

CONSORTIUM AGREEMENT (*)

“FOREST RESOURCES FOR IBERIAN EMPIRES: ECOLOGY AND
GLOBALIZATION IN THE AGE OF DISCOVERY”

(ForSEADiscovery)

() This Consortium Agreement is based on the provisions of the DESCAs Model.*

THIS CONSORTIUM AGREEMENT is based upon REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) (hereinafter referred to as "Rules for Participation") and the EU Grant Agreement, adopted on 10 April 2007 (hereinafter referred to as the "Grant Agreement" and or the EU-GA) and its Annexes II and III (hereinafter referred to as "Annex II to the Grant Agreement" and "Annex III to the Grant Agreement", respectively).

BETWEEN:

- 1- AGENCIA ESTATAL CONSEJO SUPERIOR DE INVESTIGACIONES CIENTÍFICAS (CSIC)
- 2- FACULDADE DE CIENCIAS SOCIAIS E HUMANAS DA UNIVERSIDADE NOVA DE LISBOA (FCSH-UNL)
- 3- UNIVERSIDADE DE SANTIAGO DE COMPOSTELA (USC)
- 4- UNIVERSITY OF WALES TRINITY SAINT DAVID (UWTSD)
- 5- MARITIME ARCHAEOLOGY LTD (MALtd)
- 6- WAGENINGEN UNIVERSITY (WU)
- 7- UNIVERSITEIT LEIDEN (UL)
- 8- RIJKSUNIVERSITEIT GRONINGEN (RUG)
- 9- UNIVESITÉ DE LORRAINE (UdL)

hereinafter, jointly or individually, referred to as "Parties" or "Party" relating to the Project entitled

"FOREST RESOURCES FOR IBERIAN EMPIRES: ECOLOGY AND GLOBALIZATION IN THE AGE OF DISCOVERY"

in short **"ForSEADiscovery"** , hereinafter referred to as the "Project"

WHEREAS:

The Parties, having considerable experience in the field concerned, have submitted a proposal to the Research Executive Agency (REA) as part of the Seventh Framework Programme of the European Community for Research, Technological Development and Demonstration Activities under the funding scheme of *"Marie Curie Initial Training Networks"*. The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the Grant Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Section I: Definitions

1.1 Definitions

Words beginning with a capital letter shall have the meaning defined either herein or in the Rules for Participation or in the Grant Agreement including its Annexes without the need to replicate said terms herein. Should there be any conflict in definitions, the definition in the Grant Agreement shall prevail.

1.2 Additional Definitions

“Consortium Plan” means the description of the work and the related agreed Consortium Budget, including the payment schedule and financial provisions, as updated and approved by the Supervisory Board.

“Consortium Budget” means the allocation of all the resources in cash or in kind for the activities as defined in Annex I of the Grant Agreement and in the Consortium Plan thereafter.

“Party” means a participant, who signed this Consortium Agreement.

“Beneficiary” all parties which receive EC funding are beneficiaries.

“Associated Partners” Means an institution party receiving no EC-Contribution but providing training in research and transferable skills, as well as secondment opportunities and participating in the Supervisory Board.

“Defaulting Party” means a Party which the Supervisory Board or Coordinator have identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in clause 4.2 of this Consortium Agreement.

“Legitimate interest” means a Party’s interest of any kind, particularly a commercial interest which may be claimed in the cases provided for in this Consortium Agreement. To this end the Party must prove that failure to take account of its interest would result in its suffering disproportionately great harm.

“Needed” means for the implementation of the Project: Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient Party would be impossible, significantly delayed, or require significant additional financial or human resources. For Use of own Foreground: Access Rights are Needed if, without the grant of such Access Rights, the Use of own Foreground would be technically or legally impossible.

Section 2: Purpose

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

Section 3: Entry into force, duration and termination

3.1 Entry into force

An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by a duly authorised representative. This Consortium Agreement shall have effect from the effective date of the Grant Agreement and shall terminate on the date of termination of the Grant Agreement. A new Party enters the Consortium upon signature of the Accession document (Attachment 2) by the new Party and the Coordinator. Such accession shall have effect from the date identified in the Accession document.

3.2 Duration and termination

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement. However, this Consortium Agreement or the participation of one or more Parties to it may be terminated in accordance with the terms of this Consortium Agreement and Annex II to the Grant Agreement (Articles II.37 and II.38 of Annex II to the Grant Agreement). If the Commission terminates the EU-GA or a Party’s participation this Consortium Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under section 3.3 of this Consortium Agreement.

3.3 Survival of rights and obligations

The provisions relating to Access Rights and Confidentiality, for the time period mentioned therein, as well as for Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Consortium Agreement.

Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the Supervisory Board and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

Section 4: Responsibilities of Parties

4.1 General principles

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law. Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.

Each Party shall provide promptly all information reasonably required by the Supervisory Board or the Coordinator to carry out its tasks. Each Party shall use reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties hereunder or under the Grant Agreement and promptly to correct any error therein of which it is notified.

Each Party also 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.

4.2 Breach

In the event that the Supervisory Board or the Coordinator identify a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement, the Coordinator or the Parties appointed by the Supervisory Board if the Coordinator is in breach of its obligations under this Consortium Agreement or the Grant Agreement will give written notice to such Party requiring that such breach be remedied within 30 calendar days. If such breach is substantial and is not remedied within that period or is not capable of remedy, the Supervisory Board may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of its participation.

4.3 Involvement of third parties

A Beneficiary that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Project remains solely responsible for carrying out its relevant part of the Project and for such third party's compliance with the provisions of this Consortium Agreement and of the Grant Agreement. Such Party shall ensure that the involvement of third parties does not affect the rights and obligations of the other Parties regarding this Consortium Agreement and the EU-GA. The Beneficiaries should notify the Coordinator of any third parties they involve in the Project.

Section 5: Liability towards each other

5.1 No warranties

In respect of any information or materials (including Foreground and Background) supplied by one Party to another under the Project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore, the recipient Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials; and No Party granting Access Rights shall be liable in case of infringement of proprietary rights of a third party resulting from any other Party (or its Affiliates) exercising its Access Rights.

5.2 Liabilities

No Party shall be responsible to any other Party for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts provided such damage was not caused by a wilful act or by a breach of confidentiality. A Beneficiary's aggregate liability towards the other Beneficiaries collectively, in respect of any and all claims, shall be limited to once the Party's share of the total costs of the Project as identified in Annex I of the EU-GA. The exclusions and limitations of liability stated above shall not apply in the case of damage caused by a wilful act or gross negligence. The terms of this Consortium Agreement shall not be construed to amend or limit any non-contractual liability.

5.3 Damage caused to third parties

Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party's obligations by it or on its behalf under this Consortium Agreement or from its Use of Foreground or Background.

5.4 Force Majeure

No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify the competent Consortium Bodies of any Force Majeure without undue delay. If the consequences of Force Majeure for the Project are not overcome within six (6) weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

Section 6: Governance structure

6.1 General structure

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

The **Supervisory Board (SB)** is the governing and ultimate decision-making body of the Consortium and shall be composed by all the Principal Researchers (Full Partners) of the Project, and the Associated Partners. .

The **Coordinator** is the legal entity acting as the intermediary between the Parties and the REA. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Grant Agreement and this Consortium Agreement.

6.2 Members

The **Supervisory Board** shall consist of the scientists in charge of all Parties, Beneficiaries as well as Associated Partners in an advisory role. In this way, all the participants (Full and Associated) will be represented in the SB. The Network Coordinator will ensure that the ITN ForSEAdiscovery will be organised efficiently, with good communication among all partners. The composition of the SB will be:

- The Network coordinator
- The Principal Investigator (PI) of each individual project
- The Training and Scientific coordinator (TC and SC): (named among the Full Partners)
- Associated Partners (advisory role)

Each Party shall be deemed to be duly authorised to deliberate, negotiate and decide in accordance with the provisions of clause 6.3.6 of this Consortium Agreement. The Coordinator shall chair all meetings of the Supervisory Board, unless she delegates such responsibility in another representative of its Institution or of any other Party.

Subject to the provisions of clause 6.3.6, the Parties agree to abide by all decisions of the Supervisory Board. This does not prevent the Parties to submit a dispute to resolution in accordance with the provisions of settlement of disputes in clause 13.8 of this Consortium Agreement.

6.3 Operational procedures for the Supervisory Board

6.3.1 Representation in meetings

Any Party:

- should be present or represented at any meeting;
- may appoint a substitute or a proxy to attend and vote at any meeting;
- and shall participate in a cooperative manner in the meetings.

6.3.2 Meetings

The Supervisory Board shall meet at least once every six months and may hold extraordinary meetings at any time upon written request of the Coordinator or 1/3 of the Parties. The Coordinator shall give notice in writing of a meeting to each Member as soon as possible and, in any case, within at least 14 calendar days preceding an ordinary meeting and 7 calendar days preceding an extraordinary meeting, together with a written agenda.

Any agenda item requiring a decision by the Parties must be identified as such on the agenda. Any Member may add an item to the agenda by written notice to the Coordinator within at least 7 calendar days preceding the meeting. During any meeting, the Supervisory Board may however decide by majority vote, upon proposal of any Member present or represented.

In extraordinary cases the Supervisory Board may take decisions through its chairperson consulting with all Parties via teleconference and/or via e-mail, phone, etc. These decisions must be included in the Minute of the next ordinary meeting. Decisions may only be executed once the relevant part of the Minutes is accepted according to clause 6.3.5 of this Consortium Agreement.

6.3.3 Voting rules and quorum

The Supervisory Board shall not deliberate and decide validly unless a quorum two-thirds (2/3) of the Parties are present or represented. Each beneficiary member shall have one vote, and the Coordinator has a casting vote in the event of a tie. The beneficiary parties will be represented by only one vote in the SB. Defaulting Parties may not vote. Decisions shall be taken preferably by consensus; however, in the absence of consensus, decisions shall be taken by simple majority of the votes of the Parties present or represented. The Supervisory Board will only be binding once the relevant part of the minutes has been accepted.

6.3.4 Right to object

A Party which can show that its own work, time for performance, costs, liabilities or intellectual property rights would be severely affected by a decision of the Supervisory Board may object with respect to the corresponding decision or relevant part of the decision.

A Party may not object to decisions relating to its identification as a Defaulting Party. The Defaulting Party may not object to decisions relating to its participation and termination in the Consortium or the consequences of them.

6.3.5 Minutes of meetings

The Chairperson shall produce written minutes of each meeting which shall be the formal record of all decisions taken. She shall send the minutes by e-mail to all members, and for the minutes of the Supervisory Board, also to all of the members of the Supervisory Board, within ten (15) calendar days of the meeting.

The minutes shall be considered as accepted if, within fifteen (15) calendar days from sending, no member has objected in writing or email to the Chairperson with respect to the accuracy of the draft of the minutes.

The objected decision concerning the minutes shall not come into force until the Supervisory Board has come to a new decision. This decision can be made in an extraordinary meeting or outside a meeting by email or other telecommunications means. If this decision is made outside the meeting, all members of the respective Board should decide unanimously. To this decision no further appeal is possible.

6.3.6 Decisions of the Supervisory Board

The Supervisory Board shall deal with all major decisions regarding the Project. The following decisions shall be taken by the Supervisory Board:

- ensure exchange of best training practice with the Parties;
- monitor and evaluate the overall progress of the training program;
- supervise the project and ensure that the scientific and training objectives are achieved;
- approve the work plan and changes to the same;

- make proposals to the Parties for amendments to the Grant Agreement or this Consortium Agreement;
- require the Coordinator to issue notices of termination to a Defaulting Party, re-assign that Party's Project Share and Project Tasks and request the REA to accept termination of the Grant Agreement in respect of a Defaulting Party;
- decide on remedial provisional measures against a Defaulting Party;
- decide on withdrawal of Parties;
- require the Coordinator to issue notices of termination to a Party subject to Force Majeure, re-assign that Party's Project Share and Work and request the REA to accept termination of the Grant Agreement in respect of a that Party;
- decide on entrance of a new Party to the Consortium and approval of the settlement on the modalities and conditions of the accession of such a new Party;
- decide on withdrawals from Attachment 1 (Background included);
- decide on additions to Attachment 3 (Listed Affiliates Entities);
- propose the REA to suspend all or part of the Project;
- propose the REA to terminate the Project and/or the Consortium Agreement.

6.4 Coordinator

The Coordinator shall be the intermediary between the Parties and the REA and shall perform all tasks assigned to it as described in the Grant Agreement and in this Consortium Agreement.

In particular, the Coordinator shall be responsible for:

- monitoring compliance by the Parties with their obligations;
- keeping the address list of members and other contact persons updated and available;
- collecting, reviewing and submitting information on the progress of the Project and reports and other deliverables (including financial statements and related certifications) to the REA;
- preparing the meetings, proposing decisions and preparing the agenda of the Supervisory Board meetings, chairing the meetings, preparing the Minutes of the meetings and monitoring the implementation of decisions taken at meetings;
- transmitting documents and information connected with the Project, including copies of Accession documents and changes of contact information to the Parties;
- administering the Community financial contribution and fulfilling the financial tasks described in clause 7 of this Consortium Agreement;
- updating the Consortium Agreement in accordance with the decisions of the Supervisory Board and/or the Parties hereto.

The Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party, without its prior written consent.

Section 7: Financial provisions

Payments to Beneficiaries are the exclusive task of the Coordinator. In particular, the Coordinator shall:

- Notify the Beneficiaries concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references.
- Perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts.

Payments to Parties will be handled according to the following payment modalities:

-The **initial advance** concerning the pre-financing shall be as follows:

The Parties agree that the initial advance of the Community Financial Contribution pre-financing shall be distributed in one (1) instalment. The Coordinator shall forward the pre-financing to the Parties without undue delay upon receipt of the pre-financing from the REA.

-The **second pre-financing** shall be distributed in one (1) instalment. The requested contribution after the receipt of the interim payment by the Coordinator from the REA provided that the Beneficiary in question has employed their resources appropriately up to that moment as may be verified by the Coordinator in consultation with the Supervisory Board.

-The **final payment** shall be distributed by the Coordinator subject to the submission and approval of the final reports by the REA as set out in Article II.6.1 (c) of Annex II to the Grant Agreement.

The Coordinator is entitled to withhold any advance payment due and/or to recover any advance already paid to a Defaulting Party.

The expenses related to the Associated Partners, will be subject to the amounts allowable under the Grant Agreement, and charged as follows:

- Under the management allocation of the Coordinator when they attend management meetings;
- Under cost category 3 of the single full Partner involved in each secondment, to cover RTD activities.

7.1 Justifying Costs

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Project towards the European Commission. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the European Commission.

7.2 Funding Principles

A Party which spends less than its allocated share of the Consortium Budget will be funded in accordance with its actual duly justified eligible costs only. A Party that spends more than its allocated share of the Consortium Budget will be funded only in respect of duly justified eligible costs up to an amount not exceeding that share. In any event, the Supervisory Board is responsible for the definition and modification of the Consortium Budget.

Section 8: Foreground

Regarding Foreground, Articles II.25-II.29 of Annex II to the Grant Agreement shall apply with the following additions:

8.1 Joint ownership

Where several Parties have jointly carried out work generating Foreground and where their respective share of the work cannot be ascertained, they shall have joint ownership of such Foreground. The Parties jointly owning Foreground (“the Co-owners”) undertake to make their best efforts to establish as soon as possible a co-ownership agreement regarding the allocation and terms of exercising such joint ownership as soon as possible as of the date of generation of the joint Foreground. The share of each of the co-owners to such joint Foreground shall be defined between the co-owners proportionally to the resources contributed by each co-owner whether human, financial or intellectual.

Where no joint ownership agreement has yet been concluded, each of the joint owners shall be entitled to use the joint Foreground on a royalty-free basis and without prior consent of the other joint owner(s) as it sees fit for internal research purposes on a non-exclusive, non-transferable basis. Unless otherwise agreed, the joint owners may only use the jointly owned Foreground for commercial purposes or grant non exclusive licenses to third parties, without any right to sub-licence in both cases subject to the following conditions:

- At least 45 days prior notice must be given to the other joint owners who shall not be unreasonably withhold consent; and
- Fair and reasonable compensation must be provided to the other joint owner(s).

8.2 Transfer of Foreground

Each Party may transfer ownership of its own Foreground following the procedures of the Grant Agreement (Article II.27 of Annex II). The transferring Party shall notify the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer. The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, a Party may be subject to confidentiality obligations which prevent it from giving the full 45 days prior notice for the transfer foreseen in Article II.27.2 of Annex II to the Grant Agreement.

8.3 Dissemination

8.3.1 Procedure

8.3.1.1 Dissemination activities including but not restricted to publications and presentations shall be governed by the procedure of Article II.30.3 of the EC-GA subject to the following provisions.

Prior notice of any planned publication shall be made 45 days before the publication. Any objection to the planned publication shall be made in accordance with the EC-GA in writing to the Coordinator and to any Party concerned within 30 days after receipt of the notice. The proposed publication shall not take place until the expiry of the above period of 45 days unless all of the concerned Parties have explicitly approved publication. If no objection is made within the time limit stated above, the publication is permitted.

8.3.1.2 An objection is justified if based on the following grounds: (i) that the protection by intellectual property rights of its Foreground would be adversely affected by the proposed publication, (ii) that the proposed publication includes Confidential Information of the objecting Party, or (iii) the publication of such information would result in disproportionately great harm to the legitimate interests of the objecting Party.

The objection has to include for each part of the publication objected to, the grounds of the objection for each objection, indicating which part of the publication the objection is aimed at (individual paragraphs or sentences) and a precise request for necessary modifications (including deletions).

8.3.1.3 In the event that an objection is raised in accordance to the above, the Party proposing the publication and the Party objecting shall seek in good faith to agree to a solution whereby the Parties objecting give permission to publish the proposed publication.

8.3.2 Cooperation obligations

The Parties undertake to cooperate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree which includes their Foreground or Background subject to confidentiality and publication provisions agreed in this Consortium Agreement.

8.3.3 Use of names, logos or trademarks

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

Section 9: Access Right

9.1 Background covered

The Parties have identified in Attachment I the Background to which they are ready to grant Access Rights, subject to the provisions of this Consortium Agreement and the Grant Agreement. The owning Party may add further Background to Attachment I during the Project by written notice. However, only the Supervisory Board can permit a Party to withdraw any of its Background from Attachment I.

The Parties agree that all Background not listed in Attachment I shall be explicitly excluded from Access Rights. The Parties agree, however, to negotiate in good faith additions to Attachment I if a Party ask them to do so and those are clear that such Background is needed.

For the avoidance of doubt, the owner is under no obligation to agree to additions of his Background to Attachment I.

9.2 General Principles

Each Party shall implement its tasks in accordance with the Consortium Plan and shall bear sole responsibility for ensuring that its acts within the Project do not knowingly infringe third party property

rights.

As provided in Article II.32.3 to the Grant Agreement, the Parties shall inform the Consortium and the Researchers as soon as possible of any limitation to the granting of Access Rights to Background or of any other restriction which might substantially affect the granting of Access Rights.

If the Supervisory Board considers that the restrictions have such impact, which is not foreseen in the Consortium Plan, it may decide to update the Consortium Plan accordingly.

Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise. Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties according to Article II.32.7 of Annex II to the Grant Agreement. Access Rights shall be free of any administrative transfer costs.

Foreground and Background shall be used only for the purposes for which Access Rights to it have been granted.

All requests for Access Rights shall be made in writing, with copy to the Coordinator. The requesting Party must show that the Access Rights are Needed and indicate the specific intended purpose. The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place.

A Party shall not grant a third party access to another Party's Background and/or Foreground unless that latter Party explicitly agrees to it in writing.

9.3 Access Rights for implementation

Access Rights to Foreground and Background Needed for the performance of the own work of a Party under the Project shall be granted on a royalty-free basis, unless otherwise agreed for Background in Attachment I

9.4 Access Rights for Use

Access Rights to Foreground if Needed for Use of a Party's own Foreground, including for third-party research, shall be granted on fair and reasonable conditions and upon written bilateral agreement.

A third party shall not be granted direct Access to Foreground generated by other Parties unless those Parties explicitly agree to it.

Access rights to Foreground for internal research and non-commercial activities shall be granted on a royalty-free basis. Such internal research Activities in the foregoing sentence shall mean the Use that is limited to internal research activities and therefore excluding developing, creating and marketing a product or process, or for creating and providing a service. For the avoidance of doubt such activities include (but are not limited to) preparing samples for (potential) customers, manufacturing factory scale batches (after initial sample scale-up batch), creating prototypes, offering the product or service to (potential) customers, screening customers, testing a product or service in a panel, or using the Foreground to do market research to determine the value of the product or service.

Access Rights to Background if Needed for Use of a Party's own Foreground shall be granted on fair and reasonable conditions and upon written bilateral agreement.

A request for Access Rights for Use may be made up to twelve months after the end of the Project or, in the case of clause 9.7.2.1.2, after the termination of the requesting Party's participation in the Project.

9.5 Access Rights for Affiliated Entities

Affiliated Entities have Access Rights under the conditions of the Grant Agreement (Article II.34.3 of Annex II).

Access Rights may be refused to Affiliate Entities if such granting is contrary to the legitimate interests of the Party which controls the Background or the Foreground.

Such Access Rights to Affiliated Entities shall be granted on fair and reasonable conditions and upon written bilateral agreement.

Affiliated Entities which obtain Access Rights in return grant Access Rights to all Parties and fulfil all confidentiality and other obligations accepted by the Parties under the Grant Agreement or this Consortium Agreement as if such Affiliated Entities were Parties.

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

Upon cessation of the status as an Affiliated Entity, any Access Rights granted to such former Affiliated Entity shall lapse. Further arrangements with Affiliated Entities may be negotiated in separate agreements.

9.6 Additional Access Rights

For the avoidance of doubt any grant of Access Rights not covered by the Grant Agreement or this Consortium Agreement 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.

9.7 Access Rights for Parties entering or leaving the Consortium

9.7.1 New Parties entering the Consortium

All Foreground developed before the accession of the new Party shall be considered to be Background with regard to said new Party.

Notwithstanding the aforementioned, in the event that a new Party joins the Project, the other Parties are entitled to revise their respective Background lists with regard to such new Party.

9.7.2 Parties leaving the Consortium

9.7.2.1 Access Rights granted to a leaving Party

9.7.2.1.1 *Defaulting Party*: Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the Supervisory Board to terminate its participation in the Consortium.

9.7.2.1.2 *Non-defaulting Party*: A non-defaulting Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the Foreground developed until the date of the termination of its participation. It may request Access Rights within the period of time specified in clause 9.4.2

9.7.2.2 Access Rights to be granted by any leaving Party

Any Party leaving the Project shall continue to grant Access Rights pursuant to the EU-GA and this Consortium Agreement as if it had remained a Party for the whole duration of the Project.

9.8 Specific Provisions for Access Rights to Software

For the avoidance of doubt, the general provisions for Access Rights provided for in this Section 9 are applicable also to Software. Parties' 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.

Section 10: Non-disclosure of information

All information in whatever form or mode of transmission, which is disclosed by a Party (the "Disclosing Party") to any other Party (the "Recipient") in connection with the Project during its implementation and which 1) the Recipient can reasonably expect to be confidential or 2) has been explicitly marked as "confidential", or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 days at the latest as confidential information by the Disclosing Party, is "Confidential Information".

The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the Grant Agreement, for a period of 5 years after the end of the Project:

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party;
- to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
- to return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Recipients may however request to keep a copy for archival purposes only, which copy shall remain subject to the confidentiality provisions stated herein.

The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of employment.

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

- the Confidential Information becomes publicly available by means other than a breach of the Recipient's confidentiality obligations;
- the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;
- the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or
- the Confidential Information was already known to the Recipient prior to disclosure or
- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision section 10.7 hereunder.

The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care.

Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

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

The confidentiality obligations under this Consortium Agreement and the Grant Agreement shall not prevent the communication of Confidential Information to the European Commission.

Section II: Appointment/secondment of Researchers

Subject to the provisions of this clause, each Party shall be solely responsible for any Researcher appointed by it under an employment contract also ensuring high quality supervision.

In case a Researcher appointed by one Party temporarily carries out work under this Agreement on the premises of another (hereafter referred to as "secondment"), the following provisions shall apply:

- (a) The Researchers seconded shall be subject to all regulations, including, in particular, safety regulations, applicable on the site of the Party they are seconded to.
- (b) The Researchers seconded by a Party to another shall remain employees of the Party having recruited them and such Party, as employer, shall bear exclusive responsibility for the payment of salary and for the procurement of adequate social security.

(c) The receiving institution will cover the expenses associated with the research activities of the seconded researcher at its site.

Section 12: Equipment made available

Each Party shall, under its sole responsibility use and make available such equipment as is necessary to carry out its obligations under the Grant Agreement and this Agreement. Prior to any equipment being made available by one Party to another, the Parties concerned shall agree on the terms and conditions under which such equipment is made available.

Section 13: Miscellaneous

13.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this body text and:

- Attachment 1: Background included
- Attachment 2: Accession document
- Attachment 3: Listed Affiliated Entities
- Attachment 4: Listed Associated Partners

In case this Consortium Agreement is in conflict with the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the appendices and the body text of this Consortium Agreement, the latter shall prevail.

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

13.2 No representation, partnership or agency

The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Party. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

13.3 Notices and other communication

Any notice to be given under this Consortium Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Coordinator. Formal notices: If it is required in this Consortium Agreement (clauses 9.7.2.1.1 and 13.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party and shall either be served personally or sent by mail with recorded delivery or telefax with receipt acknowledgement.

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

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

13.4 Assignment and amendments

No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval. Amendments and modifications to this Consortium Agreement shall be only valid if made in writing and signed by an authorised representative of each of the Parties.

13.5 Mandatory national law

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

13.6 Language

This Consortium Agreement is drawn up in English, which language shall govern all documents, notices, meetings and processes relative thereto.

13.7 Applicable law

This Consortium Agreement shall be construed in accordance with and governed by the laws of Belgium excluding its conflict of law provisions.

13.8 Settlement of disputes

The Parties agree that the disputes arising out of or in connection with this Consortium Agreement, which cannot be solved amicably (including the scientific and technical disputes with the mediation of the EA), shall be submitted by the Parties concerned to a Panel which shall be composed by a number of Parties to be agreed by the Supervisory Board on a case by case basis. The Panel shall issue a final decision within three (3) months from the date on which the dispute was referred to it. The parties involved in the dispute shall refrain from participating in such final decision. Should the concerned Parties disagree with the final decision of the Panel; the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. If the dispute concerns matters of Intellectual property rights, it shall be finally settled by and under the rules of the World Intellectual Property Organisation (WIPO).

The place of arbitration shall be Brussels if not otherwise agreed by the conflicting Parties. The award of the arbitration will be final and binding upon the Parties.

However, should any Party (e.g. a Public Body) show that certain provisions of its national law prevents it from submitting the relevant dispute to arbitration, then the concerned Parties will submit the dispute to the Courts of Brussels.

Nothing in this Consortium Agreement shall limit the Parties' right to seek injunctive relief or to enforce an arbitration award in any applicable competent court of law.

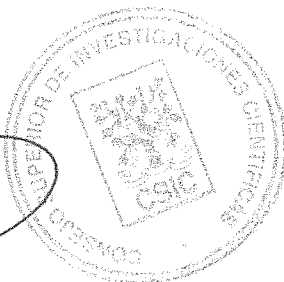
Section 14: Signatures

AS WITNESS:

The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in the day and year first above written.

**AGENCIA ESTATAL CONSEJO SUPERIOR DE INVESTIGACIONES CIENTÍFICAS
(CSIC)**

Signature:




Name: Prof. Antonio Figueras

Title: Vice-president for Scientific and Technical Research

FACULDADE DE CIENCIAS SOCIAIS E HUMANAS DA UNIVERSIDADE NOVA DE LISBOA (FCSH-UNL)

Signature:



Name: João Costa

Title: Dean



UNIVERSIDADE DE SANTIAGO DE COMPOSTELA (USC)

Signature:



Name: Prof. Francisco González García

Title: Vicechancellor for Research and Innovation

UNIVERSITY OF WALES TRINITY SAINT DAVID (UWTSD)

Signature: 

Name: Professor Michael Phillips

Title: Pro-Vice Chancellor (Research, Innovation, Enterprise and Commercialisation)

MARITIME ARCHAEOLOGY LTD (MALtd)

Signature:

A handwritten signature in black ink, appearing to read 'Garry Momber', written in a cursive style.

Name: Garry Momber

Title: Director

WAGENINGEN UNIVERSITY (WU)

Signature:

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

Name: *Ir C.T. Slingerland*

Title: Director Department Environmental Sciences

Signature: R Smalen

Name: Dr R Smalen

Title: DIRECTOR, TTD.



Universiteit
Leiden

RIJKSUNIVERSITEIT GRONINGEN (RUG)

 Signature: 

Name: Prof. dr. S. Poppema

Title: President of the University of Groningen

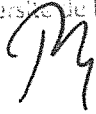


UNIVERSITÉ DE LORRAINE (UdL)

Signature: 24/02/2014

Name: MUTZENHARDT Pierre

Title: PRESIDENT Le Président
de l'Université de Lorraine



Pierre MUTZENHARDT

Attachment 1: Background included

Access Rights to Background made available to the Parties:

1- AGENCIA ESTATAL CONSEJO SUPERIOR DE INVESTIGACIONES CIENTÍFICAS (CSIC)

CSIC agrees to grant Access rights to the Background directly generated or accumulated by their Research Team directly participating in the Project subject to the provisions or the Grant Agreement and Section 9 of this Consortium Agreement.

2- FACULDADE DE CIENCIAS SOCIAIS E HUMANAS DA UNIVERSIDADE NOVA DE LISBOA (FCSH-UNL)

3- UNIVERSIDADE DE SANTIAGO DE COMPOSTELA (USC)

USC agrees to grant Access rights to the Background directly generated or accumulated by their Research Teams directly participating in the Project subject to the provisions or the Grant Agreement and Section 9 of this Consortium Agreement.

4- UNIVERSITY OF WALES TRINITY SAINT DAVID (UWTSD)

UWTSD agrees to grant Access rights to the Background directly generated or accumulated by their Research Team directly participating in the Project subject to the provisions or the Grant Agreement and Section 9 of this Consortium Agreement.

5- MARITIME ARCHAEOLOGY LTD (MALtd)

6- WAGENINGEN UNIVERSITY (WU)

7- UNIVERSITEIT LEIDEN (UL)

UL agrees to grant Access rights to the Background directly generated or accumulated in the field of the Project and which has been developed by their Research Teams directly participating in the Project subject to the provisions or the Grant Agreement and Section 9 of this Consortium Agreement. Access to certain Background and/or Material may be subject to special conditions (MTA, terms of use, etc.).

8- RIJKSUNIVERSITEIT GRONINGEN (RUG)

9- UNIVESITÉ DE LORRAINE (UdL)

This represents the status at the time of signature of this Consortium Agreement.

Attachment 2: Accession document

ACCESSION

of a new Party to

[Acronym of the Project] Consortium Agreement, version [..., YYYY-MM-DD]

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE GRANT AGREEMENT]

hereby consents to become a Party to the Consortium Agreement identified above and accepts all the rights and obligations of a Party starting [date].

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE GRANT AGREEMENT]

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

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

[Date and Place]

[INSERT NAME OF THE NEW PARTY]

Signature(s)

Name(s)

Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]

Signature(s)

Name(s)

Title(s)

Attachment 3: Listed Affiliated Entities

1- AGENCIA ESTATAL CONSEJO SUPERIOR DE INVESTIGACIONES CIENTÍFICAS (CSIC)

None.

2- FACULDADE DE CIENCIAS SOCIAIS E HUMANAS DA UNIVERSIDADE NOVA DE LISBOA (FCSH-UNL)

3- UNIVERSIDADE DE SANTIAGO DE COMPOSTELA (USC)

4- UNIVERSITY OF WALES TRINITY SAINT DAVID (UWTSD)

None.

5- MARITIME ARCHAEOLOGY LTD (MALtd)

6- WAGENINGEN UNIVERSITY (WU)

7- UNIVERSITEIT LEIDEN (UL)

8- RIJKSUNIVERSITEIT GRONINGEN (RUG)

9- UNIVESITÉ DE LORRAINE (UdL)

Attachment 4: Listed Associated Partners

- 1- TEXAS A. & M. UNIVERSITY (TAMU)
- 2- DENDRO DDK (DDK)
- 3- ARCHAEO NAUTA S.L. (ArchSL)
- 4- NICOLAUS COPERNICUS UNIVERSITY (NCU)
- 5- Dixit International (DIXIT)