

SIBO PROGRAM FRAMEWORK AGREEMENT

This SIM-SIBO Program Framework Agreement (the “**Agreement**”) is entered into on [DATE] (the “**Effective Date**”) by and between the following parties:

COORDINATOR, having its offices at [address], registered under company number [number], duly represented by [name + title] (the “Coordinator”); and

PARTY 2, having its offices at [address], registered under company number [number], duly represented by [name + title] (“[Party 2]”); and

PARTY 3, having its offices at [address], registered under company number [number], duly represented by [name + title] (“[Party 3]”); and

PARTY 4, having its offices at [address], registered under company number [number], duly represented by [name + title] (“[Party 4]”); and

PARTY 5, having its offices at [address], registered under company number [number], duly represented by [name + title] (“[Party 5]”).

RECITALS

WHEREAS, the parties have submitted a proposal for a program to Strategisch Initiatief Materialen VZW (hereinafter “**SIM**”) as part of its program funding, entitled “[name of the program]”;

WHEREAS, the proposal has been approved by SIM (the approved program hereinafter the “**Program**”) and a grant agreement has been entered into between SIM and the Coordinator on [date] (hereinafter the “**Grant Agreement**”);

WHEREAS, the parties wish to specify or supplement binding commitments among themselves in this Program Framework Agreement in addition to the provisions of the Grant Agreement;

WHEREAS, the Program is composed of several projects (hereinafter each a “**Project**”) approved by SIM and *Fonds Voor Innoveren En Ondernemen* (“**FIO**”);

WHEREAS, for each Project where Research Institutions are receiving funding from FIO, they will enter into a Project-specific agreement with FIO (the “**FIO Agreement**”) containing the details of funding through SIM reserved budgets;

WHEREAS, for each ICON and O&O Project the Project Companies will also enter into a FIO Agreement which will contain the details of funding of the Project Companies through FIO budgets;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

ARTICLE 1 DEFINITIONS

As used in this Agreement, the following capitalized terms shall have the meanings set forth in this article:

- 1.1 “Access Right”: means a non-exclusive, non-sublicensable licence to use Foreground or Background (as the case may be). An Access Right to Software does not include any right to receive source code, object code ported to a certain hardware platform or Software documentation in any particular form or detail, but only as available from the party granting the Access Right.
- 1.2 “Affiliate”: means any legal entity that is under the direct or indirect control of a party, or under the same direct or indirect control as a party, or that is directly or indirectly controlling a party. ‘Control’ means (a) the direct or indirect holding of more than fifty percent (50%) of the nominal value of the issued share capital in the legal entity concerned, or of a majority of the voting rights of the shareholders or associates of that entity; or (b) the direct or indirect holding, in fact or in law, of decision-making powers in the legal entity concerned.
- 1.3 “Background”: means information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions), know-how, software and material which is not generally known to the public and which is held by a party prior to the start of a Project, as well as copyrights, patent rights or other intellectual property rights pertaining to the foregoing, the application for which has been filed before the start of the Project, and which is needed by another party for carrying out its tasks in a Project or for Exploitation of its own Foreground.
- 1.4 “Consortium”: means all parties to this Agreement.
- 1.5 “Defaulting Party”: means a party which the Program Steering Committee has identified to be in breach of this Agreement and/or the Grant Agreement as specified in Article 3.5.5.
- 1.6 “Exercise Term”: means (a) in respect of Background, the period of time starting on the date of first contribution to a Project of the Background which is the subject of the request for Access Rights and ending eighteen (18) months after the end of all Projects to which the Background was contributed; and (b) in respect of Foreground, the period of time starting on the generation of the Foreground which is the subject of the request for Access Rights and ending eighteen (18) months after the end of the Project in which the Foreground was generated.
- 1.7 “Exploitation”: means utilisation in further research activities other than those covered by the Program (including contract research), or for developing, creating and marketing a product or process, or for creating and providing a service. For the avoidance of doubt, Exploitation does not include the granting of licenses.
- 1.8 “Foreground”: means the results, including information (including, without limitation, information relating to inventions, discoveries, concepts, methodologies, models, research, development and testing procedures, the results of experiments, tests and trials, manufacturing processes, techniques and specifications, quality control data, analyses, reports and submissions), know-how, software and material, whether or not they can be protected, which are generated under a Project. Such results include rights related to copyright, design rights, patent rights, plant variety rights, or similar forms of intellectual property rights.

- 1.9 “Market Price”: means a compensation equivalent to the market price.
- 1.10 “Program Bodies”: shall have the meaning ascribed to such term in article 3.1.
- 1.11 “Program Company”: means an entity other than a research institution that is a party to this Agreement.
- 1.12 “Program Manager”: shall have the meaning ascribed to such term in article 3.1.
- 1.13 “Program Participation Fee” : shall have the meaning ascribed to such term in article 4.2.
- 1.14 “Project”: means a SIM-SBO Project, a SIM-ICON Project or a SIM-O&O Project within the Program, as the case may be.
- 1.15 “Project Agreement”: means a Project specific agreement entered into between the parties to a particular Project.
- 1.16 “Project Budget”: means the SIM and FIO approved allocation of all the resources in cash or in kind for the activities within a particular Project.
- 1.17 “Project Company”: means a company involved in a specific SIM-ICON Project or SIM-O&O Project, as the case may be.
- 1.18 “Project Leader”: means the party that has been appointed project leader for a specific Project.
- 1.19 “Project Manager”: means the individual appointed by the Project Leader as responsible for the day-by-day fulfilment of the tasks of the Project Leader.
- 1.20 “Project Party”: means a party that has signed a Project Agreement.
- 1.21 “Project Plan”: means the description of the work and the related agreed Project Budget, as defined in the applicable FIO Agreement.
- 1.22 “Project Research Institution”: means a research institution that has signed a Project Agreement.
- 1.23 “Software”: means a computer program as referred to in article XI.294-295 of the Code of Economic Law (Codex Economisch Recht).

ARTICLE 2 SUBJECT

- 2.1 **Acceptance of the Grant Agreement.** Each party hereby accepts all obligations of a *Program Party* as set out in the Grant Agreement executed between SIM and the Coordinator as amended from time to time and agrees that SIM is a third party beneficiary of this clause with the full right to enforce and seek remedies against any breach of the Grant Agreement by any party to this Agreement.
- 2.2 **Performance of the Program.** Each party will use its reasonable endeavours to carry out the Program and the Projects to which it participates in a timely and efficient manner. It shall perform the tasks allotted to it in Project Plans and provide the human resources, materials, facilities and equipment that are designated as its responsibility in these Project Plans. Each party shall further comply with its obligations under the Grant Agreement, this Agreement, the FIO Agreements and

the Project Agreements to which it is a party, and nothing in this Agreement shall be understood as a limitation of any of a party's obligations under the FIO Agreements.

- 2.3 **No warranty regarding outcome of scientific research.** Although each of the parties will use reasonable endeavours to carry out the Program and the Projects to which it participates in accordance with the respective Project Plans, no party undertakes that any research will lead to any particular result, nor does it guarantee a successful outcome to the Program and/or the Projects.
- 2.4 **Information and materials.** Each party undertakes to notify promptly, in accordance with the governance structure of the Program, any significant information, fact, problem or delay likely to affect the Program or a particular Project. Each party shall promptly provide all information reasonably required by a Program Body or by the Coordinator to carry out its tasks. Subject to article 10.1, each party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other parties.
- 2.5 **Project Agreements.** For each specific Project, the parties involved shall enter into a Project Agreement. The provisions with regard to Background, Foreground and Access Rights set forth herein (articles 6.4.a) and 7.4 shall only apply to SIM-SBO Projects and the articles 6.4.b) and 7.5 shall only apply to SIM-ICON Projects), shall be integrated into these Project Agreements by simple reference. Unless to the extent expressly allowed otherwise in these articles, the Project Agreements shall not contain any provisions relating to Foreground, Background or Access Rights that deviate from the provisions contained herein.
- 2.6 **Involvement of third parties.** A party that subcontracts part of its work under a Project to a third party (including but not limited to Affiliates) remains solely responsible for the carrying out of these tasks and for such third party's compliance with the applicable provisions of the Project Agreement, the FIO Agreement, this Agreement and the Grant Agreement. It will ensure that the involvement of a third party does not affect the rights of the other parties under the Project Agreement, the FIO Agreement, this Agreement or the Grant Agreement.

ARTICLE 3 GOVERNANCE STRUCTURE

3.1 General structure

The organisational structure of the Consortium shall comprise the following Consortium bodies (the "**Program Bodies**"):

- (a) Program Steering Committee: the ultimate decision-making body of the Consortium
- (b) Program Management Committee: the supervisory body for the execution of the Projects within the Program
- (c) IP Board: the body responsible for the follow-up of the intellectual property used or generated in the Program

The Coordinator is the legal entity acting as the intermediary between the parties and SIM. The Coordinator shall, in addition to its responsibilities as a party hereunder, perform the tasks allotted to it as described in the Grant Agreement.

The Program Manager is the individual appointed by the Coordinator as responsible for the day-by-day fulfilment of the tasks of the Coordinator. In the event that this individual can no longer serve as Program Manager, the Coordinator will promptly propose the name and qualification of a successor with comparable skills and expertise to the Program Steering Committee and the Program Management Committee and the Coordinator shall endeavour to agree

upon said successor. If they are unable to agree within one (1) month, the decision on replacement shall be escalated to SIM in accordance with the applicable provisions of the Grant Agreement.

3.2 General operational procedures for all Program Bodies

3.2.1 **Representation in meetings.** Any member of a Program Body (a "Member"):

- (a) may be present or represented at any meeting of such Program Body
- (b) may appoint a substitute or a proxy to attend and vote at any meeting

SIM shall have the right to attend all meetings, but shall have no voting power.

3.2.2 **Convening meetings.** The chairperson of a Program Body shall convene meetings of that Program Body.

	Ordinary meeting	Extraordinary meeting
Program Steering Committee	At least twice a year	At any time upon written request of the Program Management Committee or 1/3 of the Members of the Program Steering Committee or IP Board
Program Management Committee	At least quarterly	At any time upon written request of 1/3 of the Members of the Program Management Committee
IP Board	At least twice a year	At any time upon written request of the Program Manager or of 1/3 of the Members of the IP Board

3.2.3 **Notice of a meeting.** The chairperson of a Program Body shall give notice in writing of a meeting to each Member of that Program Body as soon as possible and no later than the minimum number of days preceding the meeting as indicated below.

	Ordinary meeting	Extraordinary meeting
Program Steering Committee	45 calendar days	15 calendar days
Program Management Committee	14 calendar days	7 calendar days
IP Board	21 calendar days	7 calendar days

3.2.4 **Agenda.** The chairperson of a Program Body shall prepare and send each Member of that Program Body a written agenda no later than the minimum number of days preceding the meeting as indicated below.

Program Steering Committee	21 calendar days (10 calendar days for an extraordinary meeting)
Program Management Committee	7 calendar days
IP Board	7 calendar days

3.2.5 **Adding agenda items.** Any agenda item requiring a decision by the Members of a Program Body must be identified as such on the agenda. Any Member of a Program Body may add an item to the original agenda by written notification to all of the other Members of that Program Body up to the minimum number of days preceding the meeting as indicated below.

Program Steering Committee	14 calendar days (7 calendar days for an extraordinary meeting)
Program Management Committee	2 working days
IP Board	5 working days

During a meeting the Members of a Program Body present or represented can unanimously agree to add a new item to the original agenda.

3.2.6 **Written decision-making.** Any Member may participate in meetings by teleconference, video-conference or any other technology that enables everyone participating in the meeting to communicate interactively and simultaneously with each other. Any decision may be taken without a meeting if the chairperson of the Program Body circulates to all Members of the Program Body a written document which is then signed by the majority required for the decisions taken therein.

3.2.7 **Binding nature.** Decisions will only become binding once the relevant part of the minutes has been accepted according to article 3.4.1.

3.3 Quorum for all Program Bodies

Each Program Body shall deliberate and decide validly if two-thirds (2/3) of its Members are present or represented.

3.4 Minutes of meetings of all Program Bodies

3.4.1 The chairperson of a Program Body shall produce written minutes of each meeting which shall be the formal record of all decisions taken. He shall send the draft minutes to all Members within ten (10) calendar days of the meeting. The minutes shall be considered as accepted if, within fourteen (14) calendar days from sending, no Member has objected in writing to the chairperson with respect to the accuracy of the draft of the minutes.

3.4.2 The chairperson shall send the accepted minutes to all the Members of the Program Body and to the Program Manager, who shall safeguard them.

3.5 Specific operational procedures for the Program Steering Committee

In addition to the rules described in article 3.2 through 3.4, the following rules apply:

3.5.1 **Members.** The Program Steering Committee shall consist of at least one representative of each party (a "Program Steering Committee Member"), it being understood that a party may not delegate more representatives than the greatest number of research groups of a research institution involved in the Program. In addition to the Program Manager the Coordinator has the right to delegate a number of individuals to the Program Steering Committee equal to the other parties, it being understood that in such case these individuals and not the Program Manager shall exercise the voting power of the Coordinator. Each Program Steering Committee Member or its

substitute or proxy appointed in accordance with article 3.2.1 (b) shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in article 3.5.5.

3.5.2 **Chair.** The Program Manager shall chair all meetings of the Program Steering Committee, unless decided otherwise in a meeting of the Program Steering Committee.

3.5.3 **Voting Power.** Each party shall have one vote at the meeting of the Program Steering Committee. This vote may be split up by a party among its representatives present at the meeting.

3.5.4 **Majorities.** Decisions shall be taken by a majority of two-thirds (2/3) of the votes.

3.5.5 **Decisions.** The Program Steering Committee shall undertake, and decide on, the following matters:

Content, finances and intellectual property rights

- (a) proposals to SIM for changes to Annex I - "Program Description" of the Grant Agreement
- (b) proposals to SIM for changes to the Projects
- (c) proposals for new projects to be submitted exclusively by the Program parties to SIM in response to a SIM call for projects within the Program
- (d) deciding on major changes in work under the Projects (e.g., termination, creation, or reallocation of top level work packages)
- (e) withdrawals from the Exhibits 2 to the Project Agreements ("Background included")
- (f) additions to Attachment 3 - "Third Parties"
- (g) approving procedures and policies for use and dissemination of the Foreground (including press releases and publications)
- (h) approval of exclusive and sole licenses to Background or Foreground to which parties have the right to request Access Rights

Evolution of the Consortium

- (i) entry of a new party to the Consortium and approval of settlement on reasonable conditions of accession
- (j) providing advise at the request of SIM on new projects submitted (or to be submitted) to SIM by third parties (whether or not in combination with Program parties) in response to a SIM call for projects within the Program
- (k) additions of or changes to subcontractors
- (l) withdrawal of a party from the Consortium and approval of settlement on conditions of withdrawal
- (m) declaration of a party to be a Defaulting Party, remedies to be performed by a Defaulting Party and proposal to SIM for termination of a Defaulting Party's participation in the Consortium and measures relating thereto
- (n) escalation of a matter to SIM if a party deems that its legitimate interests are seriously affected by a decision of a Program Body and no amicable resolution has been found at the level of the Program Steering Committee
- (o) proposal to SIM for a change of the Coordinator or Program Manager
- (p) proposal to SIM for suspension of all or part of the Program or a Project
- (q) proposal to SIM for termination of the Program or a Project

All proposals made by the Program Management Committee and the IP Board shall also be considered and decided upon by the Program Steering Committee.

3.6 Specific operational procedures for the Program Management Committee

In addition to the rules described in article 3.2 through 3.4, the following rules apply:

- 3.6.1 **Members.** The Program Management Committee shall consist of the Program Manager and all of the Project Managers (the “Program Management Committee Members”).
- 3.6.2 **Chair.** The Program Manager shall chair all meetings of the Program Management Committee, unless decided otherwise by the Program Management Committee.
- 3.6.3 **Voting Power.** Each Program Management Committee Member present or represented in the meeting shall have one vote.
- 3.6.4 **Majorities.** Decisions shall be taken by a majority of two-thirds (2/3) of the votes.
- 3.6.5 **Tasks.** The Program Management Committee shall
 - (a) monitor the effective and efficient implementation of all Projects
 - (b) collect information at least every six (6) months on the progress of all Projects, examine that information to assess the compliance of each Project with its Project Plan and, if necessary, propose modifications of the Project Plan (including the Project Budget) to the Program Steering Committee
 - (c) prepare the content and timing of press releases and joint publications
 - (d) support the Coordinator in preparing meetings with SIM and in preparing related data and reports
 - (e) prepare the meetings, propose decisions and prepare the agenda of the Program Steering Committee
 - (f) make proposals to the Program Steering Committee to suspend or terminate all or part of the Projects or the Agreement, or to terminate the participation of one or more parties
 - (g) analyse and document, at the request of the Program Steering Committee or at its own initiative, a presumed breach of responsibilities of a party under a Project and prepare a proposal of remedies to the Program Steering Committee
 - (h) advise the Program Steering Committee on ways to rearrange tasks and budgets of a party in the case of abolished tasks as a result of a decision of the Program Steering Committee
 - (i) make proposals to the Program Steering Committee for the admission of new parties to the Grant Agreement, this Agreement, a FIO Agreement and a Project Agreement in order for said new parties to participate to a Project
 - (j) review and document a default of the Coordinator in the performance of its tasks and prepare proposals to the Program Steering Committee on actions to be taken and nomination of a new Coordinator
 - (k) properly execute and implement the decisions of the Program Steering Committee
 - (l) approve changes of Project Leaders and Project Managers

3.7 Specific operational procedures for the IP Board

In addition to the rules described in article 3.2 through 3.4, the following rules apply:

- 3.7.1 **Members.** Each party shall delegate one representative with voting power to the IP Board (the “IP Board Members”). In addition to the Program Manager the Coordinator has the right to delegate another individual to the IP Board, it being understood that in such case said individual and not the Program Manager shall exercise the voting power of the Coordinator. Each IP Board Member may be assisted at the meetings by an expert in the field of matters to be discussed by the IP Board at a particular meeting.

3.7.2 **Chair.** The Program Manager shall chair all meetings of the IP Board, unless decided otherwise by the IP Board.

3.7.3 **Voting Power.** Each IP Board Member with voting power present or represented in the meeting shall have one vote.

3.7.4 **Majorities.** Decisions shall be taken by a majority of two-thirds (2/3) of the votes.

3.7.5 **Tasks.** The IP Board shall

- (a) keep a register of Foreground generated within each Project in the Program
- (b) keep a register of patents filed on Foreground
- (c) keep a register of all Background set forth in the Exhibits 2 of all Project Agreements
- (d) register all requests for licenses to Background (except for third party requests for non-exclusive licenses to Background) and Foreground
- (e) register all granted licenses to Background (except from non-exclusive licenses to Background granted to third parties) and Foreground
- (f) make proposals to the Program Steering Committee on the approval or rejection of the granting of exclusive and sole licenses to Background or Foreground to which parties have the right to request Access Rights
- (g) approval of publications or public disclosure of Foreground
- (h) provide guidance on information that may be disclosed during User Committee meetings
- (i) provide guidance to the Program Steering Committee on intellectual property issues

3.8 The Coordinator

3.8.1 **Tasks.** In addition to the tasks set forth in article 3.1, the Coordinator shall be responsible for:

- (a) providing direction and leadership to the Program Bodies
- (b) establishing communication with and between all parties
- (c) establishing a User Committee on the Program level and organise a meeting of the User Committee for each running SIM-SBO Project at least every year and for a first time one year after the commencement of the first SIM-SBO Project within the Program.
- (d) transmitting documents and information connected with the Projects to and between Project Leaders, as appropriate, and any other parties concerned
- (e) collecting, reviewing to verify consistency and submitting reports and other deliverables (including financial statements and related certifications) to SIM
- (f) Informing the parties of any amendments to the Grant Agreement executed between the Coordinator and SIM
- (g) providing, upon request, the parties with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the parties to present claims
- (h) keeping the address list of Members and other contact persons updated and available

3.8.2 **Replacement.** If the Coordinator fails in its coordination tasks, the Program Steering Committee may propose to SIM to change the Coordinator.

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

ARTICLE 4 FINANCIAL PROVISIONS

- 4.1 The parties shall strictly abide by the financial provisions of the FIO Agreements, as the case may be, for all Projects within the Program.
- 4.2 Each Program Company will pay a yearly fee to SIM to participate in the Program (“**Program Participation Fee**”). The amount of the Program Participation Fee is determined on a yearly basis by the general assembly of members of SIM, is payable for each SIM program separately and depends on the qualification of the Program Company as a small or medium sized company or a large company, as defined in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (notified under document number C(2003) 1422) (OJ L 124, 20.5.2003, pp. 36–41). The general assembly of members of SIM may grant a rebate on the Program Participation Fee to Program Companies that are a member of SIM.
- 4.3 The yearly contribution will be invoiced by SIM for a first time on the date the Program is approved by SIM and thereafter at each anniversary of such date and will be payable within thirty (30) days from the invoice date.
- 4.4 A company that has become a new Program Company to the Program through the signature of the accession document pursuant to article 11.2 for the purpose of participating to a new Project within the Program will be under the obligation to pay the Program Participation Fee as from the date of submission of the proposal of the Project for approval to SIM and FIO (but conditional on such approval).
- 4.5 If a Program Company has not paid its yearly contribution when due, it will be summoned to pay the amount outstanding. Failure to pay within the term set in the summons may result in the termination of its participation in the Program and this Agreement by SIM and the Coordinator.

ARTICLE 5 REPORTING

In accordance with the Grant Agreement, the Coordinator shall be responsible for all reporting towards SIM. To enable the Coordinator to timely and efficiently fulfil its reporting obligations, the Project Leader of each Project shall provide the Coordinator with a report pertaining to its specific Project no later than thirty (30) days before the applicable deadline. These reports shall conform to all requirements imposed by SIM and FIO for reporting as set forth in article 5 of the Grant Agreement and any additional written guidelines that may be made available by SIM and FIO. The Coordinator and the Project Leader of a Project may agree that the Project Leader will submit the reports pertaining to such Project to SIM.

ARTICLE 6 FOREGROUND

- 6.1 **Ownership.** Foreground shall be the property of the Project Party carrying out the Project work generating that Foreground. Where any third party such as a student or subcontractor is involved in a Project, the party engaging that third party will ensure that said third party assigns any rights it may have in the Foreground to the party concerned in order to be able to give effect to the provisions of this Agreement.
- 6.2 **Protection of Foreground.** Each party may take such steps as it may decide from time to time to register and maintain any protection for its Foreground, including filing and prosecuting patent applications. It shall provide at the latest at the day of filing written notice to the IP Board of the fact a filing has been made. Within one (1) month after filing, the party shall provide the IP Board sufficient details to enable it to trace the patent (application) after its publication. This obligation shall survive termination of the Program for twelve (12) months.

6.3 **Joint ownership.** Where several Project parties have jointly carried out work generating Foreground and where it is impossible to distinguish each party's intellectual contribution to the creation of the Foreground, they shall have joint ownership of such Foreground.

6.4 **Non-patented joint Foreground.**

a) Specific provisions for SIM-SBO Projects

The joint owners of Foreground shall establish an agreement regarding the allocation and terms of exercising that joint ownership. However, where no joint ownership agreement has yet been concluded, each joint owner shall have the right to

- (a) use the Foreground for educational, research and Exploitation purposes, without being required to account to any other joint owner
- (b) grant Program parties Access Rights for the performance of a Project in accordance with article 7.4.1
- (c) grant Program parties Access Rights for Exploitation in accordance with article 7.4.2, subject to the following conditions: (i) at least forty-five (45) days prior notice must be given to the other joint owner(s), and (ii) fair and reasonable compensation must be provided to the other joint owner(s)
- (d) grant licenses to third parties for the performance of research and Exploitation, subject, however, to the conditions contained in (c) above and the procedures laid down in article 6.7 and 6.8 below

b) Specific provisions for SIM-ICON Projects

The joint owners of Foreground shall establish an agreement regarding the allocation and terms of exercising that joint ownership. However, where no joint ownership agreement has yet been concluded, each joint owner shall have the right to

- (a) use the Foreground for educational, research and Exploitation purposes, without being required to account to any other joint owner. However, if joint Foreground is owned by a Project Company and a Project Research Institution and as part of the adequate reflection of the work packages, contributions and respective interests of the parties in their respective ownership and access rights (as meant by section 28(c) of the Framework for State Aid for Research and Development and Innovation - C198/01, as may be amended or replaced in the future, hereinafter "**State Aid Framework for R&D&I**"), the Project Research Institution shall up until twelve (12) months after termination of the Project not use such Foreground in research on behalf of undertakings (as described in section 25 of the State Aid Framework for R&D&I) aiming at the development of products or services that are directly competitive to those which the Project Company intends to develop as described in the Project Plan of the Project where such Foreground was generated
- (b) grant Program parties Access Rights for the performance of a Project in accordance with article 7.5.1
- (c) grant Program parties Access Rights for Exploitation in accordance with article 7.5.3 and 7.5.4, subject to the following conditions: (i) at least forty-five (45) days prior notice must be given to the other joint owner(s), and (ii) fair and reasonable compensation must be

provided to the other joint owner(s) in as far as the aforesaid provisions do not require Access Rights to be granted at no cost

- (d) grant licenses to third parties for the performance of research and Exploitation, subject, however, to the conditions contained in (c) above and the procedures laid down in article 6.7 and 6.8 below

c) Specific provisions for SIM-O&O Projects

Joint ownership rights shall be discussed on a case-by-case basis by the parties involved in a SIM-O&O Project and laid down in the SIM-O&O Project Agreement.

- 6.5 **Protection of patentable joint Foreground.** The owners of joint Foreground may take such steps as they may decide from time to time to register and maintain any protection for the joint Foreground, including filing and prosecuting patent applications. They shall provide at the latest at the day of filing written notice to the IP Board of the fact a filing has been made. Within one (1) month after filing, these parties shall provide the IP Board sufficient details to enable it to trace the patent (application) after its publication. This obligation shall survive termination of the Program for twelve (12) months.

The joint owners shall establish an agreement regarding the financing of the patent application, the responsibilities for patent prosecution, the exploitation of the patent rights and the distribution of revenues obtained. However, where no such joint IP agreement has yet been concluded, the following rules shall apply:

- (a) all decisions regarding the filing, prosecution and maintenance of patent rights shall be made by mutual agreement between the joint owners
- (b) the joint owners shall appoint one of them as responsible for patent management
- (c) the other joint owners undertake to provide their assistance and to fulfil all formalities which are necessary to file, prosecute and maintain the patent rights;
- (d) the out-of-pocket expenses related to the patent rights shall be borne equally by all joint owners
- (e) profits from the Exploitation or licensing of the patent rights will be distributed equally over the joint owners
- (f) In the event a joint owner of Foreground is not (or no longer) willing to contribute to the expenses related to patent rights on the Foreground in one or several jurisdiction, it shall assign its rights in the Foreground and the patent right for the jurisdictions concerned to the other joint owners and shall fulfil all formalities and sign all documents required to perfect the transfer of its rights to the other joint owners. The party concerned shall not be entitled to any revenues generated from Exploitation or licensing of the patent rights in such jurisdictions, but shall be reimbursed for patent costs it has already borne, if and when revenues are obtained in these jurisdictions

For the avoidance of doubt, the provisions of article 6.4 shall not apply to Foreground that is claimed in a patent (application) filed pursuant to this article 6.5 and its resulting patent applications and patents.

- 6.6 **Transfer of Foreground.** Each party may transfer ownership of its own Foreground in connection with the transfer of all or substantially all of its business if it ensures that the rights of the other parties will not be affected by such transfer. It shall thereto pass on its obligations regarding that Foreground to the assignee (including the obligation to pass those obligations on to any subsequent assignee). Subject to its obligations concerning confidentiality such as in the framework of a merger or an acquisition, the transferring party shall give at least thirty (30) days

prior notice to the other parties and the IP Board of the envisaged transfer, together with sufficient information concerning the envisaged new owner of the Foreground to permit the other parties to exercise their Access Rights. Within thirty (30) days of the notification, any other party may object and demonstrate that the envisaged transfer of ownership would adversely affect its Access Rights. In that case, the intended transfer shall not take place until the new owner confirms in writing that it shall assume all obligations set forth in the Grant Agreement, this Agreement, the FIO Agreements and the Project agreements to which the transferor is a party. The parties hereby waive their right to object to a transfer to specific third parties listed in Attachment 3 hereto. Except in the event that a research institution transfers a co-ownership interest in its own Foreground to another research institution on the basis of an agreement between those entities which generally provides in such a transfer of a co-ownership right on results of research obtained by the transferring research institution's research group that generated the Foreground, each transfer by a party of its ownership rights in its own Foreground which does not happen in connection with a transfer of all or substantially all of its business shall be subject to the procedure and the rights of the other parties in the Program as laid down in article 6.7.

- 6.7 **Right of First Negotiation** If during the relevant Exercise Term a Party wants to grant a third party (other than its Affiliates) a non-exclusive exploitation license to Foreground it owns, it will promptly notify the IP Board in writing, which will in turn inform all the other Program parties. During a period of three (3) months counting from the date of such notification to the IP Board (the "**Negotiation Period**") and subject to the waiver procedure set out in article 6.8 below, each such other Program party shall have the right to negotiate an exclusive or sole exploitation license to that Foreground. To the extent not conflicting with such exclusive or sole licenses granted to the Program parties during the Negotiation Period and subject to the provisions of article 6.4 and 6.5 in case of jointly owned Foreground, the owner of the Foreground shall have the right to grant non-exclusive exploitation licenses to that Foreground to any third party after the Negotiation Period.
- 6.8 **Waiver of Access Rights.** Each party willing to grant a license to its Background or Foreground that would restrict (a right to request) an Access Right of another party, will promptly notify the Program Steering Committee, which will in turn inform the other Program parties. The Program Steering Committee will waive the parties' existing Access Rights and the right to request Access Rights in the future to said Background or Foreground to allow the owner of the Background or Foreground to grant such license unless a party explains that such Access Rights are needed (which decision will be made by the Program Steering Committee no later than three (3) months after receipt of the notification by the owner). To the extent possible, licenses restricting (rights to request) Access Rights shall be limited to the field of use of the licensee.
- 6.9 **Giving up Patent Rights.** If a party is no longer interested in maintaining patent rights on Background or Foreground of a Project, it shall no later than ten (10) weeks before the applicable deadline notify the IP Board hereof, which will inform the other parties in the Program. During a period of eight (8) weeks each Program Company shall have the right to negotiate with the owner of the patent rights a license or assignment agreement for these patent rights.

ARTICLE 7 ACCESS RIGHTS

7.1 General principles for all Projects

- 7.1.1 **Identification of Background.** Project parties shall identify in Exhibit 2 of the particular Project Agreement the Background developed by their research groups (or acquired at the initiative of these research groups) involved in the Project to which they are ready to grant Access Rights, subject to the provisions of this Agreement. All Background not listed in said Exhibit 2 shall be

explicitly excluded from Access Rights. The Project parties agree, however, to negotiate in good faith additions to said Exhibit 2 if a party asks them to do so and those are needed.

- 7.1.2 **Additions and withdrawals of Background.** The owner may add its further Background to Exhibit 2 of the particular Project Agreement during a Project by written notice to the Program Manager. However, only the Program Steering Committee can permit a Project Party to withdraw any of its Background from said Exhibit 2.
- 7.1.3 **Restrictions to Access Rights.** The Project parties shall inform the Program Management Committee as soon as possible of any limitation to the granting of Access Rights to their Background or of any other restriction which might substantially affect the granting of Access Rights (e.g. the use of open source Software in a Project). Such information may at the signing of this Agreement already be provided in Attachment 4.
- 7.1.4 **Use of Access Rights.** An Access Right to Background or Foreground shall be used only for the purposes for which it has been granted.
- 7.1.5 **Requests for Access Rights.** All requests for Access Rights shall be made in writing and shall explain why Access Rights are needed. Access Rights shall be granted upon written agreement.
- 7.1.6 **No implied licenses.** No Access Right or license to use any Background or Foreground is granted or implied by this Agreement except the rights explicitly granted in this Agreement. This Agreement does not affect the ownership of any Background and rights therein will remain the property of the party that contributes them to the Program or a Project.

7.2 Access Rights for Affiliates

- 7.2.1 **Requests by Affiliates.** An Affiliate has Access Rights to Background or Foreground under the same conditions as the party to which it is affiliated; provided, however, that Access Rights granted to an Affiliate under article 7.5.3 may be subject to the payment of an additional fee to the extent that granting Access Rights at no cost would conflict with the State Aid Framework for R&D&I. Notwithstanding the foregoing, Access Rights for Exploitation can only be applied for by an Affiliate to the extent that Exploitation of the Foreground in connection with which the Access Rights are to be applied for was entrusted to that Affiliate. Access Rights may be refused to an Affiliate if they would be contrary to the legitimate interests of the party which owns the Background or Foreground.
- 7.2.2 **Compliance by Affiliates.** Affiliates which obtain Access Rights shall fulfil all confidentiality and other obligations accepted by the parties under the Grant Agreement and this Agreement as if such Affiliates were parties.
- 7.2.3 **Termination of Affiliates' Access Rights.** Access Rights granted to an Affiliate 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 Affiliate, any Access Rights granted to such former Affiliate shall lapse.

7.3 Access Rights for parties entering or leaving the Consortium

- 7.3.1 **New parties entering the Consortium.** All Foreground developed under the Projects before the accession of the new party shall be considered Background with regard to a new party entering the Consortium.

- 7.3.2 **Parties leaving the Consortium.** Access Rights granted to a Defaulting Party and such party's right to request Access Rights shall cease immediately upon termination of the Defaulting Party's participation to the Consortium.

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 up until twelve (12) months after having left the Consortium.

Any party leaving the Program shall continue to grant Access Rights pursuant to this Agreement as if it had remained a party for the whole duration of the Program.

7.4 Specific provisions for SIM-SBO Projects

- 7.4.1 **Access Rights for performance of a Project.** If a Program party needs access to SIM-SBO Background or SIM-SBO Foreground of a SIM-SBO Project Party for the performance of its tasks in the same or another Project within the Program and Access Rights are applied for during the Exercise Term, the SIM-SBO Project Party shall grant such Access Rights at no cost.

- 7.4.2 **Access Rights for Exploitation.** If a Program party needs access to SIM-SBO Background or SIM-SBO Foreground of a SIM-SBO Project Party for the Exploitation of its own Program Foreground and Access Rights are applied for during the Exercise Term, the SIM-SBO Project Party shall grant such Access Rights against Market Price.

7.5 Specific provisions for SIM-ICON Projects

- 7.5.1 **Access Rights for performance of a Project.** If a Program party needs access to SIM-ICON Background or SIM-ICON Foreground of a SIM-ICON Project Party for the performance of its tasks in the same or another Project within the Program and Access Rights are applied for during the Exercise Term, the SIM-ICON Project Party shall grant such Access Rights at no cost.

- 7.5.2 **Access Rights to SIM-ICON Background for Exploitation.** If a Program party needs access to SIM-ICON Background of a SIM-ICON Project Party for the Exploitation of its own Program Foreground and Access Rights are applied for during the Exercise Term, the SIM-ICON Project Party shall grant such Access Rights against Market Price. Notwithstanding the foregoing, if the owner of the SIM-ICON Background is a Program Company and Access Rights are applied for in accordance with the foregoing, it shall enter into good faith negotiations with the requesting party concerning the Market Price against which Access Rights may be granted, but shall have no obligation to grant such Access Rights if this would severely affect its legitimate interests.

- 7.5.3 **Access Rights to SIM-ICON Foreground for Exploitation of Foreground of the same Project.** If a SIM-ICON Project party needs access to Foreground obtained by another party within the same SIM-ICON Project for the Exploitation of its own Foreground obtained in said SIM-ICON Project and applies for Access Rights during the Exercise Term and as part of the adequate reflection of the work packages, contributions and respective interests of the parties in their respective ownership and access rights (as meant by section 28(c) of the State Aid Framework for R&D&I), the SIM-ICON Project Party shall grant such Access Rights at no cost. Notwithstanding the foregoing, if the owner of SIM-ICON Foreground of a specific work package is a Program Company and Access Rights are applied for in accordance with the foregoing, it may refuse such Access Rights if the granting of such Access Rights would severely affect its legitimate interests. In case of such refusal by a Program Company of a request for Access Rights being made by a Project

Research Institution and notwithstanding anything to the contrary in this article 7.5.3, any Access Rights granted (or to be granted) on SIM-ICON Foreground resulting from an equivalent work package of the same Project to such Program Company by the Project Research Institution to which Access Rights were refused will be against Market Price (even if such Access Rights had already been granted prior to the time of such refusal by the Program Company).

7.5.4 **Access Rights to SIM-ICON Foreground for Exploitation of Foreground of another Project.** If a Program party needs access to SIM-ICON Foreground of a SIM-ICON Project Party for the Exploitation of its own Foreground obtained in a different Project under the Program and Access Rights are applied for during the Exercise Term, the SIM-ICON Project Party shall grant such Access Rights against Market Price. Notwithstanding the foregoing, if the owner of the SIM-ICON Foreground is a Program Company and Access Rights are applied for in accordance with the foregoing, it shall enter into good faith negotiations with the requesting party concerning the Market Price against which Access Rights may be granted, but shall have no obligation to grant such Access Rights if this would severely affect its legitimate interests.

7.6 Specific provisions for SIM-O&O Projects

7.6.1 Access Rights to SIM-O&O Background and SIM-O&O Foreground for the performance of Projects and Exploitation shall be discussed on a case-by-case basis by the parties involved in a SIM-O&O Project and laid down in the SIM-O&O Project Agreement.

ARTICLE 8 NON-DISCLOSURE OF INFORMATION

8.1 All information in whatever form or mode of transmission, which is disclosed by a party (the "Disclosing Party") to any other party (the "Receiving Party") in connection with the Program or a Project and which has been 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 fifteen (15) days from oral disclosure at the latest as confidential information by the Disclosing Party, is "Confidential Information". The information which is not identified as confidential shall nevertheless be treated as Confidential Information by the Receiving Party, if it knows or should reasonably be expected to know about the secret and confidential nature of such information.

8.2 The Receiving Party shall up until five (5) years after the end of the Program:

- (a) not use the Confidential Information otherwise than for the purpose for which it was disclosed
- (b) not disclose the Confidential Information to any third party without the prior written consent of the Disclosing Party

8.3 The Receiving Party shall internally distribute Confidential Information on a strict need-to-know basis and apply the same degree of care with regard to the Confidential Information as with its own confidential information, but in no case less than reasonable care.

8.4 The Receiving Party shall have its employees, collaborators, advisors and consultants comply with the confidentiality provisions hereof and shall ensure that they continue to do, as far as legally possible, during and after the end of the employment or the agreement with the advisor or consultant.

8.5 The foregoing obligations of this Article 8 shall not apply for disclosure or use of Confidential Information, if and in so far as the Receiving Party can show that:

- (a) the Confidential Information became public other than through a breach of the Receiving Party's confidentiality obligations
 - (b) the Confidential Information is received by the Receiving Party without any obligation of confidence from a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party
 - (c) the Confidential Information was already known to the Receiving Party prior to disclosure;
 - (d) the Confidential Information was developed by the Receiving Party completely independently of any such disclosure by the Disclosing Party
 - (e) the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement or FIO Agreements
 - (f) the Disclosing Party informs the Receiving Party that the Confidential Information is no longer confidential
- 8.6 If a Receiving 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
- (a) notify the Disclosing Party
 - (b) comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information
- 8.7 A Receiving Party shall promptly advise the Disclosing Party in writing of any unauthorised disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorised disclosure, misappropriation or misuse.
- 8.8 A Receiving Party shall return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Receiving Party including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Receiving Party may however request to keep a copy for archival purposes only.
- 8.9 The confidentiality obligations under this Agreement shall not prevent the communication of Confidential Information to SIM, if needed.

ARTICLE 9 PUBLICATION

- 9.1 **Prior notice of dissemination.** At least forty-five (45) days prior notice of any publication or other dissemination activity relating to the Program or a Project shall be given to the IP Board, including sufficient information concerning the planned publication or dissemination activity and the data envisaged to be published or disseminated. Within thirty (30) days of the notification, any of the parties may object to the envisaged dissemination or publication if it considers that its legitimate academic or commercial interests are compromised or that the protection of its Background or Foreground is adversely affected. Any objection to the planned dissemination or publication shall be made in writing to the Program Manager and to any party concerned with a precise request for necessary modifications. If an objection has been raised the involved parties shall discuss how to overcome the justified grounds for the objection on a timely basis (for example by amendment to the planned publication and/or by protecting information before publication) and the objecting party shall not unreasonably continue the opposition if appropriate actions are performed following the discussion. If no objection is made within the time limit stated above, the publication or dissemination is permitted.
- 9.2 **Publication of another Party's Background or Foreground.** For the avoidance of doubt, a party shall not publish Foreground or Background of another party, even if such Foreground or Background is amalgamated with the party's Foreground, without the other party's prior written

approval. For the avoidance of doubt, the mere absence of an objection according to article 9.1 is not considered as an approval.

- 9.3 **Cooperation obligations.** The parties undertake to cooperate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree.

ARTICLE 10 WARRANTIES AND LIABILITY

- 10.1 **No warranties.** In respect of any information or materials (including but not limited to Background and Foreground) supplied by one party to another under the Program or a Project, no warranty or representation of any kind is made 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, (i) the recipient party shall in all cases be entirely and solely liable for the use to which it puts such information and materials, and (ii) 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. Notwithstanding the foregoing, each party shall bear sole responsibility for ensuring that its acts within the Program and the Projects do not knowingly infringe third party property rights. The express undertakings and warranties given by the parties in this Agreement are in lieu of all other warranties, conditions, terms, undertakings and obligations, whether express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.
- 10.2 **Indirect liability.** No party shall be liable 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.
- 10.3 **Limitation of liability.** A party's aggregate liability towards the other parties collectively shall be limited to the party's share of the total budget for all Projects to which it is a party, provided such damage was not caused by a wilful act.
- 10.4 **Human rights.** Each party declares that it will respect human rights (without giving any warranty for the partners with whom it works or cooperates), except if these are contrary with applicable legislation. For the purposes of this Agreement, "human rights" will have the meaning as attributed to it in the European Convention on Human Rights (ECHR) and the mandatory provisions of the European Social Charter. A party may terminate (its participation to) the Agreement if another party is involved in a serious or systematic violation of human rights as supported by clear and convincing evidence, according to the below-mentioned procedure. The party seeking to terminate (its participation to) the Agreement due to a serious or systematic violation of human rights ("Claimant") shall issue a motivated written notice to the other party. In the event of a dispute between the relevant parties as to whether or not there is a serious or systematic violation of human rights that cannot be settled amicably, this dispute shall be finally settled under the rules of arbitration of the International Chamber of Commerce (ICC) by one (1) independent, expert and impartial arbitrator appointed in accordance with the said rules. This arbitrator will be nominated by the relevant parties by agreement and in the absence of such agreement, such appointment will be made according to the ICC-rules. The language of the arbitration shall be Dutch. The venue of the arbitration proceedings shall be Ghent (Belgium). The arbitration proceedings and the arbitral award will be held strictly confidential. The relevant parties shall negotiate the reasonable remedial actions to address the involvement of the defaulting party in the proven (in case of a dispute, after an arbitral award) human rights violations. If the relevant parties are unable to find a reasonable solution to resolve the issue within a reasonable period of time, or if the defaulting party cannot demonstrate that its involvement in the proven human rights violations has been remedied, the Claimant may terminate (its participation to) the Agreement with immediate effect.

ARTICLE 11 ENTRY INTO FORCE, DURATION AND TERMINATION

- 11.1 **Entry into force.** An entity becomes a party to this Agreement upon signature of this Agreement by its duly authorised representative. This Agreement shall have effect from the Effective Date.
- 11.2 **New parties.** A new party to a SIM approved Project will be required to sign the accession document in Attachment 1 hereto jointly with the Coordinator before the Coordinator can submit its request for admission to the Project and the Program for approval to SIM. A legal entity participating to a new project proposal submitted to SIM in the scope of an existing Program that is not yet a Program Party, will sign the accession document with the Coordinator within sixty (60) days from notification of approval of the project proposal by SIM. The accession shall have effect as from approval by SIM of the admission of the new party to the SIM approved Project or the approval of the new Project with involvement of the new party, as the case may be.
- 11.3 **Duration.** This Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the parties under the Grant Agreement, this Agreement and the Project Agreements.
- 11.4 **Termination at will.** A party which can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of a Program Body and who is unable to solve the matter at the level of the Program Steering Committee may terminate this Agreement by giving two (2) months prior written notice to the Coordinator. If FIO has approved the final report of each Project in which a Program Company was participating or if (the Program Company's participation in) each such Project has been early terminated, the Program Company may terminate this Agreement by giving prior written notice to the Coordinator.
- 11.5 **Termination for Breach.** In the event the Program Steering Committee identifies a breach by a party of its obligations under this Agreement or the Grant Agreement, the Coordinator will give written notice to such party requiring that such breach be remedied within thirty (30) calendar days. If such breach is substantial and is not remedied within that period or is not capable of remedy, the Program Steering Committee 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.
- 11.6 **Termination in accordance with Grant Agreement.** This Agreement or the participation of one or more parties may be terminated in accordance with article 12 of the Grant Agreement.
- 11.7 **Termination by SIM.** If SIM terminates the Grant Agreement or a party's participation in the Grant Agreement, this Agreement shall automatically terminate in respect of the affected party/ies.
- 11.8 **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 and any other articles that are by their wording or nature intended to survive shall survive the expiration or termination of this 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 Program Steering Committee and the leaving party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

ARTICLE 12 MISCELLANEOUS

12.1 **Force Majeure.** No party shall be considered to be in breach of this Agreement if such breach is caused by Force Majeure. Each party will notify the competent Program Bodies of any Force Majeure as soon as possible. If the consequences of Force Majeure for the Program or any particular Project are not overcome within six (6) weeks after such notification, the transfer of tasks (if any) shall be decided by the competent Program Bodies.

12.2 **Use of names, logos or trademarks.** Nothing in this Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the (collaborators of the) parties or any of their logos or trademarks without their prior written approval.

12.3 **Entire agreement.** This Agreement, consisting of this core text and

Attachment 1: Accession document

Attachment 2: initial list of Members and other contact persons

Attachment 3: Third parties to which transfer of Foreground is possible without prior notice

Attachment 4: Informative List (pursuant to article 7.1.3)

constitutes the entire agreement between the parties relating to its subject matter. In case the terms of this Agreement are in conflict with the terms of the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the attachments and the core text of this Agreement, the latter shall prevail. In case of conflict between this Agreement and a Project Agreement, this Agreement shall prevail.

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

12.5 **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 Agreement shall be deemed to constitute a consortium (as defined by Art. 1:19 of the Companies and Associations Code), joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the parties.

12.6 **Notices and other communication.** Any notice to be given under this Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Coordinator based on the initial list of Members and other contact persons in Attachment 2.

Formal notices:

If it is required in this Agreement 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.

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.

12.7 **Assignment.** Neither this Agreement nor any rights or obligations of the parties arising from this Agreement may be assigned or transferred, in whole or in part, to any third party without the other parties' prior formal approval, which shall not be unreasonably withheld; subject, however,

to (1) the prior written approval by of such assignment by SIM, and (2) the confirmation by the assignee that it agrees to be bound by the terms hereof.

12.8 Applicable law. This Agreement shall be construed in accordance with and governed by the laws of Belgium, without regard to any applicable conflict of law rules.

12.9 Settlement of disputes. All disputes arising out of or in connection with this Agreement, which cannot be solved amicably, shall be finally and exclusively settled by the Courts of Brussels. Notwithstanding the foregoing, each party shall have the right at any time to commence an action or proceeding in any court of competent jurisdiction in order to seek and obtain a restraining order or injunction, but not monetary damages, to enforce the confidentiality provisions set forth herein.

12.10 Counterparts. This Agreement may be signed in counterparts, each of which will be deemed to be an original as against any party whose signature appears thereon and all of which together constitute one and the same instrument. This Agreement will become binding when one or more counterparts hereof, individually or taken together, will bear the signature of all of the parties reflected hereon as signatories.

12.11 Personal Data Processing. Each party will comply with its respective obligations under all privacy and data protection laws and regulations applicable to the processing of personal data under this Agreement, including the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC ("GDPR"). In case a party qualifies as a processor of personal data for which another party acts as the controller, the parties will enter into a data processing agreement pursuant to article 28 of the GDPR. Each party may collect and process names and contact details of the other party's designated contact persons or employees (including those of its Affiliates and subcontractors), in order to be able to properly perform its tasks under this Agreement and any Project and to contact the other parties in this respect. Such personal data will not be used for any other purposes and will be deleted within a reasonable period after termination of this Agreement. Upon first written request hereto, a party will provide the requesting party and/or the relevant data subjects with additional information regarding its data processing activities, including - where appropriate - a copy of its applicable privacy and data protection policy.

IN WITNESS WHEREOF, the parties have executed and caused this Agreement to be executed and delivered on the date first above written.

COORDINATOR

[name]

[title]

PARTY 2

[name]
[title]

PARTY 3

[name]
[title]

PARTY 4

[name]
[title]

PARTY 5

[name]
[title]

ATTACHMENT 1 - ACCESSION DOCUMENT

ACCESSION DOCUMENT TO PROGRAM FRAMEWORK AGREEMENT

ENTITY, having its offices at **[address]**, registered under company number **[number]**, duly represented by **[name + title]**, hereby consents to become a party to the Program Framework Agreement with Effective Date **[Effective Date of the Program Framework Agreement]** relating to the Program "**[title]**" concluded between **[Coordinator]** ("Coordinator"), having its offices at **[address]**, registered under company number **[number]**, duly represented by **[name + title]**, and **[list all other parties to the Program Framework Agreement]**

and accepts in accordance with the provisions of the Program Framework Agreement all the rights and obligations of a party.

Further to a positive decision of the Program Steering Committee taken in accordance with article 3.5.5 (f) prior to the signature date of this Accession Document, the following companies are considered third parties to which transfer of Foreground is possible by **ENTITY** without prior notice for the purposes of article 6.6: **[list companies]**

For the purposes of article 7.1.3, **ENTITY** informs about the following restrictions to Access Rights: **[Informative list of background to which no access rights shall be granted - this list is for information purposes only - access rights under the Program Framework Agreement are only granted to Background explicitly listed in Exhibits 2 of the Project Agreements (or Attachment 1 of the Program Framework Agreement signed before 2013)]**

This accession document will become effective as of **(start datum project [month, dd, yyyy])**

Done in 3 copies, of which one will be sent by the Coordinator to SIM; the second and third original, respectively, to be kept by the Coordinator and **[entity]**, respectively.

ENTITY

Name:
Title:
Date:

COORDINATOR

Name:
Title:
Date:

ATTACHMENT 2 - INITIAL LIST OF MEMBERS AND OTHER CONTACT PERSONS

[to be completed]

**ATTACHMENT 3 - THIRD PARTIES TO WHICH TRANSFER OF FOREGROUND IS POSSIBLE WITHOUT
PRIOR NOTICE**

[to be completed]

ATTACHMENT 4 - INFORMATIVE LIST (pursuant to article 7.1.3)

[to be completed]