

ITEA 2 Project Co-operation Agreement (PCA)

Version 0.2 28-05-15

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Relating to the Project

ModelWriter: Text & Model-Synchronized Document Engineering Platform
Under the ITEA 2 PROGRAMME

between

1) Airbus Group SAS, Toulouse, France
hereinafter referred to as "AIRBUS"

2) OBEO SAS, Nantes, France
hereinafter referred to as "OBEO"

3) Centre National de la Recherche Scientifique, Paris, France
hereinafter referred to as "CNRS"

4) UNIT Biliřim Teknolojileri Ar-Ge Ltd, Izmir, Turkey
hereinafter referred to as "UNIT"

5) KoçSistem Bilgi ve İletişim Hizmetleri A.Ş., İstanbul, Turkey
hereinafter referred to as "KOCSTEM"

6) Havelsan Hava Elektronik Sanayi ve Ticaret A.Ş., Ankara, Turkey
hereinafter referred to as "HAVELSAN"

7) Mantis Yazılım Dan. Yay. Eğt. Müh. Bil. Don. İth. İhr. San. Tic. Ltd. Şti., Ankara, Turkey
hereinafter referred to as "UNIT"

8) Hisbim Hisarlar Bilgi ve İnovasyon Merkezi San. Tic. A.Ş.
hereinafter referred to as "HISBIM"

9) Sogeti BE, Brussels, Belgium
hereinafter referred to as "SOGETI"

10) KU Leuven, Leuven, Belgium
hereinafter referred to as "KULeuven"

(hereinafter together referred to as "the Parties")

WHEREAS

1. In the framework of the ITEA 2 PROGRAMME, the Parties have submitted a proposal for an ITEA 2 Project entitled
"ModelWriter: Text & Model-Synchronized Document Engineering Platform"
– hereinafter referred to as "the **Project**"– ;
2. The Project has been selected by, and has obtained an ITEA 2 Label from the ITEA Board;
3. The Parties, who have acceded to or accepted the rules and regulations for **ITEA 2** Projects laid down in the **ITEA 2 Frame Agreement (IFA)** wish to define in addition thereto certain of their rights and obligations inter se with respect to the carrying out of the Project.

NOW, THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

Article 1 DEFINITIONS

The definitions laid down in Article I and other parts of the ITEA 2 Frame Agreement (IFA) also apply to this PCA, unless the relevant term is defined otherwise herein, in which case the latter applies. However, the (licensing) terms: "fair and reasonable conditions" and "commercial conditions" are to be further defined in the specific license agreements between the relevant Parties hereto in consistency with the definitions ascribed to them in the IFA, if and as required. In addition the following definitions shall apply:

- 1.1 "**Affiliated Companies**" for the purpose of this PCA shall mean Affiliated Companies as defined in the IFA under (i), as well as the legal entities listed in **Exhibit C** to this PCA upon all Parties' mutual agreement. **Optional:** All Affiliated Companies are listed in **Exhibit C**.
- 1.2 "**Agreement**" or "**PCA**" shall mean this present document and all Exhibits attached hereto and initially by all Parties.
- 1.3 "**API**" shall mean the application programming interface materials and related documentation containing all data and information to allow skilled Software developers to create Software interfaces that interface or interact with other specified Software.
- 1.4 "**Co-ordinator**" shall have the meaning assigned to it in Article 3.1.
- 1.5 "**Effective Date**" shall have the meaning assigned to it in Article 9.1.
- 1.6 "**Full Project Proposal**" shall mean the work plan of the Project as accepted by the ITEA 2 organisation, with Project reference number : 13028
- 1.7 "**Limited Source Code Access**" shall mean (a) access to Object Code or, where normal use of such Object Code requires an API, access to such Object Code and such API; or (b), if (a) is not available, and, unless the pertaining Software is made available only in Object Code in accordance with Article 2.4 hereof, access to Source Code if the requesting Party

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Commented [FE1]: Please add your affiliated companies to EXHIBIT C

can demonstrate such access is Necessary and in any case strictly limited to the extent Necessary.

1.8 “**Object Code**” shall mean Software in machine-readable compiled and/or executable form including, but not limited to, byte code form and in form of machine-readable libraries used for linking procedures and functions to other Software.

1.9 “**Open License Terms**” shall mean terms in any license that require, as a condition to using, copying, modification and/or distribution of a work subject to those terms (“**Work**”) and/or any other work that is a modified version or a derivative work of such Work (“**Derivative Work**”), in whole or in part, any of the following:

- (1) that the Source Code, design descriptions or other materials relating to the Work or any Derivative Work be made available to any other party whether or not royalty free having access to the Work or Derivative Work; and/or
- (2) that permission for creating modified versions or derivative works of the Work or Derivative Work be granted to third parties having access to such Work or Derivative Work; and/or
- (3) that a royalty-free license relating to the Work or Derivative Work be granted to third parties having access to such Work or Derivative Work, and/or
- (4) that certain notices or license terms be reproduced in or in relation to Derivative Works or accompanying documentation.

1.10 “**Open Source Background**” shall have the meaning assigned to it in Article 7.6.

1.11 “**Project Share**” of a Party shall mean that Party's share of the total budgeted cost of the Project as shown in the Full Project Proposal.

1.12 “**Sideground**” shall mean any information, whether or not protected or protectable by patent applications, patents, registered and unregistered designs, copyrights (including the copyright on Software in any code) and other statutory rights, or applications for any such rights, pertaining to such information, which is owned or controlled by a Party but that has been acquired or created by that Party after the Effective Date of this Agreement, and in parallel to the execution of, but independently from, the Project.

1.13 “**Subcontractor**” shall mean a third party who by means of a contractual arrangement with a Party, carries out work for the Project at no cost to itself.

1.14 “**Source Code**” shall mean Software in human-readable form normally used to make modifications to it, including but not limited to comments and procedural code such as job control language and scripts to control compilation and installation.

1.15 “**Software**” shall mean a software program being sequences of instructions to carry out a process in, or convertible into, a form executable by a computer, and fixed in any tangible medium of expression.

1.16 “**Software Results**” shall mean Foreground of the Project, generated by or on behalf of one or more of the Parties hereto in the form of:

- (a) Software;

Commented [FE2]: The definition of “Open License Terms” is close Eclipse Public License.

Commented [FE3]: https://en.wikipedia.org/wiki/Background_foreground_sideground_and_postground_intellectual_property

- (b) Software information being technical information used, or useful in, or relating to the design, development, use or maintenance of any version of a software program; and
- (c) Software documentation being Software information in documentary form.

Article 2 PURPOSE AND SCOPE OF THE CO-OPERATION

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- 2.1 The Parties undertake to co-operate under the conditions of the IFA and this PCA in order to achieve the goals of the Project.
- 2.2 The scope of the Project is defined in the **Full Project Proposal**. The Full Project Proposal forms an integral part of this PCA by reference only.
- 2.3 The Parties agree and undertake to perform those parts of the work-programme of the Project and to contribute such resources, as are allocated to each of them in the Full Project Proposal.
- 2.4 **Option 1:** In **Exhibit A** (the Positive List) the Parties have listed all Background that they consider Available Background for the Project. In case Available Background is Software, the owner of such Available Background shall indicate whether such Software will be made available in Object Code or also in Source Code. Each Party can, during the course of the Project add to, but not delete from, **Exhibit A**, parts of its Background and each Party can change availability of its Software from availability in Object Code into availability in Source Code. Each Party will, with due regard to the objectives of the ITEA Programme, consider such additions, especially in case at the Effective Date it was unforeseeable that additional Background would be Necessary for the Project.

Option 2: Available Background of a Party is all its Background except such parts of its Background that it has placed on a list in **Exhibit A** (the Negative List), **[Optional: it being understood, in deviation from the IFA, that, for the purpose of this Article 2.4 only, "Background" does not include Sideground. Such Sideground may be added explicitly by a Party to its Available Background, but there is no obligation to do so.]**

However, in case a Party uses part of its Background **[Optional: or Sideground]** from the Negative List to perform its own tasks under the Project, such part of its Background **[Optional: or Sideground]** shall be considered Available Background even if it has not been identified as such.

Each Party can, during the course of the Project delete from, but not add to, the Negative List of **Exhibit A**, parts of its Background. In case Available Background is Software, the Party making available such Available Background shall also explicitly indicate, at the earliest time possible, whether it is made available in Object Code or Source Code. For the avoidance of doubt the Parties may mutually agree on further additions to Exhibit A.

End of Option 2

Commented [FE4]: Article 2.4 is optional. Since we rely on open source background, we think that we can exclude this article. But we are not sure about whether the scope is limited to ModelWriter platform or the platform with industrial use cases. ModelWriter platform and Industrial Use Cases are foreground. ModelWriter platform is open-source and licensed with EPL. We can discuss the available background software which is used in the industrial use cases.

Article 3 ORGANISATION OF THE CO-OPERATION

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- 3.1 The Parties have appointed **Ferhat Erata, UNIT Bilişim Teknolojileri Ar-Ge Ltd** as co-ordinator (“**Co-ordinator**”), who has overall responsibility for liaison between the Parties and the various bodies of the ITEA Organisation such as but not limited to the ITEA Office, the ITEA Board, ITEA Support Group and the relevant ITEA Steering Group.
- 3.2 The Parties shall establish, after the Effective Date of this PCA, a Project Co-ordination Committee (PCC) composed of one representative of each of them. Each representative shall have one vote. After having informed the others, each Party shall have the right to replace its representative as well as to appoint a proxy.

Each representative shall have a deputy.

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

The PCC shall meet at least **[every month]** in principle at the request of its Chairman or at any other time when necessary at the request of one of the Parties. Meetings shall be convened by the Chairman with at least seven days prior notice with an agenda.

Minutes of the meetings of the PCC shall be drafted by the Co-ordinator's representative and transmitted to the other Parties without delay.

The minutes shall be considered as accepted by the other respective Parties if, within fifteen **(15)** days from receipt, none of them has objected in writing to the Co-ordinator. Objections, if any, will be incorporated in the minutes for further acceptance.

- 3.4 The PCC shall be in charge of:

- (a) - managing the Project,
 - monitoring the balance of information exchange in respect of contributions and outputs,
 - monitoring the mechanism of information exchange by e.g. experts meetings and workshops,
 - monitoring the exchange of reports, documents, Software, test procedures, etc.,
 - managing cross experiments,
 - coordinating common use of services supplied by the Parties or third parties and
 - stimulating and facilitating the general information flow between the Parties;
- (b) reviewing and/or, subject to approval by the ITEA 2 Organisation, amending the work programme of the Project where required;
- (c) laying down, and reviewing or amending, procedures for publications and press releases with regard to the Project; and
- (d) making proposals to the Parties (other than a Defaulting Party) for the service of notices requiring remedy of breach and terminating this PCA with respect to that Defaulting Party, all in accordance with Article 9.4.

- 3.5 Decisions regarding the items listed in Article 3.4 shall be taken as follows.

- (a) Decisions relating to items listed in Article 3.4 (a), shall be taken by the majority of the votes of the Parties present or represented by proxy;

- (b) Decision in relation to the items listed in Article 3.4 (b) shall be taken by a majority of 75% of the total votes of the Parties, provided that any Party, the scope of whose work or the time for performance of it are affected by such decision, or whose costs or liabilities are thereby changed, may veto such decisions;
- (c) Decisions in relation to the items listed in Article 3.4 (c) shall be taken unanimously by the Parties.
- (d) Decisions in relation to the items listed in Article 3.4 (d) shall be taken by a majority of 75% of the total votes of the Parties with the exception of the Defaulting Party.

Article 4 EXECUTION OF THE CO-OPERATION-SUBCONTRACTING

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- 4.1 Each Party undertakes to use all reasonable endeavours:
 - (a) to perform on time the tasks and work packages assigned to it in the Full Project Proposal and to make available rights and information on time to other Parties under the terms and conditions of Article 7;
 - (b) to participate actively with the relevant other Party or Parties in the performance of, or to perform itself as the case may be, such organisational tasks as are assigned to it jointly or solely;
 - (c) to promptly notify the Co-ordinator and each of the other Parties of any delay in performance in accordance with (a) and (b) above;
 - (d) to report to the Co-ordinator and to the other Parties, on a **six** months' basis, on the progress of a Party's performance under the Project.
- 4.2 Each Party hereby undertakes promptly to supply to the Co-ordinator and the PCC all such information or documents as the Co-ordinator and the PCC may require to fulfil their obligations as provided for in this PCA;
- 4.3 If any Party intends to employ a **Subcontractor** to carry out any part of that Party's work on the Project, such employment shall only be on terms, which enable that Party to carry out its obligations under this PCA. That Party shall not, without the prior written agreement of the other Parties, grant to the Subcontractor any rights to or under any Foreground or Available Background of the other Parties, other than to carry out the relevant part of such Party's work on the Project.

Each Party shall be fully responsible for the performance of any part of the Project in respect of which it enters into a subcontract.

Optional: Employment of a Subcontractor (other than an Affiliated Company) with a subcontract value exceeding 150.000,- EURO shall be subject to the prior approval of the other Parties, which approval however may only be withheld if a major business interest would oppose against it.

At the time of execution of this PCA, the Parties agree to the following Subcontractors for a contract value of more than 150.000,- EURO which list can be extended on Parties' mutual agreement:

(name of Subcontractor) for (name of Party),

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End of *Optional* clause

Commented [FE5]: In Turkish Consortium, subcontracting is limited to 25% of the party's total budget. The maximum subcontracting in the consortium is about 50.000,- EURO.

Article 5 FINANCING

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- 5.1 Each Party shall bear its own costs in connection with the carrying out of the Project and will be solely responsible for its applications to obtain any subsidies therefore.
- 5.2 The Parties shall share all reasonable specific cost incurred for the Project co-ordination activities by the Project Co-ordinator, that are not included in the budget of the Project, in accordance with the relative proportions of their Project Shares, provided that such cost were unanimously accepted by the Parties before they were incurred upon request by the Co-ordinator.

Article 6 CONFIDENTIALITY / RESTRICTION IN USE

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- 6.1 All information of whatever nature or form disclosed by a Party to any other Party in connection with the Project after the Effective Date, and which:
- (a) if disclosed in tangible form, was marked as confidential at the time of such disclosure; or
- (b) if disclosed orally, was identified as confidential at the time of such disclosure and confirmed as confidential in writing within thirty (30) days after disclosure,
- Optional:** (c) or given the circumstances of its disclosure ought to be regarded as confidential by the Party receiving the information,

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is herein referred to as "**Confidential Information**".

- 6.2 Confidential Information shall be kept confidential by the receiving Party towards third parties during and until **five** years after the term of this Agreement. The receiving Party is only allowed to use Confidential Information if, and to the extent necessary for the performance or implementation of this Agreement. Each Party shall make such Confidential Information available only to those of its employees who need to know the Confidential Information in connection with the performance of the work within the Project; and only to the extent of such need to know. The Parties undertake that such employees will be bound by the obligations of confidentiality in the same terms as the Parties hereto.

- 6.3 In respect of all Confidential Information the regulations of **Article VIII IFA** shall apply accordingly, except **Article VIII.1 and VIII.4**.

Third Parties are all parties not being contracting Parties to this PCA. However, for the purpose of this Article, Affiliated Companies are not deemed as third parties provided that these Affiliated Companies undertake to keep the same obligation as stipulated under this Article.

Article 7 INTELLECTUAL PROPERTY AND ACCESS RIGHTS

- 7.1 The provisions of **Article IX IFA** shall apply to this Agreement. In view of the obligation hereunder to grant Access Rights to Foreground, each Party represents that it will be entitled to grant such Access Rights, even if, as a consequence of internal policy regarding ownership of intellectual property within the Group of Companies of which a Party is a part, or for any other reason, the ownership of Foreground generated by a Party is not vested in such Party (but in another entity or an employee within such Group of Companies).

Option 1:

With respect to **Article IX.4.1.1** of the IFA the Parties agree that their contributions to the Project are deemed to be balanced and therefore agree to grant each other Access Rights for Use on a royalty-free basis.¹

or:

Option 2:

With respect to **Article IX.4.1.1** of the IFA the Parties agree that their contributions to the Project are deemed to be balanced and therefore agree to grant each other Access Rights for Use on a royalty-free basis except for the parts

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.....

where fair and reasonable conditions may be asked from the following Parties

.....

or:

Option 3:

With respect to **Article IX.4.1.1** of the IFA the Parties agree that their contributions to the Project are not deemed to be balanced and therefore agree to grant each other Access Rights for Use on fair and reasonable conditions.

- 7.2 For the purpose of implementing the provisions of Article 7.1 of this PCA in cases where Foreground is or incorporates or is intended to be or to incorporate Software Results, the Parties agree that:

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Deleted: Third Parties, as referred to in Article VIII IFA, are all parties not being contracting Parties to this PCA. However, for the purpose of this Article, Affiliated Companies are not deemed as third parties and Confidential Information may be disclosed to them by a receiving Party hereunder, to the extent required for the execution of the Project and for Use, in accordance with **Article IX.4 IFA**, which is subject to **Article IX.6 IFA** and in such case the relevant Party hereto undertakes that the Affiliated Company is bound by the same obligations of confidentiality as the Parties hereto.¹

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¹ With regard to Option 1 and 2: Article IX.1 IFA makes one exception to the rule that all provisions of Article IX shall apply and provide a minimum obligation for the Granting ITEA 3 Partner. Article IX.4.1 and IX.4.2 do not exclude that a Party may request Access Rights to another Party's Available Background and/or Foreground, without using any of its own Foreground. It is in such cases that a deviation from Article IX.4.1 is allowed in that, fair and reasonable conditions may be asked by the Granting ITEA 3 Partner.

- (1) Each Party may take appropriate actions to protect Software Results developed by such Party under the Project by any rights as are available under any of the applicable law(s), including, without limitation, copyright or any other similar statutory right, and to protect such Software Results to the extent reasonably possible as proprietary information.
- (2) Unless and save to the extent previously agreed in writing, the Parties will within one year from the starting date of the Project, or, if not feasible within such time period, at a later date to be determined by common agreement, determine unanimously the procedures and schedules for making available to the Parties the Software Results generated under the Project.

OR

- (2) In case Access Rights are to be granted to Software Results, these Software Results will be made available as follows:

7.3 **Access Rights to Software:** For the purpose of implementing the provisions of Article 7.1 of this PCA, with respect to Software the following applies:

7.3 (a)

All of the provisions of the IFA and this Agreement concerning Access Rights also apply to Software that is Available Background or Foreground as they apply to any other Available Background or Foreground, but in the case of inconsistencies this Article 7.3 shall prevail.

7.3 (b) The object of Access Rights to Software

General: Access Rights to Software do not include any right to require creation and delivery of Object Code or Source Code ported to any particular hardware platform or any right to require creation and delivery of any API or Software documentation in any particular form or detail, but is only delivered in the form as the item is available from the Party granting the Access Rights. For the avoidance of doubt, such Access Rights do not imply any obligation by the Party granting them to provide any support or maintenance for the Software, nor bear any responsibility for any claims for defects in the Software. Transfer costs shall only be charged in exceptional circumstances.

7.3 (b) 1 All Access Rights to Foreground, whether for execution of the Project or for Use, shall be in the form of Limited Source Code Access.

7.3 (b) 2 All Access Rights to Software that is Available Background whether for execution of the Project or for Use shall be in the form of Limited Source Code Access, it being understood that no Party shall be obliged to grant for Use Access Rights to Software that is Available Background and identified in Annex A as not available in Source Code.

7.3 (c) Content of Access Rights to Software, sublicenses

(1) Access Rights to Object Code and/or an API, whether of Available Background or Foreground, Necessary for use of Foreground in the execution of the Project and/or for Use of Foreground shall, unless the granting and receiving Parties agree otherwise in writing, comprise the worldwide right:

- (i) to use them in research and development , to use them to create/market any product/process, and to use them to create/provide any service;
- (ii) to distribute, make available, market, sell and offer for sale (including by using the services of a third party) such Object Code and/or API as part of or in connection with any products or services of the Party having the Access Rights;
- (iii) to grant to each end-user customer buying/using such products/services a perpetual, irrevocable, worldwide licence:
 - to use such Object Code and/or API alone or as part of or in connection with any products/services of the Party having the Access Rights;
 - to use such Object Code and/or API to maintain such products/services; and
 - to use such Object Code and/or API to create for its own end-use interacting interoperable Software in accordance with the rights conferred by, and subject to the conditions of, Council Directive of 14 May 1991 on the legal protection of computer programs (91/250/EEC); and
- (iv) in the course of and for the purpose of exercising the rights described in (i) to (iii) above, to make and have made an unlimited number of copies of such Object Code and/or API.

(2) Access Rights to Source Code whether of Available Background or Foreground, Necessary for use of Foreground in the execution of the Project and/or or for Use of Foreground, shall, unless the granting and receiving Parties agree otherwise in writing, comprise a worldwide right to copy, use, convert, translate and modify such Source Code as required to support the exercise of the Access Rights granted to such Party in respect of corresponding Object Code under 7.3 (c) (1) above, but, unless the granting and receiving Parties agree in writing to the contrary, or necessarily implied by the approval given in accordance with paragraph 7.6 (3) below, such Party shall not sublicense such Source Code or make it available to any third party in whole or in part **[Optional:]**, it being understood, however, that Post Project R&D shall always be possible, also with third parties, in accordance with the provisions of this Article 7.3.]

(3) Each sublicense granted according to the provisions of Article 7.3 (c) (2) shall, if practical, be made by a traceable agreement specifying and protecting the proprietary rights of the Party granting the Access Rights.

7.4 **Optional:** provisions on joint inventions deviating from Art. IX.2 IFA. Otherwise: **"intentionally left blank"**

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7.5 For the purpose of this Article 7 the expression Party(ies) is identical to Partner(s) and shall include Affiliated Companies, provided that such Affiliated Companies duly comply with any obligations in relation with licences, user rights and confidentiality arrangements agreed upon by the Party concerned.

Upon cessation of the control of an Affiliated Company any licences or user rights granted to such Affiliated Company in respect of Intellectual Property Rights shall lapse, provided however that with respect to Foreground or Background that has been licensed to such Affiliated Company pursuant to the first paragraph of this Article 7.5 and that has been incorporated at the time of cessation of the control into the products or processes of such Affiliated Company ("Existing Products and Processes") or that has been amalgamated with such Affiliated Company's own information at such time, the following will apply:

(a) with respect to Background Know-How and Foreground Know How: such Background Know-How and Foreground Know How may be continued to be used by such Affiliated Company in such Existing Products and Processes :

(b) with respect to Background IPR and Foreground IPR, at the request of such Affiliated Company, the Parties shall grant to it non-exclusive licences under such Background IPR and Foreground IPR for use in the field of Existing Products and Processes against terms and conditions substantially similar to the conditions that applied to the license to such Affiliated Company pursuant to the first paragraph of this Article 7.5 to be agreed, provided that no major business interests of such Parties oppose the grant of such licences. Upon such cessation of control, licences or user rights granted by such Affiliated Company to any Party under or in respect of Background or Foreground continue in full force and effect.

7.6 1) The Parties acknowledge that the use of Background held by a Party that is subject to Open License Terms, hereinafter "**Open Source Background**", may be an opportunity to reduce the cost and time of research and development and may foster the reuse of Software. However, the Parties also acknowledge that Available Background held by a Party that is subject to Open License Terms may impair or otherwise affect (i) the other Parties' Access Rights to that Available Background and/or (ii) the Parties' use of or Access Rights to any Foreground which is wholly or in part based on that Available Background. Therefore, if a Party wishes to define such Open Source Background as Available Background under Article 2.4, it shall identify such Available Background as being subject to Open License Terms in **Exhibit B** to this PCA. Any Open Source Background so listed in **Exhibit B** shall include the specific Open License Terms applicable thereto, or a clear and unambiguous reference thereto, in order to enable the Parties to determine for themselves the effects the Open License Terms may have on Access Rights to such Open Source Background and to the Use of or to the Access Rights to any Foreground that is wholly or in part based on such Open Source Background.

2) Each Party shall abstain from using in the Project or introducing into the Project any Background, or other Work in a manner or upon terms that would or might result in a requirement that all or some of the Foreground, Background or any other Work must, either generally or under certain circumstances, be licensed under Open License Terms, unless (i) such Foreground, Background or any other Work would be considered under any applicable law on copyright a Derivative Work of the already used or introduced Party's own Available Background, or Party's own other Work under Open License Terms in accordance with the terms of this Agreement, or (ii) all Parties have unanimously approved in writing such use or introduction.

3) Any Party that is seeking approval as referred to in paragraph 2) above, shall provide the other Parties with a written request for approval ("**Request**") containing sufficient information, substantially in the format set out in **Exhibit D** hereto, to enable each of them to assess whether the introduction or use of the Background, Foreground or other Work in question, upon the Open Licence Terms that are applicable to it, would or might result in any requirement referred to in paragraph 2) above. Each Party shall inform the Co-ordinator in writing within 60 days from receipt of the Request whether or not it approves the use or

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7.5.1 Upon cessation of the Control by a Party over an Affiliated Company, any Access Rights granted to such Affiliated Company in respect of Foreground and/or Available Background shall lapse, provided however that with respect to any other Foreground or Available Background, that has been incorporated into the products or processes of such Affiliated Company ("Existing Products and Processes") at the time of cessation of the Control or that has been amalgamated with such Affiliated Company's own information at such time, at the request of such Affiliated Company, the Parties owning such Available Background and Foreground, shall grant to it non-exclusive licences under such Available Background and Foreground for Use, excluding Post Project R&D – unless the Available Background is amalgamated with the Affiliated Company's own information -, in the field of Existing Products and Processes against the same terms and conditions as the conditions that applied to the Access Rights to such Affiliated Company pursuant to **IX.6 IFA**, as to be agreed, provided that no major business interests of such Parties oppose the grant of such licences. ¶

7.5.2 Upon such cessation of Control, Access Rights granted by such Affiliated Company to any Party, pursuant to this PCA, if any, under or in respect of Available Background or Foreground, continue in full force and effect.

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introduction for which approval is requested in the Request. Any Party that fails to respond to a Request within the above period shall be notified by the Co-ordinator that it has a further 7 days to respond and in the absence of a response from such Party within such further period it shall be deemed to have approved the Request. As soon as possible after the lapse of such 60 day period (and any further periods as above), the Co-ordinator shall inform all Parties in writing whether or not such use or introduction has been unanimously approved. However, no approval of any Request shall constitute an agreement pursuant to paragraph (b) below that any Foreground may be sublicensed on Open Licence Terms.

4) No Access Rights to any Available Background or Foreground shall include the right to sublicense that Available Background or Foreground upon Open Licence Terms (and accordingly none of them shall be sublicensed upon Open Licence Terms) unless (i) expressly in writing so agreed by the Party granting the Access Rights, or (ii) if and to the extent that such right is necessarily implied by the approval given in accordance with paragraph 3) above.

- 7.7 A Party granting Access Rights under this Agreement to Foreground that is in whole or in part based on Open Source Background or otherwise subject to Open License Terms, shall explicitly notify the Parties, and/or their Affiliated Companies, receiving such Access Rights, that Open License Terms apply, and make reference to the relevant Open License Terms, as either set out or referred to in **Exhibit B** or make such Open License Terms available to the other Parties.

This Article 7.7 shall continue to apply notwithstanding completion of the Project or any termination of this PCA.

Optional

- 7.8 Each Party shall notify, whether in regular Project reporting or separately, all other Parties, through the Project Coordinator, of any filing or other registration of Foreground IPR, including Software Results, not more than six months after such filing **[Optional: or “after the end of the Project”]**, absent of which any Access Rights to be granted hereunder by such Party with respect to such Foreground IPR, as well as to the Foreground Know-How related thereto, shall always be granted on a royalty-free basis, without prejudice to any other remedies available at law and under this PCA for such breach.

End of optional clause:

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- 7.9 **Publications:** No Party shall have the right to publish or allow the publishing of data and/or information, which contains Foreground, Available Background or Confidential Information of another Party, without such other Party's consent, even where such data and/or information is amalgamated with such first Party's Foreground, Available Background or other information, document or material.

A copy of any proposed publication in connection with or relating to the Project shall be sent to the Co-ordinator at the earliest time possible but no later than 45 days before the planned publication date and be forwarded by the Co-ordinator to the Parties as soon as possible. Any of the Parties may object to the publication within **[30]** days after receipt of a copy of the proposed publication on any of the following grounds: (i) that they consider that the protection of the objecting Party's 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 be contrary to the

commercial interests of the objecting Party. The proposed publication shall not take place until the expiry of the above period of 30 days.

Option 1 In the absence of any objection within the above mentioned period, the proposed publication is permitted.

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Option 2 : In the absence of (clear) responses to the publication request, the Co-ordinator sends a reminder indicating that the Parties may object to the publication within 10 days. In the absence of any objection within this period, the proposed publication is permitted.

Following the end of the above mentioned period, the Co-ordinator shall inform the Parties whether or not any objection has been received. In the event that an objection is raised on any of the above defined grounds within the prescribed period, the Party proposing the publication and the Party/ies objecting, shall seek in good faith to agree a solution in a timely manner, whereby such objection is resolved.

7.10 Optional: Access Right Request Procedure:

(i) A Party entitled to and requiring the grant of Access Rights (the **Requesting Party**) for Use in exploitation and commercialisation shall make a written request to the Party (the **Granting Party**) from which it requires the Access Rights.

(a) The written request, which may be entered through e-mail, shall identify the Foreground and/or Available Background for which Access Rights are requested and shall provide the reasons why such Access Rights for the Use of the relevant Foreground are Necessary.

(b) Any such Access Rights for Use in exploitation and commercialisation shall only be granted upon the signature of a written agreement between the Granting Party and the Receiving Party and shall not be otherwise deemed granted.

(ii) Access Rights for execution of the Project, as referred to in ~~Articles IX.3.1. and IX.3.2.~~ IFA as well as for Post Project R&D, shall, if Necessary, always be deemed granted and do not require a request.

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(iii) Any Access Rights granted upon a request referred to in sub-paragraph (i) shall be limited to those Necessary for the Use of the identified Foreground. The right to request and subsequently receive Access Rights expires five (5) years after the end of the Project, unless terminated earlier or agreed otherwise by the Parties except with respect to Access Rights to Available Background not protected or protectable by patent applications, patents, registered and unregistered designs, copyrights (including the copyright on Software in any code) or other statutory rights(know-how) identified as Available Background for the performance of further research and development outside the Project which can be requested without any limit in time.

Article 8 WARRANTY / LIABILITY

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8.1 In supplying any information or materials to any of the other Parties each Party undertakes to use all reasonable endeavours to ensure the accuracy thereof and in the event of any error therein promptly on becoming aware thereof to correct the same, but the supplying Party shall be under no further obligation or liability in respect of the same, and no warranty,

condition or representation of any kind is made, given or to be implied in any case as to the sufficiency, accuracy of fitness for any purpose of such information or materials, or the absence of any infringement of statutory monopoly or intellectual property rights of third parties, by the use of such information and materials, and the recipient Party shall in any case be entirely responsible for the use to which it puts such information and materials.

- 8.2 Each Party shall indemnify each of the other Parties, for damages suffered by the latter as a consequence of the acts and/or omissions of the former and of its employees, Subcontractors and agents in breach of this PCA, provided always that such indemnity shall not extend to claims for any supplementary, indirect or consequential loss or damages such as but not limited to loss of profit, revenue, contracts or the like, and that the maximum amount for which such Party is liable shall not exceed twice such Party's Project Share, without prejudice, however, to Article 8.4.
- 8.3 There shall be no joint and several liability between the Parties for damages claimed by third parties.
- 8.4 For the avoidance of doubt, the exclusions and limitations stated in this Article 8 shall not apply in respect of a breach of confidentiality obligations and infringement of the intellectual property rights of any other Party or any Affiliated Company of any other Party, that is the result of any activity or use of such intellectual property rights that is outside the scope of the Access Rights granted, if any, or that is not in compliance with the terms and conditions upon which such Access Rights have been granted, and nor shall they apply in case of fraud, death or injury to persons, gross negligence, or wilful misconduct.

Article 9 DURATION - TERMINATION

- 9.1 This PCA shall enter into force after having been signed by all the Parties, to the extent required with retroactive effect, as from [.....], herein referred to as the "Effective Date".
- 9.2 This PCA expires automatically with the termination and the completion of the Project.
- 9.3 Any Party whose envisaged funding is not granted or stopped, has the right to withdraw from the Project and from this PCA without any liability to the other Parties, provided that the rights and obligations resulting from Article 7 with respect to Foreground created, before the date of withdrawal shall continue to apply in the case of a withdrawing Party, and Access Rights granted by such withdrawing Party to any Party pursuant to this PCA and/or Article IX IFA, under or in respect of Available Background or Foreground, shall continue in full force and effect.
- 9.4 In the event of a substantial breach by a Party ("the Defaulting Party") of its obligations under this PCA, which is irremediable or which is not remedied within sixty (60) days of written notice from the other Parties requiring that it be remedied, the other Parties may, at the decision of a majority of at least 75% of the Parties, terminate this PCA for the Defaulting Party for this reason through written notice by the Project Coordinator to the Defaulting Party, and in such case the Defaulting Party shall be deemed to have agreed to the termination of this PCA in respect of its participation therein provided always that:

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- (a) without prejudice to any other rights of the other Parties, the Access Rights granted to the Defaulting Party by the other Parties under this PCA or the IFA shall cease immediately but the Access Rights granted by the Defaulting Party to the other Parties shall remain in full force and effect;
- (b) the scope of the tasks of the Defaulting Party shall be assigned to one or several companies and/or entities which are chosen by the other Parties and which agree to be bound by the terms of this PCA, with preference being granted to one or more of the remaining Parties;
- (c) the Defaulting Party shall (i) assume all reasonable direct cost increase (if any) resulting from the assignment referred to in (b) above in comparison with the costs of the tasks of the Defaulting Party and (ii) be liable for any so resulting additional direct cost incurred by the other Parties,

unless agreed otherwise between all the Parties.

- 9.5 In the event that after the entry into force of this PCA any third party would acquire, directly or indirectly, the Control of a Party to this PCA ("Controlled Party"), the other Parties may unanimously decide to terminate this PCA with respect to such Controlled Party, the provisions of the foregoing Article 9.4 (a) and (b) being correspondingly applicable to such Controlled Party. Such decision must be taken within 60 days from the date such take-over has been made public. If the other Parties would not agree unanimously to such termination as aforesaid, any Party or Parties may withdraw from this PCA within sixty days after it is established that the PCA will not be terminated for the Controlled Party. In this case the provisions of Article 9.3 will apply correspondingly to a withdrawing Party.
- 9.6 Termination of this PCA with respect to, and cessation of Access Rights granted to, the Defaulting Party in accordance with Article 9 of this PCA shall not terminate any sublicenses granted or agreed to be granted or offered by the Defaulting Party in accordance with its rights under Article 7.3 above prior to the date on which such termination of this PCA and cessation of licences becomes effective.
- 9.7 The provisions of Articles 1, 6, 7, 8, 9, 10, 11, 12, 13 and 14, shall survive the expiration or termination for all Parties of this PCA.

Article 10 MISCELLANEOUS

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- 10.1 It is understood and agreed between the Parties that for each Party the implementation of this PCA shall not contravene the rules of the respective funding authority(ies) that will apply to said Party.
- 10.2 The rights and obligations arising from this PCA shall not be assigned to third parties other than Affiliated Companies without the prior written approval of the other Parties.
- 10.3 In the execution of the activities of the Parties related to this Agreement, the Parties shall refrain from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition laws, guaranteeing advantages, bribery, acceptance of bribes or other corruption crimes on the part of persons employed by

the Parties or other third parties. Any verifiable violation of the above, by a Party will be regarded as a material breach as referred to in Article XI.3 hereof.

Without prejudice to the paragraph above, the Parties are obliged to adhere to all laws and regulations applicable to both themselves and the commercial relationship with the other Parties, including, but not limited to, criminal law, competition laws and export control laws.

Article 11 SETTLEMENT OF DISPUTES

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- 11.1 In case of dispute or difference between two or more Parties arising out of or in connection with this PCA, the Parties shall first endeavour to settle it amicably.
- 11.2 All disputes or differences arising in connection with this PCA, other than disputes relating to the infringement and/or validity of intellectual property rights, that cannot be settled as provided for in the preceding Article 11.1 shall be finally settled by

Option 1: the competent court of

Option 2 through arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce ("ICC") by three (3) arbitrators, or, if the Parties being party to the dispute so agree in writing, one (1) arbitrator, which arbitrator(s) shall be appointed in accordance with said Rules. Such arbitration shall be held in The Hague, and shall be conducted in the English language. In arbitrations in which there is one arbitrator, the arbitrator shall be of juridical education. In any arbitration in which there are three arbitrators, the chairman shall be of juridical education.

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

End of option 2.

- 11.3 Notwithstanding the foregoing, any Party shall be free to seek interim injunctive relief or any other temporary measures before any applicable competent court or tribunal, wherever located, in order to seek to prevent or restrain any (i) infringement of its or their intellectual property rights and/or (ii) unauthorised disclosure of Confidential Information.

Article 12 LANGUAGE

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

Article 13 NOTICES

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- 13 Any notice to be given under this PCA shall be sent by mail, fax or E-mail and in the latter two cases confirmed by mail to the following addresses:

To Airbus Group SAS, Toulouse, France

To OBEO SAS, Nantes, France

To Centre National de la Recherche Scientifique, Paris, France

To UNIT Biliřim Teknolojileri Ar-Ge Ltd, Izmir, Turkey

Attn. Ferhat Erata, Co-founder and President

Ege Üniversitesi Teknoloji Geliřtirme Bölgesi

TGB-2 Alanı No:212 İnci Binası

Bornova 35100 İzmir, Turkey

Fax +90 232 3396633

Mail ferhat.erata@unitbilisim.com

To KoçSistem Bilgi ve İletişim Hizmetleri A.Ş.

Attn. Ömer Özgür Çetinoğlu, R&D Director

Ünalan Mah. Ayazma Cad.

Çamlıca İş Merkezi-B3 Blok

Üsküdar 34700 İstanbul, Turkey

Fax

Mail mehmet.onat@kocsistem.com.tr

To Havelsan Hava Elektronik Sanayi ve Ticaret A.Ş., Ankara, Turkey

Attn. <name>, <title>

Mustafa Kemal Mah.

2120.Cad. No:39

Çankaya 06510 Ankara, Turkey

Fax

Mail

To Mantis Yazılım Dan. Yay. Eğt. Müh. Bil. Don. İth. İhr. San. Tic. Ltd. Şti., Ankara, Turkey

Attn. <name>, <title>

Hacettepe Teknokent

2.ArGe No.9

Beytepe 06800 Ankara, Turkey

Fax

Mail

To Hisbim Hisarlar Bilgi ve İnovasyon Merkezi San. Tic. A.Ş.

Attn. <name>, <title>

Atap Yazılım Kule
Kat: 2, OSB Eskişehir, Turkey
Fax
Mail

To **Sogeti BE, Brussels, Belgium**

To **KU Leuven, Leuven, Belgium**

Paul Van Dun, General Manager
Waaistraat 6 box 5105
3000 Leuven – Belgium
Fax +32 16 326 515
Mail monique.frooninckx@ird.kuleuven.be

or to such address and recipients as a Party may designate in respect of that Party by written notice to the other Parties.

Article 14 APPLICABLE LAW

14 This PCA shall be construed according to and governed by the laws of
without giving effect to its conflict of laws provisions.

Article 15 ENTIRE AGREEMENT - AMENDMENTS

15.1 This PCA constitutes the entire agreement between the Parties in respect of the Project, and supersedes all previous negotiations, commitments and writings concerning the Project, including any prior memorandum of understanding between the Parties (whether or not with others) which relate to the Project.

For the avoidance of doubt, the IFA is not and shall not be deemed to be a part of this PCA, except where the Parties explicitly incorporate IFA's provisions by reference thereto.

15.2 Amendments or changes to this PCA shall be valid only if made in writing and signed by an authorised representative of each of the Parties.

AS WITNESS the Parties have caused this PCA to be duly signed by the undersigned authorised representatives.

Signed by duly authorised representatives on behalf of:

1) Airbus Group SAS, Toulouse, France

2) OBEO SAS, Nantes, France

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3) Centre National de la Recherche Scientifique, Paris, France

4) UNIT Biliřim Teknolojileri Ar-Ge Ltd, Izmir, Turkey

5) KoçSistem Bilgi ve İletişim Hizmetleri A.Ş., İstanbul, Turkey

6) Havelsan Hava Elektronik Sanayi ve Ticaret A.Ş., Ankara, Turkey

7) Mantis Yazılım Dan. Yay. Eğt. Müh. Bil. Don. İth. İhr. San. Tic. Ltd. Şti., Ankara, Turkey

8) Hisbim Hisarlar Bilgi ve İnovasyon Merkezi San. Tic. A.Ş.

9) Sogeti BE, Brussels, Belgium

10) KU Leuven, Leuven, Belgium

[Prof. dr. ir. Koenraad Debackere, Managing Director](#)

[Paul Van Dun, General Manager](#)

[For approval :](#)

[Prof. dr. Marie-Francine Moens](#)

[Prof. dr. Monique Snoeck](#)

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EXHIBIT A

Available Background for the Project

Option 1]

For (Party 1*)

For (Party 2*)
etc.

Option 2]

Background excluded from Available Background* is

For (Party 1)

For (Party 2)
etc.

*make sure to indicate whether certain Available Background being Software, is available in
Object Code or Source Code or other

EXHIBIT B

Introduction of Background subject to Open Source Licenses (Art. 7.6)

Party ...

Open Source Background:

Applicable Open License Terms:

Party ...

Open Source Background:

Applicable Open License Terms:

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EXHIBIT C

Affiliated Companies

The following companies/ organisations, which do not comply with the definition of Affiliated Company in Article 1.1 IFA under (i) are herein assigned the status of Affiliated Company as defined in Article 1.1 IFA under (ii):

KU Leuven - none

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EXHIBIT D

Required contents of a Requests for approvals as referred to in Article 7.6. 3)

Each Request for introducing into the Project of Software subject to Open Licence Terms must include, as a minimum, the following:

- (i) the identity of the Software in question, including its version number;
- (ii) a copy of the terms and conditions, including the applicable Controlled Licence Terms, under which the Software is made available by the source identified in (iii) below;
- (iii) the identity and contact coordinates of the source of the Software;
- (iv) a description of what the Software does;
- (v) the technical reasons why use of the Software in the Project would contribute to achieving the goals of the Project;
- (vi) a list of any alternative Software that has been considered in lieu of the proposed Software, and the reason why the proposed Software is preferred above such alternative Software;
- (vii) a description of the use or uses to which the proposed Software would be put;
- (viii) a request to approve the use of the proposed Software in accordance with the description supplied in response to (vii) above; and
- (ix) an acknowledgment from the proposing Party that, if the other Parties agree to approve the use of the proposed Software in accordance with the description supplied in response to (viii) above, such Software may only be used within the scope of such description.