

Memorandum of Understanding

Between

Hub for International health ReSearch (HIRS)

And

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This Memorandum of Understanding (MOU) is aimed to establish the EUBIROD Network, which constitutes an informal and voluntary collaboration between signatory parties. The EUBIROD Network builds upon the successful conclusion of the EUBIROD project. The Network shall include advocates of the rights of people with diabetes, governmental/non governmental organizations, scientific societies, associations of health professionals and individual citizens, who agree, under the terms of this MOU, to jointly act for the common goal of creating a global shared platform for the structured exchange and publication of evidence-based diabetes information.

Together, the Parties enter into this Memorandum of Understanding to mutually promote the activities of the EUBIROD Network, as defined in paragraph II,III and IV. Accordingly, Hub for International health ReSearch (HIRS) and the adhering Parties operating under this MOU agree as follows:

I. BACKGROUND

The EUBIROD project (2008-2012), sponsored by the European Union under the Health Information Strand of the Public Health Program (DG-SANCO), built upon the information system realized by the BIRO project on the basis of the principle of privacy by design, to extend its use for cross-border flow of diabetes information in nineteen European countries. The system fosters the objectives of the Conclusions of the EU Council for the systematic data collection and monitoring of diabetes complications and health outcomes across Europe. EUBIROD partners have been connected through a system that safely collect aggregated data and produce systematic EU reports of diabetes indicators, which can also be used to develop recommendations for policy makers. The main output of the project has been the production of the “European Diabetes Report”: an analysis of quality of care and outcomes in diabetes based on standardized criteria over a reference population of 500,000 subjects. The project supported improved information at both the micro and the macro levels by facilitating activities for planning and management of diabetes care in regional health systems and by delivering information that is directly applicable at the Community level by European institutions.

II. MISSION

The mission of the EUBIROD Network is to realize an international collaboration that shall ensure the

continuous production and dissemination of diabetes information for policy, governance and health improvement.

The vision of the EUBIROD Network is to support and facilitate the integration of all diabetes data sources already available, in order to improve all policies against diabetes and to reduce its direct implications across the whole range of non communicable diseases. In a time of financial pressure, an efficient use of the existing resources represents the only practical and most ethical solution available to fulfill these goals. Today, a global diabetes information system can be immediately implemented. The international Network will be able to inform policy makers and assist people with diabetes with timely information on the quality of care they receive and health outcomes associated with their conditions.

III. PURPOSE, SCOPE AND ACTIVITIES

To realize its vision, the EUBIROD Network shall adopt a strategy consolidated across several years of successful collaboration in the BIRO and EUBIROD projects. The Network shall foster the application and implementation of a comprehensive approach, based on an agreed set of international standards, including a common data model and an open source software for the safe exchange of aggregate information already operational: the BIRO system. The infrastructure includes a meta-registry of diabetes data sources, a platform to assess privacy standards, statistical routines for the delivery of diabetes indicators, tools for e-learning and regular dissemination activities.

The EUBIROD Network agrees to realize the EUBIROD platform through the following:

- maintenance and update of a global registry of diabetes data sources, including characteristics considered relevant for the production of diabetes indicators from sources e.g. national/regional databases, diabetes registries, etc
- maintenance and update of an agreed set of standardized definitions included in a common data dictionary
- design and development of specialized open source software that will be used to disseminate the application of electronic data management, statistical analysis and routine reporting in diabetes
- maintenance and update of a common infrastructure for the global exchange of diabetes information, ensuring the highest comparability and safest level of privacy and data protection
- quality improvement strategies for data and policy managers, through regular training (using modern means e.g. e-learning) and dissemination activities
- direct production of international diabetes reports

The activities of the EUBIROD Network, subject to the availability of appropriate resources, include the following:

- organization of network dialogues to exchange experiences and identify best practices for the exchange of diabetes information; definition of common data standards for the interoperability and exchange of diabetes information; participation/organization of major events relevant for improving the conditions of people with diabetes
- coordination and conduction of international research projects
- software design and development for data collection, management, statistical analysis, reporting, data exchange and global information delivery

- routine reporting of diabetes indicators
- comprehensive training and dissemination to allow developers of diabetes registers to learn each other and participate to the further expansion of the BIRO System.
- management of the network

The activities of the EUBIROD Network include the design, maintenance and further development of novel products/deliverables, originally developed by the BIRO and EUBIROD project.

IV. NETWORK MANAGEMENT

IV.1 Management structure

The EUBIROD Network will be managed using a structure made up of the following features:

IV.1.1 General Assembly (GA)

All the EUBIROD Network partners who agree to enter into the EUBIROD Network under the terms of this agreement shall be deemed to be members of the General Assembly.

The Parties shall establish, within thirty (30) days after the date of this MOU, the General Assembly, which shall be composed of one (1) duly authorised representative of each of them. After having informed the others in writing, each Party shall have the right to replace its representative and/or to appoint a proxy, although it shall use all reasonable endeavours to maintain the continuity of its representation. Each representative shall have a deputy.

The General Assembly shall be chaired by the Co-ordinator's representative. The General Assembly shall meet annually (also using electronic means if necessary). However, it can be also convened, in principle, at the request of its chairman or at any other time (when necessary) at the request of one of the Parties. Meetings shall be convened by the chairman with at least fifteen (15) calendar days prior notice. This notice shall be accompanied by an agenda. The agenda shall be proposed by the chairman. The agenda shall be deemed to be accepted unless one of the Parties notifies the chairman and the other Parties in writing of additional points to the agenda, at the latest two (2) working days before the date of the meeting. Minutes of the meetings of the General Assembly shall be transmitted to the Parties within thirty (30) calendar days after the date of the meeting. The minutes shall be considered as accepted by the other Parties if, within fifteen (15) calendar days from receipt, no Party has objected in a traceable form to the chairman.

The General Assembly shall be responsible for the overall direction of the Network activities. To that end, the General Assembly shall be responsible for:

1. agreeing up on the proposals made by the Steering Committee for the allocation of the eventual Network activities budget, in case funds will be granted
2. making eventual proposals to the Parties for the review and/or amendment of the terms of the present MOU, however excluding the entering into the Network of new Parties
3. deciding upon the eventual change and exchange of activities between the Parties and propose respective amendments in the Network's work-programme
4. The GA shall elect the Steering Committee (SC)

The General Assembly shall not deliberate and decide validly unless a majority (51%) of its members

are present or represented and each member shall have one (1) vote.

IV.1.2 The Steering Committee (SC)

The composition of the SC for the Network shall reflect the Parties' respective responsibilities in the Network and an appropriate balance of competencies and fields of activities, while staying at a count level compatible with effective decision-making processes.

The SC shall consist of a representative of the Coordinator and of representatives of the Network' members, who shall be elected by the General Assembly at the first EUBIROD Network meeting according to the majority rule (51% of consortium members). The composition of the SC, except for the Coordinator representative, could be possibly modified yearly upon agreement of the General Assembly employing the same voting rule.

Any SC member may resign by delivering written notice to the chairman of the SC. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

Any SC member having resigned shall hold office until his successor shall have been appointed in accordance the present Section.

The SC shall be chaired by the Co-ordinator's representative.

The SC shall meet at least quarterly (also through electronic means), in principle at the request of its chairman or at any other time when necessary at the request of one of the SC members. Meetings shall be convened by the chairman with at least fifteen (15) calendar days prior notice.

This notice shall be accompanied by an agenda. The agenda shall be proposed by the chairman. The agenda shall be deemed to have been accepted unless one of the SC members notifies the chairman and the other SC members in writing of additional points to the agenda, at the latest two (2) working days before the date of the meeting.

Minutes of the meetings of the SC shall be transmitted to the SC members within thirty (30) calendar days after the date of the meeting. The minutes shall be considered as accepted if, within fifteen (15) calendar days from receipt, no SC member has objected in a traceable form to the chairman.

The agenda and the minutes of the meetings of the SC shall be transmitted by the chairman of the SC to the Parties. The agenda shall be transmitted at the latest two working days before the date of the meeting. The minutes shall be transmitted within (60) calendar days after the date of the meeting.

Any decision requiring a vote at a SC meeting must be identified as such on the pre-meeting agenda, unless there is unanimous agreement to vote on a decision at that meeting and the majority (51%) of SC members are present or represented.

However, any decision required or permitted to be taken by the SC may be taken in accordance with the above in meetings via teleconference and/ or via email; without a meeting with prior notice of at least seven (7) days and without a vote, if, in any such case, a consent in writing, setting forth the decision so taken, is signed by the SC members having not less than the minimum number of votes that would be necessary to take such decision at a meeting at which all SC members entitled to vote on such decision attended and were voting, and provided the consent has been delivered for signature to all SC

members.

The SC shall be responsible for:

1. making proposals to the General Assembly:
 - for the allocation of resources that the Network will possibly grant for specific activities
 - for reviewing and proposing to the Parties budget reallocations, and
 - for making proposals for the creation, modalities of use, management and release of funds;
2. without prejudice to Section V and VII, agreeing on the plan for using and disseminating the Knowledge
3. implementing the activities and tasks of the Network and deciding upon participation to international projects, data collection, relations with other institutions, licensing issues, publication policy and press releases by the Parties with regard to the Network activities;
4. deciding upon the technical roadmaps with regard to the Network activities;
5. deciding upon measures in the framework of controls and audit procedures, if necessary, to ensure the effective day-to-day co-ordination and monitoring of the progress of the technical work affecting the Network activities as a whole;
6. follow-up of the Network activities;
7. deciding upon the entering into the Network of new Contractors, according to this MOU.

The SC shall not deliberate and decide validly unless a majority of 51% of its members are present or represented (“quorate”).

The Steering Committee shall be chaired by the Coordinator.

IV.1.3 The Coordinator

The Coordinator, who shall chair both the General Assembly and the Steering Committee, shall be in charge of the coordination and secretariat of the EUBIROD Network. The Coordinator shall have the following general functions:

1. administration, preparation of minutes and provision of the meetings of the General Assembly and of the Steering Committee, and follow-up of its decisions;
2. transmission of any document and information connected with the Network between the Parties concerned; and
3. administration of funds relative to the operational capacity and maintenance of the Network.

Except for the capacity as representative of the Parties as described in the present MOU, the Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party.

IV.1.4 The Advisory Board (AB)

The Advisory Board (AB) shall provide expert advice and independent views on present and future directions to be undertaken by the Network. AB shall be formed by a group of external experts and/or organizations' representatives including academics, policy makers and all relevant stakeholders.

V.2 Roles and Responsibilities of Parties

V.2.1 Coordination and Secretariat

The not for profit nongovernmental organization “Hub for international Health ReSearch HIRS” based in Perugia (Italy) agrees to maintain the coordination and the secretariat of the EUBIROD Network as a primary role of its activity according to the rules agreed in the present MoU being its general scope “*to promote and sustain the study, research and education in all areas of health, with a particular focus on non communicable chronic diseases (NCDs)*”. Consistently with its name and in line with the goals of the EUBIROD Network, the HIRS acts as a catalyst for people and organizations who can pursue public health improvement through coordination of international initiatives.

HIRS shall have the following duties and responsibilities:

- to ensure the fair dissemination of any relevant information among all partners of the Network, as well as the proper maintenance and respect of the rules included in the Statute
- to act as a coordinator, secretariat and principle contact point in any granted international project, being responsible for the efficient management of the implementation plan and a driver of successful achievement of common goals
- to manage all operational aspects of the Network, including e.g: the organization of meetings, the agenda, timing, venues/teleconferences, minutes, and the collection of any relevant background material e.g. room documents, references, internal drafts/newsletters etc
- to entertain public relations on behalf of the EUBIROD Network and pursue any potential funding opportunity that would secure a continued level of support for its activities
- to officially represent the EUBIROD Network at all international events, whenever considered appropriate
- to manage the budget of any funding secured on behalf of the Network, in accordance with the objectives and work program agreed in the specific case
- to manage and safeguard the image, copyright, licensing scheme, maintenance, use and regular update of products managed by the EUBIROD Network, including: the EUBIROD website (www.eubiroad.eu), the BIRO project website (www.biro-project.eu), the BIRO System, the Meta-Registry of Diabetes Sources, the BIRO Data Standards, the BIRO Academy and the EUBIROD e-learning platform
- to coordinate the editorial activity, ensuring the respect of all rules and guidelines set by the editorial board, supervising all phases in the preparation and dissemination of reports, newsletters etc
- to monitor the application of the present statute and duly inform the Steering Committee of any deviation or violations by any member of the EUBIROD Network

V.2.2 Signatory Member of the EUBIROD Network

The signatory Member of the EUBIROD Network agrees to conform to the rules contained in the present MoU.

Members of the EUBIROD Network commit to contribute to the statutory activities and to provide input for the further development/expansion of the collaboration.

Conditional to the availability of resources and depending on the relevance of their potential contribution, members of the Network participate to the data collection and production of dissemination material.

VI. IPRs & ACCESS RIGHTS (AR)

Intellectual property rights are disciplined in Annex 1 of the present MOU, according to EU legislation and regulations. IPRs are therein regulated in accordance with the rules contained in the consortium agreement of the EUBIROD project.

VII. CONFIDENTIALITY

For any document, information, Knowledge, Pre-existing Know-how or other material communicated being confidential, the period of confidentiality shall be at least 5 (five) years from the date of disclosure.

VIII. PUBLICATION, PRESS RELEASES AND REPORTS

If the Parties have agreed a Network Product/Deliverable to be available to the public, any Party may Use information included in such Deliverable without any notifications to the other Parties and without any other Parties' consent. In the publications proper references to the origin and generator of the information shall be made.

For the avoidance of doubt, it is stated that unless otherwise agreed between the Parties concerned, no Party shall have the right to publish or allow the publication of data which includes Knowledge of another Party, Pre- Existing Know-How of another Party or confidential information of another Party, even where such data is amalgamated with such first Party 's Knowledge, Pre-existing Know-How or other information, document or material. Any use of such other Party's data justifies objection to the publication by the Party concerned.

In case a Party objects to the publication of the data, the Parties concerned shall use all reasonable endeavors to overcome such opposition (for example by amendment to the planned publication or by postponing such publication). The opposing Party shall not unreasonably continue the opposition if appropriate actions have been taken.

This Section shall not prevent the submission, examination, publication and defense of any dissertation or thesis for a degree which includes incidental and minor elements of Knowledge of another Party, Pre-Existing Know-How of another Party or confidential information of another Party, in case the intention to make such dissertation or thesis has been notified to the other Parties in writing promptly as soon as such intention is foreseen.

XI. LIABILITY

X.1. Liability towards each other

In respect of information or materials supplied by one Party to another hereunder, the supplier Party shall be under no obligation or liability other than as herein stated. No warranty condition or representation of any kind is made, given or to be implied as to the sufficiency, accuracy or fitness for

purpose of such information or materials, or the absence of any infringement of any proprietary rights of third parties by the use of such information and materials. The recipient Party shall in any case be entirely responsible for the use to which it puts such information and materials.

IX.2 Liability towards third parties

Subject always to such other undertakings and warranties as are provided for in this MOU, each Party shall be solely liable for any loss, damage or injury to third parties resulting from carrying out its part of the activities of the Network and from its Use of Knowledge and/or Pre-existing Know How.

Each Party shall be fully liable for the performance of any part of its share of the activities of the Network in respect of which it enters into any contract with a third party (e.g. a Subcontractor) and shall ensure:

- a) such contracts enable the fulfillment of the activities of the Network;
- b) the third party shall not have access to any other Party's Knowledge or Pre-existing Know-how without that Party's prior written consent, unless access rights are necessary to carry out the third party's share of the project.

X. MISCELLANEOUS

X.1 No partnership or agency

Nothing in this MOU shall create a partnership or agency between the Parties or any of them .

X.2 Assignment

No Party shall, without the prior written consent of the other Parties, assign or otherwise transfer partially or totally any of its rights and obligations under this MOU. Such consent shall not be unreasonably withheld or delayed when such assignment or transfer is in favor of an Affiliate of that Party.

XI. RIGHT TO TERMINATE

Any Party has the right to terminate this agreement by notice in writing to the other parties.

A notice given under clause IX ("Right to terminate") must specify the event or events in relation to which the notice is given.

The termination of this agreement with respect to any party does not affect:

1. any obligation of that party which accrued prior to that termination and which remain unsatisfied; and
2. any provision of this agreement which is expressed to come into effect on, or continue in effect after, that termination.

XII. GENERAL PROVISIONS

XII.1 Announcements or releases

A Party may not make press or other announcements or releases relating to this agreement and the dealings the subject of this agreement without the approval of the Lead Party to the form and manner of the announcement or release unless and to the extent that the announcement or release is required to be made by the Party by law.

XII.2 Inconsistent law

To the extent permitted by law, this agreement prevails to the extent it is inconsistent with any law.

XII.3 Governing law

This agreement is governed by the the Italian law, the law in force in the place the Coordinating Party has its headquarter.

XII.4 Entire agreement

This agreement constitutes the entire agreement of the Parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

Signed by

(For and on behalf of HIRS)

Dated:

Signed by

(For and on behalf of)

Dated:

ANNEX 1

INTELLECTUAL PROPERTY RIGHTS (IPRs) & ACCESS RIGHTS (AR)

1 Definitions

Application Programming Interface (API) means an interface or other means provided for by a Software application, component or library for the purpose of interfacing or interaction of other Software with such application, component or library including, but not limited to, data types and - structures, constant and macro definitions, function and procedure definitions including their name, parameters, parameter count and parameter data type(s) and any data type of function results thereof, as set forth in header files, specifications and related documentation.

Preferential Conditions means non-discriminatory and reasonable conditions, which are taken as a whole more favorable to a Party being granted Access Rights than would be the case in an equivalent arm's length transaction under normal market conditions.

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

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

Software Documentation means Software information being technical information used or, useful in, or relating to the design, development, use or maintenance of any version of a Software program.

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

2. Intellectual Property Rights

2.1 Joint Ownership

If, in the course of carrying out the tasks and activities of the network, 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.

The Parties concerned shall seek to agree between them arrangements for applying for, obtaining and/or maintaining such right on a case-by-case basis.

Joint owners have to agree among themselves on the allocation and terms of exercising the ownership of the knowledge. Specific co-ownership arrangements governing management issues, such as the

sharing of the costs arising from legal protection procedures (patent filing and examination fees, renewal fees, prior state of the art searches..) shall be put in place. In case of disagreement among the involved partners about the allocation and exercise of the joint ownership, the dispute shall be submitted to the Network Steering Committee. The decision of the SC shall be final and binding on all Parties.

In all cases, the Parties concerned shall not be entitled to use and to license such right without first agreeing appropriate revenue sharing provisions with the other Parties concerned.

For the avoidance of doubt, joint ownership of an invention, design or work shall not affect the obligations arising under this Memorandum of Understanding.

2.2 Access Rights

General Principles relating to Access Rights

All Access Rights granted are granted on a nonexclusive basis; thus, expressly excluding any rights to sub-license unless otherwise agreed herein. Save in exceptional circumstances, Access Rights 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 have been granted; only for so long as is necessary for those purposes.

Disputes on Access Rights

In the event of a dispute between Parties with respect to the need for Access Rights for execution of the Network activities, the decision of the Steering Committee shall be final and binding on all Parties. A member of the SC who is associated with any of the Parties 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 SC and shall be acceptable to all Parties concerned.

In the event of a dispute between Parties with respect to the need for Access Rights for Use, a Panel shall be appointed in the manner aforesaid whose decision shall be final and binding on all Parties.

3. Fair use

A Party which, having received royalty-free Access Rights for Use of the Knowledge of another Party, and which over the period up to ten years after the MOU Date has derived substantial commercial benefit from the exploitation of such Access Rights shall, without prejudice to the rights and obligations of the Parties concerned, make a payment or payments to the granting Party reflecting the royalties that would have been payable had the grant of Access Rights been on Preferential Conditions.

4. Research

Recognizing the Parties' obligations to act in good faith, the Parties agree that, to the extent such Access Rights are not already provided for by law, Access Rights for direct or indirect utilization of Knowledge in research activities are deemed to have been granted on a royalty-free basis as of the date

set out in the MOU.

Where research is carried out in collaboration with and/or for a third party and it appears to the researching Party that the third party will require direct access to the Knowledge of another Party, Access Rights to the said Knowledge of another Party shall be granted to the third party on written request subject to the following:

- a) The researching Party shall in a traceable form (before starting or committing to start the research) inform the third party of such requirement, and shall use reasonable endeavors to inform the owner of that Knowledge of such requirement in a traceable form.
- b) The owner having been so informed, shall:
 - not unreasonably delay his decision on whether or not to grant the required third party Access Rights and
 - not unreasonably refuse to grant such rights on fair and reasonable terms but may, in good faith, so refuse on the grounds of business interest.
- c) If despite reasonable efforts on behalf of the researching Party, the owner cannot be so informed, the researching Party may carry out the research without prejudice to the owner's rights to enforce its rights in any way it deems fit against such third party.

For the avoidance of doubt, the Parties agree that where such research does not result in direct access to another Party's Knowledge by a third party (as examples – producing research results which are available to the third party but which contain hermetically-sealed Knowledge of another Party; using Knowledge of another Party for in-house testing or diagnosis purposes in doing research), no further grant of Access Rights is necessary.

5. Inability to grant Access Rights due to Third Party Rights

When, due to the existence of third party rights, a Party is unable to grant Access Rights which it reasonably believes that another Party will require, it will promptly after receiving the request for Access Rights, notify such other Party and in particular where possible shall endeavor to do so before entering into the MOU.

6. Access Rights to third parties

Notwithstanding the provisions of Section IV of this MOU, each Party may enter into a technical co-operation or licensing arrangement with a third party in respect of its own Knowledge even if there are minor amounts of Knowledge owned by another Party, or even Pre-Existing Know-How (associated with that other Party's Knowledge), unavoidably incorporated into or amalgamated with such own Knowledge. In such circumstances and upon request of the Party entering the cooperation or arrangement, the other Party shall grant non-exclusive rights to permit such co-operation or arrangement against terms and conditions to be agreed, provided that no Legitimate Interest of the other Party opposes the grant of such rights. "Legitimate interests" shall include pre-existing commercial interests/rights of the contractor.

7. Access Rights for Affiliates

Each Party hereby grants to each other Party the power to extend the grant of Access Rights to its Affiliates on the same terms and in the same manner as if such Affiliates were Parties. A Party granting Access Rights to an Affiliate warrants that such Affiliates shall have granted Access Rights to all Parties including this same power to extend the grant to Affiliates and that, without prejudice to the Parties' obligations to carry out the Network activities and to provide Network products/ deliverables, such Affiliate has undertaken to fulfill all confidentiality and other obligations accepted by the Parties under the MOU or this as if such Affiliates were Parties.

Cessation of Control

Upon cessation of the control of an Affiliate any Access Rights granted to such Affiliate in respect of Knowledge or Pre-existing Know-How shall lapse, provided however that information which is Knowledge incorporated into the products, processes, Software or services of such Affiliate, or which has been amalgamated with such Affiliate's own information, may continue to be used (in the manner it was then being used) by such Affiliate provided it is not practical to do otherwise. In such event, at the request of such Affiliate, each requested Party shall grant to such Affiliate non-exclusive licenses under that Party's intellectual property rights. Upon such cessation of control, Access Rights granted by such Affiliate shall continue in full force and effect.

8. Specific Provisions for Access Rights to Software

8.1. General principles relating to Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in Sections IV are applicable also in case of Software, where compatible.

Access Rights to Software do not comprise access to Source Code but only Limited Source Code Access as defined below. Access to Source Code will be granted subject to separate agreements only, to be concluded between the Parties concerned.

Limited Source Code Access comprises:

- a) access to Object Code; and,
- b) where normal use of such Object Code requires an API, access to Object Code and such API; and,
- c) if neither (a) nor (b) is available, access to Source Code.

Access Rights to Software do not include any right to receive Source Code or Object Code ported to a certain hardware platform or any right to receive respective Software Documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

8.2. Access Rights to Software for Use

Access Rights to Software which is Knowledge resulting from the Project needed for Use shall be granted on the basis of Limited Source Code Access upon written request and on a royalty-free basis, subject to Section IV, to and by all Parties participating in the Project.

Access Rights to Software which is Pre-Existing Know-How needed for Use shall be granted on Preferential Conditions to and by all Parties participating in the Project subject to a bilateral agreement between the Parties concerned.

8.3. Software license and sub-licensing rights

Access Rights to Object Code and/or Limited Source Code Access, all granted in accordance with Section IV, shall comprise the world wide right:

- a) to use Object Code in research, or to create and market a product or process, or to
- b) create and provide a service; and
- c) to make and have made an unlimited number of copies of Object Code; and
- d) to distribute, make available, market, sell and offer for sale; even by using services of a third party, such Object Code in connection with products or services of the Party having the Access Rights.

Provided however that:

- any product, process or service has been developed by the Party having the Access Rights in accordance with its rights to use Object Code and Limited Source Code Access for its own Knowledge; and
- Object Code and Limited Source Code Access represent only a minor part of the overall product, process or service; and
- Object Code and Limited Source Code Access cannot be separated from and/or have been amalgamated with such product, process or service.

In addition, Access Rights to Object Code granted in accordance with the above shall comprise the worldwide right to grant in the normal course of the relevant trade to end-user customers buying/using the product/services a perpetual, irrevocable, worldwide license:

- a) to use Object Code in connection with or integrated into, products and services of the Party having the Access Rights and, as technically essential,
- b) to maintain such product/service, and
- c) to create for its own end-use interacting interoperable Software in accordance with the Council Directive of 14 May 1991 on the legal protection of computer programs (91/250/EEC).

Where a Party has been granted access to Source Code to Knowledge, the Parties concerned may further agree that the Access Rights to such Source Code can comprise a worldwide license to use, to make and have made copies, to modify and have modified, develop and have developed, to adapt and have adapted Source Code for research, or to create and market a product or process, or to create and provide a service. In addition, Access Rights can comprise the world wide right to sub-license such Source Code, but solely for purpose of adaptation, error correction, maintenance and/or support of the Software.

Each sublicense granted according to the provisions of this Section IV shall, when reasonably possible, be made by a traceable agreement specifying and protecting the proprietary rights of the Party or Parties concerned; unless otherwise agreed upon in a separate agreement.

8.4 Access Rights for Contractors joining and leaving the Network

Contractors joining the Network after the date of the MOU will be granted the Access Rights as provided for in Sections IV as from the date of their signature of the Accession to the Network.

9. NEW PARTIES ACCESSION TO THE NETWORK AND LEAVING PARTIES

For Parties leaving the Network the following will apply:

With the exception of the cases where the participation of a Party is terminated by reason of default, the Access Rights accrued up to the date of termination and the obligations to grant Access Rights pursuant to the MOU shall continue to be in full force and effect.

Defaulting Parties are obliged to continue to grant Access Rights pursuant to the MOU, but the Access Rights granted to the Defaulting Party pursuant to this MOU shall cease immediately upon termination of the participation of the Defaulting Party in the Network.

Termination of this MOU and/or cessation of licenses granted to the Defaulting Party shall not terminate any sublicenses granted or agreed to be granted or offered by the Defaulting Party in accordance with this MOU prior to the date on which such termination becomes effective, provided that the Party or Parties which generated the Knowledge or Pre-Existing Know-How so sublicensed shall have the right to have an assignment of the Defaulting Party's rights under such sublicenses.

Signed by

(For and on behalf of HIRS)

Dated:

Signed by

(For and on behalf of)

Dated: