
Country: Greece  
VAT Number: 090101655  
Contact Person: Zizi Papatheodorou  
Phone: +30-2810-391522  
Fax: +30-2810-391555  
Email: papatheo@admin.forth.gr

Bank Name: Piraeus Bank  
Branch Address: Science and Technology Park of Crete (STEP C) Vassilika Vouton  
Town: GR 71110 Heraklion, Crete  
Account Number: 5755-001450-564  
IBAN: GR12 0172 7550 0057 5500 1450 564

**<RBI>**,  
10000 Zagreb, Croatia,

Bank: Zagrebacka banka d.d.  
Address: Savska 60, Zagreb, Croatia  
Bank Code Number:  
Account Number: 2500-3270289  
IBAN: HR662300001101210403  
SWIFT: ZABHR2X