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Consortium agreement

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TRANSNATIONAL PROJECT CONSORTIUM AGREEMENT

Project: **EFFICIENT 20**

Project full title: European Farmers and Foresters Involved for
Contributing to an Intelligent Energy Network
towards the target of 20% reduction in fuel
consumption

Agreement Number: **IEE/09/764/SI2.558250**

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Introduction

This Consortium Agreement is made on the 2th July 2010 between the following Project Parties:

Association of Local Initiatives for Energy and Environnement (AILE)
73 rue de Saint Brieuç CS 56520, 35065 Rennes Cedex, France,
hereinafter referred to as 'the coordinator',
represented for the purposes of signature of this agreement by Mrs Sophie Merle,

and the following "co-beneficiaries":

Ruralnet Limited (RURALNET)
Lower Cape 5, CV34 5DP Warwick, United Kingdom,
represented for the purposes of signature of this agreement by Mr. Robert Mannion,

and

Italian National Body for Agricultural Mechanization (ENAMA)
Via Venafrò 5, 00159 Roma, Italy,
represented for the purposes of signature of this agreement by Dr. Sandro Liberatori,

and

Centre for Forest Work and Technology (KWF)
Spremberger Strasse 1, 64823 Gross-Umstadt, Germany,
represented for the purposes of signature of this agreement by Dr. Ute Seeling,

and

Industrial Institute of Agricultural Engineering (PIMR)
Starolecka 31, 60-963 Poznan, Poland,
represented for the purposes of signature of this agreement by Dr. Tadeusz Pawlowski,

and

Higher Federal Education and Research Institute of Agriculture, Agricultural-
Engineering and Food-Technology Francisco Josephinum" (FJ-BLT)
Weinzierl 1, 3250 Wieselburg, Austria,
represented for the purposes of signature of this agreement by Mr. Alois Rosenberger,

and

City council of Avila - Energy Agency of Avila (APEA)
Plaza Corral de las Campanas s/n, 05001 Àvila, Spain,
represented for the purposes of signature of this agreement by Mr. Agustín Gonzales

and

Walloon Agricultural Research Centre (CRA-W)
Rue de Liroux 9, 5030 Gembloux, Belgium,
represented for the purposes of signature of this agreement by Dr. Jean-Pierre Destain,

and

Chamber of Agriculture and Forestry of Slovenia (KGZS)
Celovska 135, 1000 Ljubljana, Slovenia,
represented for the purposes of signature of this agreement by Mr. Ciril Smrkolj

and

Agricultural Institute of Slovenia (AIS)
Hacquetova 17, 1000 Ljubljana, Slovenia,
represented for the purposes of signature of this agreement by Dr. Andrej Simoncic,

and

Chamber of Agriculture of Ille et Vilaine (CHB35)
Rond point Maurice Le Lannou CS 14226, 35042 Rennes, France,
represented for the purposes of signature of this agreement by Mr. Joseph Menard,

and

Centre National du Machinisme Agricole, du Génie Rural, des Eaux et des Forêts
(CEMAGREF) Parc de Tourvoie, BP 44, 92163 ANTONY, France,
represented for the purposes of signature of this agreement by Mr. Michel Penel,

Hereinafter, jointly or individually, referred to as "**Parties**" or "**Party**", relating to the **Project** entitled **EFFICIENT 20** (European Farmers and Foresters Involved for Contributing to an Intelligent Energy Network towards the target of 20% reduction in fuel consumption)

With this **Consortium Agreement**, the **Parties** wish to specify or supplement, between themselves, the provisions of the **Grant Agreement** and its annexes they are entering into with the European Commission (**Agreement No. IEE/09/764/SI2.558250**). It concerns:

- The **Grant Agreement** approved and signed by the European Commission and the EFFICIENT 20 **Project Coordinator** : AILE
- Annex I Description of the action
- Annex II Estimated budget of the action
- Annex III Technical implementation reports and financial statements to be submitted
- Annex IV Model letter of guarantee from the financial organisation
- Annex V Mandates conferring powers of attorney from the co-beneficiaries to the coordinator

Definitions

Words defined in the **Grant Agreement** or its Annexes have the same meaning in this **Consortium Agreement**.

"Budget" means the eligible costs of the Project of each **Party** for the whole duration of the **Project** as defined in the Grant Agreement, Annex I.

"Consortium" means all the **beneficiaries** participating in the **Project** covered by this **Grant agreement**.

"Consortium agreement" means an agreement that **the Coordinator and the co-beneficiaries** concluded amongst themselves for the implementation of the grant agreement. Such an agreement shall not effect the **Beneficiaries'** obligations to the Community and/or to one another arising from the **Grant agreement**.

"Grant agreement" means the **Grant agreement** No. **IEE/09/764/SI2.558250** (including its Annexes) for the undertaking by the **Parties** of the **Project**. **Grant agreement** also means, as applicable, any **Grant agreement** amendment.

"Beneficiary" means a project participant and a signatory to this **grant agreement**.

"Project Coordinator" means the **Party** in charge of the coordination of the **Project** and signing the **Grant agreement** with the European Commission. Within the Grant agreement No. **IEE/09/764/SI2.558250**, the **Project Coordinator** will be AILE.

"Default" means the breach of a **Party** of its obligations under the Grant agreement and/or under this **Consortium Agreement**.

"Defaulting Party" means a **Party** breaching its obligations under the Grant agreement and/or under this **Consortium Agreement**.

"Results" means the results, including information, whether or not they can be protected, arising from the **Project** governed by the **Grant agreement**, as well as copyrights or rights pertaining to such results following applications for, or the issue of patents, designs, supplementary protection certificates or similar forms of protection.

"Party" or **"Parties"** means a **Party** or the parties to this **Consortium Agreement**.

"Project" means all the work referred to in Annex I of the Grant agreement and subsequently updated through Periodic Management Reports.

"Subcontracting" means an agreement to provide services relating to tasks required for the **Project** and which cannot be carried out by the **Beneficiary** itself, concluded between a **Beneficiary** and one or more subcontractors for the specified needs of the **Project**.

"Third Party" means an organisation or individual that is not a **Party** to this **Consortium Agreement**.

Section 1 Purpose and Nature of the Agreement

1.1 Purpose

The purpose of this **Consortium Agreement** is to facilitate the fulfilment of the activities allocated to the **Parties** under the Grant agreement (and as described in more detail in Grant agreement, Annex I) by setting forth the terms and conditions pursuant to which the **Parties** agreed to function and cooperate in the performance of their respective tasks under the Grant agreement.

1.2 Nature of the Agreement

Nothing contained in this **Consortium Agreement** shall constitute or be deemed to constitute either a partnership or any formal business organisation or legal entity between the **Parties**.

Each **Party** shall act as an independent **Beneficiary** and not as the agent of any of the other **Parties**.

Nothing contained in this **Consortium Agreement** shall be construed as constituting or organising the sharing of profits or losses arising out of the efforts of any other **Party** hereunder.

In case of conflict between this **Consortium Agreement** or parts of it and the Grant agreement, the latter will have precedence.

1.3 Language

The **Consortium Agreement** is drawn up in English, language which shall govern all documents, notices and meetings for its application and/or extension or in any other way relative thereto together with all reports, communications, correspondence and technical work between the **Beneficiaries** and/or with the Commission.

Section 2 Duration of the Agreement

This **Consortium Agreement** shall come into force as of the date of its signature by all the **Parties**, but shall have retroactive effect from the date of the Grant agreement Signature by the **Coordinator** and shall continue in full force and effect until terminated in accordance with Article II.11 Termination of the agreement or until complete discharge of all obligations for carrying out of the **Project** undertaken by the **Parties** under the **Grant agreement** and under this **Consortium Agreement**, whichever is earlier.

For new **Parties** accessing to this **Consortium**, this Agreement shall come into force as from the date of signature of the Declaration of Accession, Annex V of the **Grant agreement**.

Section 3 Project Organisation and Management Structure

3.1 General structure

The organisation structure of the **Project** shall comprise the following:

- (a) **The Steering Committee** as the supervisory and ultimate decision-making body of the **Consortium**;
- (b) **The Project Coordinator** as principal contact point for the European Commission;
- (c) **The Project Manager** responsible for the day-to-day **Project** management;
- (d) **The Workpackage and Task leaders** as supervisors of the activities within the corresponding workpackages and tasks;

The **Project** management structure and functioning are detailed in Section 2.1.3 of Annex I.

3.2 Composition and responsibilities of each structure

(a) The Steering Committee (SC)

The Steering Committee is composed of one executive level representative from each of the **Parties**. The Steering Committee shall be chaired by the **Project Coordinator's** representative.

Each representative shall have one vote. In case of balanced votes, the **Project Coordinator** shall have a casting vote and is compelled to bring about a decision.

After having informed the others, each Steering Committee Member shall have the right to replace its representative and to appoint a proxy from the same organisation. Each representative shall have a deputy.

The Steering Committee meets regularly twice per year or at any other time when necessary at the request of two or more **Parties**. Meetings shall be convened by the chairman with at least fifteen calendar days prior notice with an agenda.

The major tasks of the Steering Committee shall be:

- Overall responsibility for the project, guarantees its continuity and consistency and adequate allocation of its resources.
- reviews technical progress at overall project and site level,
- organises the coming and remaining work,
- identifies needs for corrective action, which will then be planned and the results monitored,
- manages administrative and contractual issues.

The decisions taken by the Steering Committee shall apply to the operation of the **Project**, notwithstanding any subjects where permission is also/first required from the Commission; the request for the Commission's permission shall be made by the Coordinator.

Minutes of the meetings of the Steering Committee shall be transmitted to the representatives of the other **Parties** within fifteen calendar days. The minutes shall be considered as accepted by the other **Parties** if no **Parties** have objected in writing to the **Project Coordinator** within fifteen calendar days from receiving.

(b) Project Coordination and Management

The coordination will be provided by AILE as the co-ordinating **Beneficiary**.

AILE will be the principal contact point for the European Commission responsible for financial, administrative and contractual activities.

The **Project coordinator** will chair Steering Committee meetings. The **Project manager** will organise the meetings with the local host, prepare the agendas and provide minutes to the whole consortium.

(d) Workpackage Leaders

Each Work package shall have a Work package leader (WP-leader). The work-package leader supervises the activities within the corresponding work package.

In particular he/she is responsible for the active **Project** planning and progress monitoring within his/her work-package and task in conjunction with the **Project Coordinator**.

The work-package leader shall ensure that partners deliver in time and with good quality their input to the deliverables of his/her WP and furthermore sending all relevant information on technical progress and results.

The WP leaders shall maintain an overview of the workpackage activities, including:

- Developing of a monitoring and evaluation methodology, in cooperation with the **Project Coordinator**
- Monitoring the progress of work in the workpackage and task and advising all **Beneficiaries** engaged in it
- Proposing changes in the workpackage and task for approval by the Steering Committee whenever that is felt appropriate.

Section 4 Responsibilities of each Party

4.1 General Responsibilities

Each **Party** hereby undertakes with respect to other **Parties** all reasonable endeavours to perform and fulfil, promptly, actively and on time, all of its obligations under the **Grant agreement** and this **Consortium Agreement**, including in particular the submission to the European Commission of the deliverables pursuant to the **Grant agreement**, Annexes I and II, keeping the work schedule and observing the financial guidelines.

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

Any notice to be given under this **Consortium Agreement** shall be in writing to the addresses and recipients as listed in Section 1 or to such other address and recipient as a **Party** may designate in respect of that **Party** by written notice to the others.

4.2 Responsibilities towards the Project Coordinator and the Project Manager

Each **Party** undertakes to use reasonable endeavours to supply promptly to the **Project Coordinator** or **Project Manager** all such information or documents, as the **Project Coordinator** or **Project Manager** request to fulfil obligations pursuant to this **Consortium Agreement**, the **Grant agreement** and upon request of the European Commission.

The information shall be delivered in the respective document formats and/or standards and the like (including the use of certain computer standards / formats) which the **Project Coordinator** or **Project Manager** may require.

If one or more of the **Parties** is late in submitting of **Project** deliverables, cost statements, reports or other information, the **Coordinator** shall submit the other **Parties' Project** deliverables, cost statements, reports or other information to the European Commission within the timeframe defined in the **Grant agreement**. The **Coordinator** shall consult the Steering Committee members to find a remedy as stated in article 7.4 Defaults and Remedies.

4.3 Obligations of the Parties towards each other

(a) The **Parties** agree to abide by the following overall code of conduct:

- To fully respect and comply with all provisions of the **Grant agreement** and this **Consortium Agreement** as well as decisions taken by the Steering Committee
- To support the **Project Coordinator** and **Project Manager** in fulfilling their tasks and thus to respect and comply with instructions made on the basis of their duties
- To seek to meet all deadlines set within the course of the **Project** as described in the **Grant agreement**, Annex I and to promptly notify the Coordinator and each of the other **Parties** of any delay in performance
- To prepare and present the reports to be submitted to the Commission under the **Grant agreement** in accordance with the internal time schedules set up by the **Project Coordinator** or **Project Manager** and in accordance with the formats required, as far as this is reasonably practicable.

- To seek to ensure the accuracy of any information and material supplied within the framework of the **Project**, as described in the **Grant agreement**, Annex I
- To seek to minimise changes in **Project** personnel and to notify the Steering Committee of any anticipated changes in advance
- To inform all **Parties** as soon as is practical of any changes in contact information or means of communication.

(b) Each **Party** shall use reasonable endeavours to ensure the accuracy of any information or materials it supplies hereunder or under the **Grant agreement** and promptly to correct any error therein of which it is notified. The recipient **Party** shall be entirely responsible for the use to which it puts such information and materials.

(c) In addition to the obligations specified in the **Grant agreement**, Annex I, each **Party** agrees not to use knowingly, as part of a deliverable or in the design of such deliverable or in any information supplied hereunder or under the **Grant agreement**, any proprietary rights of a **Third Party** for which such **Party** has not acquired the right to grant licences and user rights to the other **Parties** in accordance with the **Grant agreement**, unless all of the other **Parties** have accepted such use in writing, such acceptance not to be unreasonably withheld.

Section 5 Costs - Payments

5.1 General Principles

Each **Party** shall bear its own costs incurred in connection with the performance of the **Grant agreement** and this **Consortium Agreement**, carrying out of the **Project** work and implementation of the **Project**.

The financial contribution of the European Commission will be distributed according to the **Grant agreement**, Annex I, amendments of the **Grant agreement** when agreed by all **Parties**, guidance received from the European Commission regarding the distribution of funds, and the decisions of the Steering Committee.

5.2 Payment to the Parties

The **Project Coordinator** shall receive all payments made by the European Commission.

The **Project Coordinator** will transfer the appropriate sums to the respective **Parties** with minimum delay, but not later than thirty (30) calendar days from the receipt thereof from the European Commission.

The **Project Coordinator** shall notify each **Party** promptly of the date and amount transferred to its respective bank account, and shall indicate the amounts to be transferred to each **Party**, providing relevant supporting information.

The **Project Coordinator** in default of late payments to the **Project Parties** shall pay to them interest on the amount withheld at an annual rate equal to one (1) percentage point above the prime rate of interest on overdrafts charged according to the Euro Interbank Rate (EURIBOR) from the last working day before the payment due date. Such interest shall accrue on a daily basis until the **Project Coordinator** has effectively transferred the withheld amount to the **Parties**.

5.3 Distribution of Payments Made by the Commission

The **Project Coordinator** will transfer, in accordance with the **Grant Agreement** and the **budget** allocation provided in Annex I, the full amount of the first pre-financing to each **Project Party**.

To ensure that the **Project** progresses according to plan, subsequent pre-financing payments will be subjected to a reasonable performance check carried out by the Steering Committee. One month prior to each payment, a dedicated session will assess the reported use of resources in terms of goal achievement, timeliness and quality of work. The Steering Committee will accordingly approve the pre-financing payments, applying if necessary a retention (see 7.4.2) to non-performing **Parties**.

The **Project Coordinator** will deduct from the payments to **Project Parties** that are subject to a bank guarantee the costs of any bank charges incurred by the **Project Coordinator** in respect of the bank guarantee.

5.4 Financial planning and reporting data

The **Parties** shall deliver all relevant financial data including but not limited to the application of the **Budget** use and received payments needed for financial planning, its execution and accountability towards the **Project** and towards the European Commission. The format of these data has to comply with the requirements of the European Commission and any formats agreed upon by the Steering Committee.

Each **Party** shall be solely liable for its financial data. No other **Party**, including the **Project Coordinator** or their representatives acting within the scope of this **Consortium Agreement** may change these data without express written permission of the **Party** concerned.

Parties who spend less than their respective share of the **Budget** will be funded only in respect of the amount spent and the costs accepted by the European Commission.

For any costs incurred by a **Party** in connection with the transfer of payments, each **Party** will bear its own bank charges.

5.5 Specific authorisation of the Project Co-ordinator

To the extent that serious concerns regarding the financial soundness of one or several **Parties** exist, the **Project Coordinator** has the authority to require the appropriate letter of comfort to prove that the corresponding **Party** is able to fulfil the financial obligations with regard to the **Grant agreement** and this **Consortium Agreement**.

Until this is provided, the **Project Coordinator** is entitled to refuse the disbursement of the financial contributions of the European Commission to this **Party**.

Furthermore, the **Project Coordinator** has the right to retain any payment if a **Party** is late in submitting or refuses to provide deliverables as defined in the Description of Work and **Grant agreement**, Annex 1.

Section 6 Confidentiality

Regarding information that is disclosed to a **Party** on a confidential basis by any other **Party** hereunder or otherwise in connection with the **Project**, each **Party** undertakes to each of the other **Parties** that:

- It will not during a period of five (5) years from the date of disclosure use any such information for any purpose other than in accordance with the terms of the **Grant agreement** and of this Agreement; and
- It will during the period of five (5) years treat the same as (and use reasonable endeavours to procure that the same be kept) confidential and not disclose the same to any other person without the prior written consent of such other **Party** in each case,

This undertaking shall not in any case be deemed to extend to any information which the receiving **Party** can show:

- was at the time of receipt published or otherwise generally available to the public,
- has after receipt by the receiving **Party** been published or become generally available to the public otherwise than through any act or omission on the part of the receiving **Party**,
- was already in the possession of the receiving **Party** at the time of receipt without any restrictions on disclosure,
- was rightfully acquired from others without any undertaking of confidentiality imposed by the disclosing **Party**,
- was developed independently of the work under the **Grant agreement** by the receiving Party,
- was necessarily divulged by marketing products or software in accordance with the Agreement;
- this undertaking of confidentiality does not conflict with national public law, court orders to make documents public and the like.

Nothing in this Article shall prevent the communication of information to the European Commission or to any permitted **Third Party** insofar as necessary for the proper carrying out of the **Grant agreement** and/or this Agreement.

As respects any permitted communication of any of the information referred to in this Article by the recipient Party to any other person, such receiving Party will use reasonable endeavours to procure due observance and performance by such other person of the undertakings and all relevant undertakings in the **Grant agreement**.

Section 7 Liabilities

7.1 General Principles

The limitations of liability shall also apply in favour of the **Parties** representatives, executive employees, trustees, officers, employees and agents.

Public Bodies are exempt from financial collective responsibility, therefore they only pay for their own debts.

7.2 Liability towards each other

Each **Party** undertakes to use all reasonable endeavours to insure the accuracy of its performance of the **Project** and of the information furnished to other **Parties** in connection with such performance.

Upon notification or discovery that it has submitted defective or incorrect information to another **Party** at any time during performance of the **Project**, a **Party** will promptly correct and redeliver such information at its own expense.

Except in the case of gross negligence or wilful misconduct, the foregoing shall constitute the total obligation and liability of a **Party** to the other **Parties** hereunder in respect to the furnishing of defective or incorrect information.

Except in the case of wilful misconduct, shall a **Party** in no event be liable to other **Parties** for indirect or consequential loss or damages such as but not limited to loss of profit, loss of revenue, or loss of contracts.

Each **Party's** total and cumulative limit of liability resulting from any **Default** towards all the other **Parties** collectively, in respect of any and all claims regarding **Default**, shall not exceed the amount of that **Party's** share of the EC contribution as specified in the **Grant agreement**, Annex I, at the time of the occurring of the **Default**.

7.3 Liability towards the European Community

The European Community can, in accordance with the provisions of the **Grant agreement**, under the laws applicable to this **Project**, make a claim for specific performance or any reimbursement, indemnity or payment of damages from other **Parties** than a **Party** in **Default**. If one or more **Parties** perform, the **Party's/Parties'** in **Default** performance, reimbursement, payment etc., they shall be entitled to receive from the other **Parties** a contribution to their additional cost or payment. However this contribution shall be based on the other **Parties' Project** shares

7.4 Defaults and Remedies

7.4.1 Principles

A **Party** in **Default** of its obligations under the **Grant agreement** and which **Default** causes lawful withholding of payments by the European Commission to other **Parties**, shall pay to the other **Parties** interest on the amount withheld at an annual rate equal to one (1) percentage point above the prime rate of interest on overdrafts charged according to the Euro Interbank Rate (EURIBOR) from the last working day before the European Commission informed the other **Parties** of such withholding or from the last working day before which the **Parties** or the **Project Coordinator** became aware of such withholding (whichever was earlier). Such interest shall accrue on a daily basis until the European Commission has effectively transferred the withheld amount to the **Project Coordinator**.

Public bodies shall only assume their own debts and shall in no case bear the debts of any other **Beneficiary**.

7.4.2 Procedures and Consequences

On request of at least two or more **Parties** the Steering Committee shall decide by simple majority whether a **Party** is in breach of its obligations under this **Consortium Agreement** or the **Grant agreement (Defaulting Party)**. The Steering Committee shall request via the **Project Coordinator** in writing that the **Defaulting Party** remedies its breach of obligations within a reasonable period. The **Project Coordinator** is then entitled to withhold any payment until a suitable solution is found.

In the event that the **Default** is irremediable or is not remedied within the period set by the Steering Committee, then the other **Parties** in the Steering Committee may jointly decide to terminate this **Consortium Agreement** with respect to the **Defaulting Party** following a minimum of 30 calendar days written notice by the **Project Coordinator**.

Such termination shall take place with respect to the **Defaulting Party** and the latter shall be deemed to have agreed to the termination of the **Grant agreement** in respect of its participation therein under the general provisions of **Grant agreement, Annex I**, as the other **Parties** and/or the European Commission shall decide provided always that

(a) the Work Package(s) of the **Defaulting Party** shall be assigned to one or several companies and/or entities which are chosen by the other **Parties**, are acceptable to European Commission and who agree to be bound by the terms of this **Consortium Agreement**.

The preference shall be granted to one or more of the remaining **Parties**.

(b) the **Defaulting Party** shall:

(i) assume all reasonable direct costs increase (if any), resulting from the assignment referred to in (a) above in comparison with the costs of the Work Package of the **Defaulting Party** as specified in the **Grant agreement, Annex I**.

(ii) be liable for any so resulting additional direct cost caused to the other **Parties**, up to a total amount which, together with any liability to the European Commission under the **Grant agreement, Annex II**, will not exceed the total **Project Share**.

Section 8 Intellectual Property Rights

8.1 General Provisions

The **Parties** agree to respect the Intellectual Property Rights of the other **Parties**.

8.2 Protection of Knowledge

8.2.1 Joint Invention

If, in the course of carrying out work on the **Project**, a joint invention, design or work is made - and more than one **Party** is contributor to it - and if the features of such joint invention design or work are such that it is not possible to separate them for the purpose of applying for, obtaining and/or maintaining the relevant patent protection or any other Intellectual Property Right, the **Parties** concerned agree that they may jointly apply to obtain and/or maintain the relevant right together with any other **Parties**.

The **Parties** concerned shall seek to agree amongst themselves arrangements for applying for, obtaining and/or maintaining such right on a case-by-case basis. As long as any such right is in force, each **Party** concerned shall be entitled to use and to license such right without the consent of the other **Parties**, provided that the **Party** concerned shall be informed in advance of any licensing to third **Parties**. In case of licensing to third **Parties**, no consent and/or no accounting to the other **Parties** is applicable.

8.2.2 Application for a Patent

In respect of a **Party** either specified by the Commission or agreed upon by the **Parties**, a **Party** shall notify the other **Parties** (via the Co-ordinator, if this is practical) if it does not intend to seek adequate and effective protection (as required by the **Grant agreement**) of certain of its **Knowledge** from the **Project** or if that **Party** intends to waive such protection.

If another **Party** (or **Parties**) informs the notifying **Party** in writing within one calendar month of such notice that it wishes to obtain or maintain such protection on its own costs, the notifying **Party** shall assign to such other **Party**(ies) all necessary rights which it owns.

Such assignment shall ensure that the Access-rights of all **Parties** will be unaffected. For the avoidance of doubt, the **Party** which assigned its rights shall have at least the same Access-rights as the non-involved **Parties**. However the **Party** who assigned its rights to such other **Party** (or **Parties**) shall not have the right to grant licenses to third **Parties**.

8.2.3 Exclusion of Access-rights to Pre-existing Know-How

Each **Party** has the right to exclude specific **Pre-existing Know-How** from the other **Parties'** access, as far as the restrictions are announced as described hereinafter before the signature of the **Grant agreement** or before the effective joining of a new **Party** or if acquired parallel with the **Project**.

The procedure comprises the following steps:

- The Co-ordinator shall first be informed by the owning **Party** in writing about the type and scope of **Pre-existing Know-How** for which exclusion from access is requested or announced.

- The Co-ordinator will inform the other **Parties** about such requests or announcements.
- The exclusion from access to **Pre-existing Know-How** will become effective, subject to the written contradiction of the other **Parties** to be substantiated in accordance with the **Grant Agreement**.
- In the event that a new **Party** is admitted to the **Project**, any other **Party** may exclude access to Pre Existing Know-how only to the newly admitted **Party**.
- the **Pre-existing Know-How** originally excluded from access or excluded at any later moment or any modification thereof will be listed in an appendix and become part of this **Consortium Agreement**.

8.3 Access-rights

8.3.1 General Principles

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

Access-rights shall be granted in accordance with and subject to the **Grant Agreement**. They shall be used only for the purposes for which Access-rights to it have been granted and only for so long as 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 **Party** under the Work Plan (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 **Party'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 requesting **Party**. This **Party** shall provide such proof to the owning **Party** on a written request.

The **Parties** shall conclude a specific agreement for granting Access-rights.

The **Parties** shall endeavour to reconcile any dispute concerning the need for Access-rights through the **Project** Steering Committee

Any grant of Access-rights not covered by this Section shall be at the absolute discretion of the owning **Party** and subject to such terms and conditions as may be agreed between the owning and receiving **Parties**.

8.3.2 Access-rights for carrying out the Project

9.3.2.1 Conditions for Access

Access-rights to **Knowledge** and **Pre-existing Know-How** needed for the performance 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**.

9.3.2.2 Entitlement for execution of the Project

After conclusion of an agreement the receiving Party is entitled to Use the **Pre-existing Know-How** or **Knowledge** for performing the **Project** work.

8.3.3 Access-rights for Use

Access-rights to **Knowledge** and **Pre-existing Know-How** both needed for Use shall be granted upon bilateral agreement between the **Parties** concerned.

Access-rights to **Pre-existing Know-How** to the extent necessary to use own **Knowledge** shall be granted on favourable conditions. **Access Rights** to **Knowledge** generated within a specific work package for the use of own **Knowledge** shall be granted on a royalty-free basis to all participants of that work package and on market conditions to all other **Parties**. 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 **Party**.
- (ii) the access to **Knowledge** is limited to the field of application being identified as the objectives and goals of the **Project**.
- (iii) subject to (i) and (ii) access has to be granted within 6 months after written request by the potential user to the owning **Party**.

8.3.4 Access-rights for using Knowledge in subsequent Research Activities

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

As of the date set out in the **Grant Agreement**, Article 1.2, **Parties** are deemed to be granted, a right to use free of charge **Knowledge** from the **Project** for:

- (a) internal research;
- (b) third-**Party** research carried out for **Party**(ies), provided the **Third Party** does not have direct access to confidential **Knowledge** from the **Project** generated by other **Parties** (as examples)
 - producing research results which are available to the **Third Party** but which contain hermetically sealed **Knowledge** from the **Project**;
 - using **Knowledge** from the **Project** for in-house testing or diagnosis purposes in doing research,
 - joint publications.

8.3.5 Access-rights for Parties joining or leaving the Project

Parties joining the **Project** after the date of the **Grant Agreement** will be granted the Access-rights as from the date of their signature of the Declaration of Accession.

For **Parties** leaving the **Project** the following will apply:

Defaulting **Parties** are obliged to continue to grant Access-rights pursuant to the **Contract** and this **Consortium Agreement**, but the Access-rights granted to the **Defaulting Party** pursuant to this **Consortium Agreement** shall cease immediately upon termination of the participation of the **Defaulting Party** in the **Contract**.

Any **Party** leaving voluntarily from the **Project** has access to **Knowledge** as this exists at the date of the membership expiration of the **Consortium**.

Any **Party** eliminated by decision of the Steering Committee does not have any access to **Knowledge**.

8.3.6 Access-rights for Third Parties

Notwithstanding the provisions of this Section each Party may enter into a technical co-operation or licensing arrangement with a Third Party in respect of its own Knowledge, including, but not limited to, the carrying out of research on behalf of a Third Party, even if there are minor amounts of Pre-existing Know-How and Knowledge owned by another Party, unavoidably incorporated into or amalgamated with such own Knowledge. In such circumstances and upon request of the Party entering into the co-operation or arrangement, the other Party shall grant non-exclusive rights to permit such co-operation or arrangement against terms and conditions to be agreed upon, provided that no Legitimate Interest of the other Party opposes the grant of such rights.

Section 9 Force Majeure

Each **Party** will notify the other **Parties** in writing of any Force Majeure (**Grant agreement**, Article II.8) as soon as possible. The **Parties** shall discuss in good faith the possibilities of a transfer of tasks affected by the event. Such discussions shall commence as soon as reasonably possible. If such Force Majeure event is not overcome within 6 weeks after such notification, the transfer of tasks shall be carried out.

Section 10 Assignment

No **Party** shall, without the prior written consent of the other **Parties**, partially or totally assign or otherwise transfer any of its rights and obligations under this **Consortium Agreement**.

Such consent shall not be unreasonably withheld.

Section 11 Termination of the Agreement

11.1 Rules for Termination / Withdrawal of a Party

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

- (a) that **Party** has obtained the prior written consent from the Steering Committee, and of the European Commission, to the withdrawal from, or termination of, the **Grant agreement**; or
- (b) that **Party's** participation in the **Grant agreement** is terminated by the European Commission pursuant to the provisions of the **Grant agreement**; or
- (c) the **Grant agreement** is terminated by the European Commission for any reason whatsoever,

A withdrawal or termination in accordance with (a), (b), (c) does not mean that a **Party** will be relieved from

(i) its responsibilities under this **Consortium Agreement** or the **Grant agreement** in respect of that part of that **Party's** work on the **Project** which has been carried out (or which should have been carried out) up to the date of withdrawal or termination; or

(ii) any of its obligations or liabilities arising out of such withdrawal or termination.

11.2 Termination by the European Commission

If any **Party**'s participation in the **Grant agreement** is terminated by the European Commission pursuant to the provisions of the **Grant agreement**, or a **Party** withdraws from the **Project**, then, without prejudice to any other rights of the other **Parties**, the provisions of Section 7.4 shall apply correspondingly.

11.3 Termination due to Bankruptcy or Liquidation

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

11.4 Continuance of Regulations

The provisions of Sections 7.4 and 11 shall survive the expiration or termination of this **Consortium Agreement** to the extent needed to enable the **Parties** to pursue the remedies and benefits provided for in those Sections.

Section 12 Accession to the Grant agreement

12.1 Rules for Accession of Parties

All **Parties**, identified in Section 1, declare that they have taken notice of all provisions of the **Grant agreement** and its Annexes, which they have approved and have taken notice of all sections of this **Consortium Agreement**.

The **Parties** will accede to the **Grant agreement**, through the signature of this **Consortium Agreement**.

12.2 Rules for Accession of a new Party

No **Party** shall be entitled to access to this **Consortium Agreement** and/or participation in the **Project** unless that **Party** has obtained the prior written consent of the other **Parties** (such consent not to be unreasonably withheld), and also of the European Commission, to access to the **Grant agreement**.

A new **Party** will accede to the **Grant agreement** through the signature of this **Consortium Agreement**.

Until the European Commission has accepted its accession to the **Grant agreement**, a new **Party** could not be considered as member of the **Consortium**, as partner of the **Project**.

Section 13 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 in Brussels under the rules of arbitration of the Court having jurisdiction by one or more arbitrators to be appointed under the terms of those rules. In any arbitration in which there are three arbitrators, the chairperson shall be of juridical education.

The award of the arbitration will be final and binding upon the **Parties** concerned.

The **Parties** may instead elect to resolve by mediation a dispute or difference arising in connection with this **Consortium Agreement** which cannot be settled amicably.

Section 14 Applicable Law

This **Consortium Agreement** shall be construed according to and governed by the law of Belgium as in the **Grant agreement**, Article I.9.

Section 15 Entire Agreement – Amendments

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 **Beneficiaries** shall be entitled to demand that a valid and practicable provision be negotiated which mostly fulfils the purpose of the invalid or impracticable provision.

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

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 **Parties**.

Signature of the parties
Name of organisation:

Represented by

Name:

Position:

Signature:

Date:

Signature of the parties
Name of organisation:

Represented by

Name: Sophie MERLE

Position: Director

Signature:

Date:



25 OCT. 2010

Aile
78, rue de Saint-Brieuc
CS 56520
35065 RENNES CEDEX

Signature of the parties
Name of organisation:

Represented by

Name: Robert Mannion

Position: Managing Director

Signature: 

Date: 4/1/11

Signature of the parties

Name of organisation:

ENAMA

Represented by

Name: SANDRO LIBERATORI

Position: DIRECTOR

**ENAMA
IL DIRETTORE
(Dr. agr. Sandro Liberatori)**

Signature:



Date: 4.8.2010

Signature of the parties
Name of organisation:

Represented by

Name:



PD Dr. Ute Seelby

Kuratorium für
Waldarbeit und
Forsttechnik e.V.

Spremberger Str. 1
D-64823 Groß-Umstadt

Position:

Natursch. Direktor

Signature:

U. Seelby

Date:

01/12/2010

Signature of the parties
Name of organisation:

Represented by

Name: Pawlowski Tadeusz, PhD

Position: Director

Signature:

Date:

DYREKTOR

dr inż. Tadeusz Pawlowski

16 NOV. 2010

Przemysłowy Instytut Maszyn Rolniczych
000033614
ul. Starołęcka 31 tel. 61 871 22 00
60-963 POZNAŃ 11

Signature of the parties
Name of organisation:

Higher Federal Education and Research Institute of Agriculture,
Agricultural-Engineering and Food-Technology Francisco Josephinum
(FJ-BLT)
Weinzierl 1, 3250 Wieselburg, Austria

Represented by

Name: HR Dipl.-Ing Alois Rosenberger

Position: Direktor

Signature:



Date: 25. NOV. 2010

Signature of the parties
Name of organisation:

Represented by

Name: AGUSTÍN GONZÁLEZ GONZÁLEZ Position: PRESIDENT

Signature:
A handwritten signature in blue ink is written over a circular official stamp. The stamp contains the text 'Diputación Provincial de Almería' at the top and 'Presidencia' at the bottom. The signature is stylized and appears to be 'AGUSTÍN GONZÁLEZ GONZÁLEZ'.

Date: 29-07-2010

Signature of the parties**Name of organisation:**

Wallon Agricultural Centre

Represented by**Name:** DESTAIN
Jean-Pierre**Position:** Dir. Gén. ff**Signature:****Date:** 6/11/2011

Signature of the parties
Name of organisation:

Represented by

Name:

CIRIL STIRKOLJ

Position:

PRESIDENT

Signature:



Date:

13.09.2010

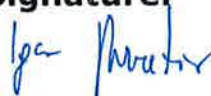
Name:

IGOR HRIVATIČ

Position:

DIRECTOR

Signature:



Date:

13.09.2010



Signature of the parties
Name of organisation:

Represented by

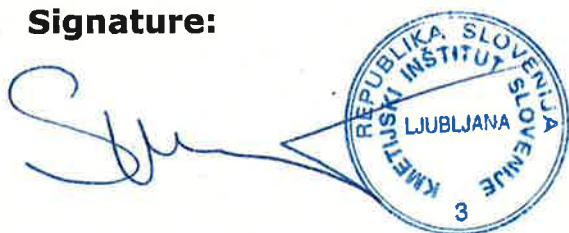
Name:

doc. dr. Andrej SIMONČIČ

Position:

director

Signature:



The image shows a handwritten signature in blue ink, which appears to be 'AS', written over a circular official stamp. The stamp contains the text: 'REPUBLIKA SLOVENIJA' at the top, 'KMETIJSKI INŠTITUT SLOVENIJE' around the bottom edge, and 'LJUBLJANA' in the center. A small number '3' is visible at the bottom of the stamp.

Date:

LJUBLJANA, 24. DEC. 2010

Signature of the parties
Name of organisation:

Represented by

Name: NEVARD Joseph

Position: PRESIDENT

Signature:

Date: 10/01/2011



Signature of the parties
Name of organisation:

Represented by

Name: PENEL Michel

Position: Regional Director

Signature:



Date:

04/01/2011

