THE GLOBAL CHROMATES CONSORTIUM FOR AEROSPACE (GCCA)
REACH AUTHORISATION CONSORTIUM AGREEMENT
FOR AEROSPACE USE

This Consortium Agreement (the "Agreement") is made effective by and among the undersigned parties and set out in Appendix I hereto.

PREAMBLE

Whereas the REACH Regulation 1907/2006, as may be amended from time to time ("REACH") requires companies wishing to place on the market for a use or uses substances listed on Annex XIV of REACH (the "List of substances subject to Authorisation") in the European Economic Area (the "EEA") to obtain Authorisation for such use prior to the sunset date specified for each substance in Annex XIV;

Whereas the Members are Aerospace Companies, or companies in their upstream supply chain, or interested in joining such supply chain, that have signed this Agreement and that, directly or indirectly through their Affiliates, manufacture, place on the market or use the Substance(s), or use articles containing or made with the Substance(s);

Whereas REACH allows applications for Authorisation to be submitted by several companies;

Whereas, applications for Authorisation require the pooling of considerable resources and information and knowledge of several companies throughout the supply chain;

Whereas it is therefore legitimate for interested companies to pool such resources and information to the extent legally and practically feasible;

Whereas the Members agree not to disclose to, or discuss or exchange with, one another, or any parties to which their discussions and/or cooperation may subsequently be extended, any competitive or otherwise sensitive market information (such as, by way of example but not of limitation, information concerning prices, customers, raw material costs, manufacturing costs, marketing or sales plans, business or product development plans and profit margins); and

Whereas the uses of the Substance(s) by Aerospace Companies and their upstream suppliers are not easily replaceable and raise specific challenges that may be best addressed by a consortium dedicated to preparing a Dossier for the applications for Authorisation of such uses under REACH.

Now, therefore, in consideration of the mutual agreements and undertakings contained herein, the Members agree as follows:

1. DEFINITIONS

To the extent not otherwise defined in the Preamble above, in this Article 1 or in other parts of this Agreement, the definitions specified in Article 3 of REACH shall apply to this Agreement:

1.1. **Aerospace Companies**: Companies principally engaged in carrying out the design, development, manufacture, maintenance, modification, overhaul, repair, or support of civil or military aerospace and defence equipment, systems, or structures, plus any derivative uses (e.g., marine propulsion or power generation using products originally designed for aerospace or defence use).
1.2. **Affiliate:** Any legal entity controlling, controlled by, or under common control with a Member or, in case of an Only Representative, any legal entity controlling, controlled by, or under common control with the legal entity or natural person represented by the Only Representative. For these purposes, "control" shall refer to: (i) the possession, directly or indirectly, of the power to direct the management or policies of a person, whether through the ownership of voting rights, by contract or otherwise; or (ii) the ownership, directly or indirectly, of 50 % or more of the voting rights or other ownership interest of a person. A list of currently acknowledged Affiliates is set out in Appendix 2, as may be amended by the Consortium Manager upon notification of a Member. Members can request at any time any existing or new Affiliate to be listed in Appendix 2.

1.3. **Applicant:** Any Member who is listed as an applicant on any application for Authorisation under this Agreement.

1.4. **Application:** An application for Authorisation submitted by a Submission Group under this Agreement.

1.5. **Authorisation:** Authorisation pursuant to Title VII of REACH.

1.6. **Authorisation Dossier:** The Authorisation Dossier(s) developed in the framework of this Agreement as further specified in Article 2 hereto.

1.7. **Broad Information on Uses.** Broad Information on Uses of the Annex XIV substance refers to a “brief wording” containing the information based on the name of the use applied for; the use descriptors and function, and key information on the conditions of use, as well as the following documents: the public version of the Analysis of alternatives, the public version of the Substitution Plan, if provided in the application, the public version of the Socio Economic Analysis, if provided in the application, and the public version of section 9 ("Exposure assessment") and section 10 ("Risk characterisation") of the Chemical Safety Report (CSR) covering the use applied for.

1.8. **Chair and Deputy Chair:** The Chair and Deputy Chair of the Steering Committee elected by the Steering Committee as per Article 8.2 of this Agreement.

1.9. **Confidential Information:** Data and any other scientific, statistical, or technical data, including but not limited to composition, characteristics, properties and processes and applications, and any information in any form made available to the Consortium by a Member or generated by the Members jointly, pursuant to or in the course of this Agreement, as well as any information concerning the business of any of the Members and any subsidiary and/or Affiliates thereof that is (i) disclosed in writing and marked with the words "Confidential", "Proprietary" or words with a similar meaning, or (ii) disclosed orally and, at the time of disclosure, the disclosing Member identifies it as proprietary or confidential; summarizes the information in writing; marks the writing clearly and conspicuously with an appropriate proprietary legend; and delivers the writing to the receiving Member within thirty (30) days following the original disclosure.

1.10. **Consortium:** Cooperation of the Members as organized by this Agreement for the Purpose set forth in Article 2.1 below.

1.11. **Consortium Manager:** The person appointed by the Steering Committee to provide consortium management services as per Article 10 of this Agreement.

1.12. **Data:** Studies and other test data made available to the Consortium by a Member, or by third parties ("Existing Data"), or generated by or on behalf of the Consortium within the framework of this Agreement ("New Data"), in order to achieve the Purpose, including but
not limited to chemical safety report, assessment of alternatives, substitution plan, use description, justification for not considering certain risks, and socio-economic assessment.

1.13. **Downstream User**: Any entity, other than the manufacturer or the importer, who uses a substance, either on its own or in a preparation or mixture.

1.14. **Legal Counsel**: Person appointed by the Steering Committee to provide legal services to the Consortium as per Article 11 of this Agreement.

1.15. **Letter of Access**: A document granting a third party a non-transferable right of referral and/or use pursuant to Article 63 of REACH as may be the case of the Authorisation Dossier versus payment of an appropriate fee. The Letter of Access shall remain valid also for the review of the Authorisation but shall not entitle the holder to demand any update of the Authorisation Dossier for such review, unless a new license fee shall have been mutually agreed among the parties.

1.16. **Member(s)**: Legal or natural person(s) that meet the Membership Criteria set out in Article 5 of this Agreement and who have signed this Agreement.

1.17. **Qualified Majority**: The vote of 2/3 of the Steering Committee, or in the case of a Committee or Submission Group, the vote of 2/3 of all of the Members of the Committee or Submission Group.

1.18. **Qualified Majority Vote**: Any motion requiring passage by 2/3 of the Members of the Consortium or by 2/3 of all of the Members of the Steering Committee, Committee or Submission Group [see Articles 1.22 (inclusion of Substances in the Purpose), 1.26 (inclusion of Uses in Appendix 4), 5.3 (decision to re-open the Membership of the Consortium), 5.8 (exclusion of a Member from the Consortium), 5.12 (transfer of Consortium membership by a Member), 8.2 (decision to request that Chair withdraw from position as Chair), 10.1 (appointment of the Consortium Manager), 12.1 (appointment of the Technical Manager or Consultant), 14.2 (decisions regarding sharing of Member costs in exceptional cases) and 21.2 (dissolution of the Consortium)].

1.19. **Quorum**: The participation of a majority (51%) of the Members of the Committee, Steering Committee or Submission Group shall constitute a quorum for the transaction of business.

1.20. **Steering Committee**: Decision making body of the Consortium which consists of a representative of each Member of the Consortium entitled to vote. Appendix 3 contains a list of the representatives and deputies of the Members in the Steering Committee; it may be amended by the Consortium Manager upon notification by a Member.

1.21. **Submission Group**: A Committee organised under this Agreement for the purpose of preparing and submitting an Application for one or more substance/use combinations, as further detailed in Article 20.

1.22. **Substances**: Any chromate containing substances listed in Annex XIV of REACH for which a Qualified Majority of the Steering Committee agrees should be included in the Purpose.

1.23. **Strictly Confidential Information**: Any Confidential Information that may be useful in order to achieve the Purpose but that the disclosing Member cannot lawfully or otherwise does not want to disclose directly to the other Members.

1.24. **Trustee**: Consortium Manager, Legal Counsel or other independent third party appointed for purposes of development and processing of information with whom a confidentiality agreement will be executed.
1.25. **Redundant Applicant**: Any Submission Group Member who is listed as an applicant for a particular Substance/Use combination on either a pending or planned application for Authorisation either outside of this Consortium or under another Submission Group under this Consortium.

1.26. **Uses**: The Uses of the Substances for any aerospace products, aerospace support system, or aerospace derivative product (whether Commercial or Military) as determined by a Qualified Majority of the Steering Committee and subsequently described in Appendix 4 hereto. Uses may be amended and/or regrouped or sub-divided as decided by a Qualified Majority of the Steering Committee.

2. **SCOPE AND PURPOSE**

2.1. **Purpose**: The Members hereby form a Consortium seeking to share certain resources, information and costs as more fully described in this Agreement in order (i) to jointly develop and prepare one or more Application Dossier(s) for the Substance(s) consisting of those parts of an Application that they agree to prepare jointly; (ii) to grant access to such Application Dossier(s) and parts thereof in accordance with the conditions as specified in this Agreement; and (iii) to jointly prepare, submit, and support an Application(s) for such Substances and Uses as are determined in Article 20 of the Agreement (collectively, the "Purpose").

2.2. **Application**: The Application shall consist of a Broad Information on Uses and an Authorisation Dossier. The Authorisation Dossier shall consist of, to the extent relevant, of:

- "Chemical Safety Report"
- "Analysis of the Alternatives"
- "Substitution Plan"
- "Socio-Economic Analysis"
- Summary of Risk Management Measures and Operational Conditions
- Justification for not considering risks to human health pursuant to Article 62(4) and (5) of REACH

as such terms are defined in REACH and in the relevant ECHA guidance documents, as well as any other element as shall be determined by decision of the Steering Committee.

The Authorisation Dossier shall be completed for use by individual Members and Letters of Access will be made available for purchase by non-Members.

2.3. **Tasks**: In order to achieve the above Purpose, the Members undertake to cooperate and share reasonable human and financial resources by pursuing jointly the following tasks:

a) gathering information on use and exposure scenarios for the Uses;

b) collecting, reviewing and sharing the relevant Existing Data that Members or third parties make available to the Consortium, including obtaining licenses to use such Data as necessary;

c) filling potential data gaps by generating New Data;

d) sharing reasonable costs incurred in obtaining access to Existing and New Data;

e) developing the Dossier for the Authorisation application(s) pursuant to Article 62(4) REACH;

f) issuing Letters of Access or licenses for use of the Data and/or of the Dossier where necessary in pursuance of the Purpose of this Agreement;
g) responding to comments made and addressing any issue raised during the Authorisation procedure for the Substance(s).

2.4 **Cooperation**: This Agreement establishes and defines the respective rights, obligations, and mutual promises among the Members with respect to their cooperation, as described above. The cooperation between the Members as organized under this Agreement shall continue until the Sunset Date set in Annex XIV REACH for the Substance(s), unless otherwise decided by the Steering Committee, it being understood that any decision by the Steering Committee to continue the cooperation beyond the Sunset Date, for example in order to submit new applications when the Authorisation is granted are up for review, shall only bind those members that are interested in such continued cooperation.

3. **COMPLIANCE WITH LAWS**

3.1. **Compliance with competition laws**: The Members acknowledge that any activities carried out under this Agreement shall be carried out in full compliance with European Union (EU) competition law, in particular but not limited to Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) as well as any applicable national competition laws. The Members explicitly agree to observe CEFIC REACH competition law compliance guidance attached as Appendix 5 hereto. This guidance shall be complied with at all times by the bodies of the Consortium, the Members, and any outside consultants and/or experts that may be retained from time to time by the Consortium. Any contractors engaged by Members shall be contractually obliged to comply with the CEFIC guidance. Should it become apparent at any time that this Agreement, any provision of this Agreement, or any activity or decision of the Members of the Consortium, could have a potentially restrictive effect on open and fair competition, in breach of any statutory provision, each Member to this Agreement, as well as the Consortium Manager, the Chair and the Legal Counsel shall take immediate steps to remedy that situation.

3.2. **Compliance with other laws**: The objectives and activities of the Consortium shall at all times comply with the applicable laws of the EU, its Member States and other jurisdictions where applicable.

3.3. **Compliance by Members**: Each Member shall be individually responsible for its compliance with any applicable competition law, export or import laws and regulations and other applicable laws.

3.4. **Compliance with REACH**: Each Member remains fully responsible for its own compliance with REACH, including assessing the relevance and suitability of the Dossier(s) for its own use(s). No warranty for acceptance of the Dossier(s) by ECHA or granting of an Authorisation by the Commission is given. All Members are individually obliged to comply with all relevant requirements of REACH.

4. **CONFIDENTIALITY**

4.1. **Confidential Obligations**: The Members shall:

a) treat all Confidential Information as confidential and not disclose it to third parties, unless legal disclosure requirements apply. Each Member shall advise immediately the other Members in writing of any disclosure of Confidential Information whether legally required or not or of any misuse by any Member or a third party of Confidential Information, as well as of any request by competent authorities relating to the disclosure of that Confidential Information.

b) use the Confidential Information only for the Purpose as defined by this Agreement or otherwise as permitted under or in accordance with this Agreement.
c) disseminate the Confidential Information to their employees, Affiliates or external experts and/or consultants only on a need to know basis and only to the extent absolutely necessary for the Purpose or otherwise as permitted under or in accordance with this Agreement if those are contractually or otherwise obliged to keep the Confidential Information confidential.

d) not analyze, test or reverse engineer or have analyzed, tested or reverse engineered any samples, formulas, combination of formulas or any technical or scientific methodology, chemistry or know-how provided by any of the Members for any aspect of their businesses including, but not limited to, their components, formulations or processes;

e) not file any patent, utility model or design application based upon the Members' Confidential Information.

f) not use Confidential Information to its competitive advantage.

4.2. **Exceptions**: The obligations specified in Article 4.1 above shall not apply to Confidential Information for which the receiving Member can reasonably demonstrate that such Confidential Information

a) was known to the receiving Member on a non-confidential basis prior to its disclosure pursuant to this Agreement;

b) is publicly known at the time of disclosure or thereafter becomes publicly known without breach of the terms of this Agreement on the part of the receiving Member;

c) becomes known to the receiving Member through disclosure by sources other than the disclosing Member, having a right to disclose such Confidential Information;

d) was independently developed by the receiving Member without access to the disclosing Member's Confidential Information, as evidenced by documentary records; or

e) was disclosed in response to a subpoena or court order duly issued in a judicial or legislative process, provided that the subpoenaed Member notified the disclosing Member of the subpoena five days prior to the disclosure, unless such notice could not reasonably be given.

4.3. **Interpretation**: Specific items of Confidential Information (and marked as such) shall not fall within any exception listed in Article 4.2 merely because they are combined with more general information falling within any exception listed in Article 4.2. Likewise, any combination of specific items of Confidential Information (and marked as such) shall not fall within any exception listed in Article 4.2 merely because the specific items fall within any exception listed in Article 4.2, but only if the combination itself, and its principles of operation, fall within any exception.

4.4. **Affiliates, Experts and Consultants**: Affiliates and external experts and/or consultants of any Member shall not be treated as third parties for the purpose of this Article. Each Member assumes full responsibility for compliance by its employees, Affiliates and/or external experts/consultants with the requirements of this Agreement with respect to any Confidential Information received by those employees, Affiliates or external experts from that Member, unless the Affiliate in question is also a party to this Agreement.

4.5. **Non EU Manufacturers**: Non-EU manufacturers represented by an Only Representative who is a Member of this Consortium shall not be treated as third parties for the purpose of this Article. Each Member that is an Only Representative assumes full responsibility for compliance by the non-EU manufacturer it represents with the requirements of this Agreement with respect to any Confidential Information received by that non-EU manufacturer from that Member.
4.6. **Exchange of Strictly Confidential Information:** If the exchange of designated Strictly Confidential Information is deemed useful for the Purpose, the Consortium Manager may request such Strictly Confidential Information to be sent to the Consortium Manager and/or the Technical Manager or the Legal Counsel or other Trustee so that it can be neutralized and/or aggregated by them before being disseminated in aggregated and neutralized form and used further for the elaboration of the Dossier(s).

4.7. **No Obligation to Disclose Information:** Nothing in this Agreement shall oblige any Member to disclose to the other Members any of its own Confidential Information that it cannot or does not wish to disclose.

4.8. **No liability for Disclosed Information:** No Member shall be required to indemnify another Member with regard to any Confidential Information it shall receive in good faith that could be considered confidential, proprietary or subject to export control provisions, but that was not identified as such by the disclosing Member at the time of disclosure or thereafter in the conditions specified in Article 1.9 to this Agreement.

4.9. **Duration:** The confidentiality provisions of this Article shall survive the term of this Agreement, and any Member who leaves the Consortium of its own accord or otherwise continues to be bound to these provisions.

5. **MEMBERSHIP**

5.1. **Membership Criteria:** Membership in the Consortium shall be open to any company interested in obtaining Authorisation of the Substances and/or in supporting the development of the Dossier, including any Aerospace Company, any existing or potential upstream supplier to an Aerospace Company, or any other company that is involved, directly or indirectly through their Affiliates, in the manufacturing and/or import and/or Uses of the Substance(s), as such or in mixture(s), or that designs or uses articles containing or made with the Substance(s). Membership shall also be open to Only Representatives of foreign legal or natural persons meeting the Membership criteria.

5.2. **Non-Paying Members:** Manufacturers of Substances or formulators of mixtures containing Substances which are used for a Use included in Appendix 4 may join the consortium and participate as non-paying members who do not contribute to the costs of the Consortium, but only if and to the extent such manufacturer or formulator is not a Category 3 Applicant as defined in Articles 1.3 and 16 (hereafter, “Non-Paying Members”). Non-Paying Members will be bound by all aspects of this Agreement with the exception of financial contributions to the Consortium and Application(s) as set forth in Articles 14, 15, 16, and 18 and shall not receive any distribution of amounts paid for a Letter of Access pursuant to Article 19. Non-Paying Members will contribute data and resources to the Consortium to support Consortium meetings, the compilation of the Authorisation documents, and the Application(s).

5.3. **Membership Period:** In view of the strict deadline set for Applications, Membership shall be open until 31 October 2015. After such date, companies that wish to apply for Authorisation of the Substance(s) and/or to acquire access to the Dossier may obtain access rights to the Dossier via a Letter of Access granted pursuant to Article 19 to this Agreement. Similarly, in order to guarantee sufficient stability to the Consortium and its financing, limitations are set out in Article 5.6 below concerning the time period allowed for Members to withdraw from the Membership. However, the Steering Committee may decide by a Qualified Majority to re-open the Membership of the Consortium at any time, provided that it would then inform all companies that have declared an interest in joining the Consortium after the initial closing date and that it would adequately advertise this opening for a minimum of one month before closing again the Membership of the Consortium.
5.4. **Members Commitments**: Members shall have the rights and obligations set out in this Agreement and shall contribute to all activities of the Consortium in accordance with its provisions. Members commit to devote reasonable human and financial resources to fulfill their tasks under this Agreement in a timely fashion.

5.5. **Substance and Use Commitments**: Simultaneous with the execution of this Agreement, each Member shall notify the Consortium Manager of each Substance and Use for which it will participate and share in any costs that are allocated to the Authorisation of the Use of such Substance pursuant to this Agreement (it being understood that Non-Paying Members shall not contribute to such costs). Thereafter, a Member may elect to participate for any additional Substance or Use by notifying the Consortium Manager in writing of such election and committing to share in any costs that are allocated to the Authorisation of the Use of such Substance pursuant to this Agreement (it being understood that Non-Paying Members shall not contribute to such costs).

5.6. **Withdrawal from Membership**: A Member can withdraw from Membership for any of the Substance(s) or Use(s) before October 1, 2015 by providing 14 calendar days prior written notice to the Consortium Manager. A Member can withdraw from Membership for any of the Substance(s) or Use(s) after March 21, 2017 by providing 30 calendar days prior written notice to the Consortium Manager.

5.7. **Automatic Termination**: Membership shall also automatically terminate with immediate effect (and without the necessity of further Steering Committee action) in the event a Member is declared bankrupt, or upon completion of winding-up procedures, or if a Member is in Default, as specified in Article 5.9 below.

5.8. **Exclusion of a Member**: The Steering Committee may decide by a Qualified Majority to exclude a Member with immediate effect in the event of a material breach of this Agreement, including a breach of the confidentiality provisions of this Agreement, or if the Member is in Default and such Default has not been cured as specified in Article 5.9 below.

5.9. **Payment and Default**: Payment must be received within 60 days of issuance of a payment notice by the Consortium Manager. A Member may be deemed in Default if it fails to pay an invoice or payment notice within 15 days after its due date. The Steering Committee shall notify in writing any Member not having paid an invoice or payment notice after its due date. The defaulting Member shall then have 30 days to cure the Default by paying the amount due during such period. A Member who has failed to make payment within 45 days after due date shall automatically cease to be a Member without the necessity of further Steering Committee action. However, due to the urgent nature of this application for Authorisation, Members are encouraged to pay within 30 days wherever possible.

5.10. **Consequence of Membership withdrawals, terminations and exclusions**: In the event of a withdrawal, termination or exclusion from Membership according to Articles 5.6 to 5.8 above, the existing Member:

   a) must fulfill its payment obligations which have arisen up until that point in time, including for currently generated New Data approved by the Steering Committee prior to the receipt of the withdrawing Member's notice of withdrawal;

   b) keeps the rights to the Data which it has acquired up until the point in time of ending of the membership, provided that the Member meets all related payment obligations;

   c) shall not have any ownership or Dossier rights for Data completed after the date of the Member's notice of withdrawal. However, with regard to Data currently being generated to which the exiting Member committed, the exiting Member can obtain ownership by
financially contributing to all further costs until the Data is completed.

5.11. **Consequence of withdrawal, terminations and exclusions on other Members:** The withdrawal, termination or exclusion of a Member will not result in the termination of the Consortium. In such events, and subject to the provisions of Article 5.10 above, the remaining Members shall take over the remaining financial obligations of the exiting Member under this Agreement and they shall retain all rights to the Data contributed or acquired by the exiting Member.

5.12. **Transfer of Membership:** Members shall be entitled to transfer their membership, including all its rights and obligations pursuant to this Agreement, to another legal or natural person that meets the Membership Criteria in the following conditions:

a) without approval of the Steering Committee if the transferring member transfers its full membership (complete assignment) to an Affiliate in the event of restructuring within a group of companies or if it transfers to the same legal or natural person all its business related to the Substances, or in case of assignment from one Only Representative to another for the same principal;

b) with the approval of a Qualified Majority of the Steering Committee in other cases, including in case of partial transfer.

The transfer shall be effective only to the extent that the transferring Member has paid all its due contribution to this Agreement and after until the transferee agrees in writing to assume the responsibilities of the transferor in accordance with this Agreement, including but not limited to any outstanding financial obligations.

6. **REPRESENTATIONS AND LIABILITY**

6.1. **No legal entity:** This Agreement or the cooperation contemplated herein shall not constitute or be deemed to constitute a legal entity or partnership between the Members nor make a Member the agent or representative of another Member unless expressly stated otherwise herein. In its relations with third parties, the Consortium will not act under its own name but as a community of all its Members. The Consortium Manager shall be allowed, upon prior instruction, to act in his own name but on account of all Members concerned.

6.2. **Representations:** Each Member having submitted Existing Data which has been used in the Dossier(s) represents (i) that it is the rightful owner or grantee of the Data and free to grant rights therein, (ii) that, to the knowledge of this Member, these Data do not infringe on the rights, in particular, but without limitation, intellectual property rights, of any third party and (iii) that this Member has not received a claim or notice of any alleged infringement regarding such Data.

6.3. **Liability:** Members shall only be liable to another Member or Members in connection with the activities contemplated in this Agreement in case of gross negligence and willful misconduct. They shall not be liable for consequential loss, damage and lost profits. This limitation of liability does not apply in case of claims for death, personal injury or willful misconduct. In accordance with applicable law, each Member shall be individually liable vis-à-vis third parties within the scope of his/her liability, if any.

6.4. **Defense:** Members shall jointly fund their defense and damages in case of third party claims against the Consortium or any of its Members in relation to work conducted by the Consortium. If such a claim is brought, the Member must immediately inform the Consortium Manager and Legal Counsel who shall arrange for the defense to be organized. However, Members shall not fund the defense of a Member for a claim that is made as a result of its gross negligence or willful misconduct and shall have a right to recuperate any
monies paid to a third party claimant against a Member if the claim was the result of the gross negligence or willful misconduct of such Member.

7. CONSORTIUM MANAGEMENT AND ORGANIZATION

7.1. Consortium Bodies: The Consortium shall have the following bodies:
- A Steering Committee, which will exercise overall direction and control over the Consortium, and
- A Technical Committee, which will be in charge of technical issues.

7.2. Support: The Consortium Bodies shall be supported by:
- A Chair, appointed by the Steering Committee,
- A Deputy Chair, appointed by Steering Committee,
- A Consortium Manager, which shall provide legal and administrative support
- A Technical Manager or Consultant, which shall provide technical support, and
- A Legal Counsel, which shall provide legal support, if not provided for by the Consortium Manager.

7.3. Representatives of Members: Each Member shall appoint one representative and a deputy representative to the Steering Committee. Alternate representatives may be appointed by each Member upon notification to the Consortium Manager. The Consortium Manager shall keep the list of such representatives. All meetings shall be attended by one representative per Member, unless otherwise decided by the Steering Committee. Each representative in the Steering Committee shall act for and bind the Member he/she represents with respect to all matters covered by this Agreement.

7.4. Consortium decisions: All decisions of the Consortium Bodies shall be taken and recorded in meetings, unless decision by written procedure of a particular item is agreed at the previous meeting, or at the request of the Chair. All decisions taken by the Steering Committee shall be binding on the Members and shall enter into effect on the date the minutes are considered as approved.

7.5. Specific Substances and Uses: Members shall not participate in discussions nor be entitled to vote on matters related to Uses and Substances for which they have not participated in cost sharing, as specified in Articles 14, 15, 16, and 18 hereeto, and they shall in this case not be counted towards the necessary majority required.

7.6. Meetings/agenda: All meetings of the Consortium Bodies shall have an agenda, which shall be detailed and identify proposed measures that requires a decision (vote) at the meeting. No decision shall be taken on an item which does not appear on the agenda, unless all the Members are present at a particular meeting and consent to the amendment of the agenda and the inclusion and discussion of the additional item is made at the respective meeting. Any Member may attend a Steering Committee meeting and Category 3 Applicants or Category 4 Manufacturers/Formulators may participate in discussions regarding Substance/Use combinations which they have agreed to support.

7.7. Meeting minutes: Minutes of all meetings of the Consortium Bodies shall be maintained by the Consortium Manager (for the Steering Committee) or by the Technical Manager (for the Technical Committee) or by another person if so designated by another committee. An attendance list shall be drawn at each meeting and recorded by the person taking the minutes. Minutes will be drawn up within 7 calendar days after each meeting and sent to the Members by email. Minutes shall be considered as approved if none of the Members explicitly object to the Consortium Manager within 14 calendar days after the draft Minutes are sent. In case of objections, the Chair will attempt to resolve the matter and circulate revised minutes. These revised minutes shall be considered as approved if none of the Members explicitly...
object to the Consortium Manager within 14 calendar days. In case of continued disagreement, minutes will be discussed, possibly amended, and approved with immediate effect at the next meeting by simple majority. Any persisting disagreement will be annexed to the minutes.

7.8. **Invitations to meetings**: Invitations to meetings of Consortium Bodies shall be issued at the latest 14 calendar days in advance by email with the meeting agenda and meeting documents, unless in case of emergency to be determined by the Consortium Manager.

7.9. **Place of meetings**: All meetings shall be conducted in the USA and/or the EU unless otherwise decided by the Consortium Body at least 1 month in advance to such meeting. Members shall pay their own costs related to such meetings, including their travel and lodging costs. Participation by phone or video rather than in person is permissible.

7.10. **Language**: The working language of the Consortium is English. All meetings of the Consortium Bodies shall be conducted in English and all documents drawn and presented in English.

7.11. **Compliance**: The Chair, the Consortium Manager, and the Legal Counsel shall make their best efforts to ensure that there are no information exchanges or any other type of activities that would contravene Articles 101 and 102 of the TFEU. In case of doubt, the Chair and Consortium Manager may seek legal advice from the Legal Counsel or if necessary from another legal expert, and/or request the Steering Committee to appoint a Trustee to receive and aggregate Confidential Information if needed.

8. **THE STEERING COMMITTEE**

8.1. **Meetings**: The Steering Committee will meet at least twice every year, unless otherwise decided by the Members. Additional meetings of the Steering Committee may be called upon by the Chair or the Consortium Manager if needed.

8.2. **The Chair of the Steering Committee**: The Steering Committee shall elect a Chair and a Deputy Chair among the Members for a period of 3 years, which may be renewed. The Chair shall sign the contracts with the Consortium Manager, the Technical Manager, Legal Counsel and other consultants and experts on behalf of the other Members, if the contract is approved as to form and substance by the Steering Committee. The Chair can be requested to withdraw from his/her position during a term by a Qualified Majority of the Steering Committee or may resign during the term, in which case the Chair will be replaced by the Deputy Chair until a new Chair is elected at the next Steering Committee. The Chair and Deputy Chair shall not be remunerated for their activities or costs by the Consortium.

8.3. **Quorum and Majorities**: Except for those cases in which this Agreement requires a decision to be made by a Qualified Majority of the Steering Committee (see Article 1.18), decisions shall be made by a two/third (2/3) majority of those Steering Committee Members present, provided that a Quorum is present.

8.4. **Qualified Majority Voting.** For any decision that requires passage by a Qualified Majority, such Qualified Majority Voting shall be carried out in one of the following ways:

8.4.1. Passage at a Steering Committee Meeting provided that two (2) weeks prior to such Qualified Majority Voting, Steering Committee Members are provided with (a) notice that Qualified Majority Voting will take place on a specific date, and (b) a draft of the proposed motion.

8.4.2. Passage by written or electronic balloting provided that all Steering Committee Members are given actual notice and a reasonable opportunity to cast a ballot.
8.4.3. Passage by unanimous vote taken at a meeting of the Steering Committee at which all Steering Committee Members are present.

8.5. **Powers of the Steering Committee**: The Steering Committee shall have all powers and rights necessary to ensure that the Purpose of the Agreement is achieved in the most efficient and cost-effective way. The tasks of the Steering Committee may include, inter alia:

a) decisions on funding and expenses, scope and matters of policy;

b) decisions on working and finance plan(s) and management of financial resources of the Consortium, including budgeting, funding collection and accountancy;

c) appointment and removal of the Consortium Manager, Technical Manager, Legal Counsel and other external consultants to perform the necessary technical, scientific, legal, administrative, management, secretarial, accounting, record keeping or other tasks necessary for the fulfillment of the purpose of the Consortium, and the terms of such appointments.

d) decisions to purchase, collect and develop Data;

e) approval of the Dossier(s) in whole or in parts to be submitted to ECHA and selecting the Data which will be subject to a request for confidentiality protection in accordance with Article 119 of REACH;

f) approval of financial valuations and Data compensation;

g) approval of work on the review of the Dossier(s) in whole or in its parts;

h) decision(s) regarding provision of rights to third parties in accordance with Article 10;

i) decision(s) on the exclusion of a Member;

j) decisions on amendments of this Agreement and/or its Annexes; and

k) ensuring competition law compliance.

8.6. **Appointment of Trustee**: When required for compliance with relevant competition laws, or because the Members have identified that information is to be shared as Strictly Confidential as specified in Article 4.6 above, the Steering Committee shall decide on appointing the Consortium Manager, Technical Manager or Legal Counsel or to act as an independent Trustee, as may be appropriate depending on the type of information to be processed, for the development and processing of such information. In such event, the Trustee shall aggregate and neutralize the information received and communicate/disseminate the aggregated and neutralized information only to the relevant Consortium Bodies and Members.

8.7. **Work and Finance Plan**: Upon proposal of the Consortium Manager, the Steering Committee shall adopt a work and finance plan concerning the planned activities until the completion and submission of the Dossier(s) and final decision by ECHA and the European Commission. The work and finance plan shall be updated as required and distributed to the Members.

9. **TECHNICAL COMMITTEE**

9.1. **The Technical Committee**:

The Steering Committee may decide that a Technical Committee is required and appoint the members of the Technical Committee, upon proposals by the Members of the Consortium.

9.2. **Powers of the Technical Committee**: The Technical Committee shall oversee and coordinate the activities of technical consultants, engaged to conduct:

a) the collection and evaluation of Data, and related analytical methods and gap
b) the collection and evaluation of Uses and development of exposure assessments where necessary to prepare or amend the chemical safety report(s);

c) the proposal for collecting and drawing up Data for completion of the Dossier(s);

d) the filing of relevant Data into the IUCLID 5 database according to the decision of the Steering Committee; it being understood that the submission of the Authorisation application(s) to ECHA shall be done by each Member individually, unless Members arrange differently among themselves;

e) the assessment of the scientific and financial evaluations of the Data and Dossier(s).

f) coordination of the overall technical work.

The Technical Committee may organize task forces or other subgroups responsible for specific issues as identified by the Technical Committee, for example for elaborating Data on individual Uses or Substances.

The decisions of the Technical Committee shall be adopted by consensus of the Members concerned, whereby in case of absence at a specific meeting, non-objection to the minutes of the respective meeting is considered approval. If consensus cannot be reached, the Technical Committee shall bring the matter before the Steering Committee, which shall have the final vote.

10. THE CONSORTIUM MANAGER

10.1. Appointment: The Consortium Manager shall be appointed by a Qualified Majority of the Steering Committee and shall report to that Committee.

10.2. Tasks: The Consortium Manager shall support the Steering Committee in all of its tasks and be responsible for the good conduct of the meetings of the Steering Committee. More specifically, the Consortium Manager shall:

a) be responsible for the correct execution of the tasks delegated to it by the Steering Committee, the correct administration of the Consortium and the coordination between the Consortium Bodies and the Technical Manager, consultants and other experts;

b) draft the minutes of the Steering Committee meetings;

c) be in charge of the overall administration of the Consortium, including financial management, invoicing, annual reporting to Members, calculating membership and expense allocation and invoice/credit Members accordingly, and other accounting tasks;

d) keep record of all Data shared within the Consortium, the valuation status thereof and access rights thereto, as well as other documents related to the Consortium until the expiration of all Authorisations obtained by GCCA;

e) receive and respond to third party enquiries;

f) keep an up-to-date electronically accessible list of all Members of the Consortium Bodies,

g) handle any non-technical Confidential Information, Data and other information and documentation that may be sensitive under competition laws;

h) follow the legislative developments on REACH relating to Authorisation and informing the Members thereof.

11. LEGAL COUNSEL
11.1. **Appointment**: The consortium management company shall provide Legal Counsel as part of the consortium management services. The Legal Counsel shall report to the Steering Committee.

11.2. **Tasks**: The Legal Counsel shall ensure that the Consortium Bodies function in full compliance with competition laws and shall provide the necessary legal support in relation to Consortium activities. More specifically, the Legal Counsel shall:

a) review the minutes of the meetings of the Consortium Bodies with respect to competition laws;

b) act as trustee on matters of legal significance, as shall be decided by the Steering Committee;

c) conduct a legal review of contractual arrangements of the Consortium, and provide legal advice on competition law and REACH related issues, as necessary;

12. **TECHNICAL MANAGER or CONSULTANT**

12.1. **Appointment**: The Technical Manager or Consultant shall be appointed by a Qualified Majority of the Steering Committee, and it shall report to that Committee.

12.2. **Tasks**: The Technical Manager or Consultant shall provide the necessary technical support to the Consortium as shall be decided by the Steering Committee and the Technical Committee in relation to Consortium activities. More specifically, the Technical Manager or Consultant shall:

a) collect and evaluate Data from Members, and third parties; preparing the Dossier(s);

b) manage, prepare and take minutes of the meeting of the Technical Committee and its subgroups and interaction with the Steering Committee;

c) handle any technical Information, including Information that may be sensitive from a competition law point of view;

d) prepare the work and finance plan in conjunction with the Consortium Manager;

e) interact with ECHA in cooperation with the Steering Committee, national authorities, and technical experts that may be employed by the Consortium;

f) follow the technical developments on REACH relating to Authorisation and informing the Members thereof.

13. **DATA**

13.1. **Request for Data**: The Consortium Manager, Technical Consultant and Technical Committee shall identify the information and Data that they believe would be needed in order to achieve the Purpose and request the Members to provide such information and Data if available to them.

13.2. **Members Existing Data**: After joining the Consortium, all Members will make available to the Technical Consultant a list of their Existing Data that they intend to make available to the Consortium, in their sole discretion, and a hard or electronic copy of either the robust study summaries or the full reports of these Data, if any. Each Member shall determine what, if any, Existing Data it will provide to the Consortium and is under no obligation to provide any Existing Data to the Consortium, other than Data of its own choosing. The Member shall also indicate if it requires compensation for sharing such Data, it being understood that any exposure data owned by Members shall be made available by them for free. The Technical Consultant shall make a list of these Data and shall make the necessary arrangements for the
review of these studies by the Technical Committee and/or Steering Committee. Each Member shall consent to its Existing Data being used as part of the Dossier(s) in the conditions set forth in this Article.

**13.3. Third Party Data:** The Consortium Members, through decision of the Steering Committee, may jointly purchase rights to Existing Data from third parties.

**13.4. Review of Existing Data:** The Technical Committee, assisted by the Technical Manager, shall review and evaluate the Existing Data from Members and third parties collected. The Technical Consultant will assess the scientific and financial value of such Data on the basis of generally recognized valuation rules normally used in the framework of REACH and in accordance with best industry practice. The assessment, including proposed compensation to the contributing Member/party will then be submitted for approval to the Steering Committee. Members shall make best efforts to assist Consortium Members obtain a license to use data co-owned by third parties at an appropriate cost.

**13.5. Compensation:** The agreed compensation shall be paid to the contributing Member by the Consortium after receiving payment from the other Members. In case Existing Data has been contributed by more than one Member or third party, the cost compensation for that Data shall be allocated to the contributing Members or third parties in equal parts unless they have agreed otherwise among themselves and/or with third party co-owners. All payments due to Members from other Members shall be made 60 days after the invoice date.

**13.6. Data rights:** Any intellectual property or ownership rights to any Existing Data independently developed by a Member and made available to the Members in accordance with this Agreement shall remain unaffected by this Agreement. The other Members who have contributed to the cost compensation for such Data, shall receive a copy of the Data and a non-transferable and non-assignable right to use and refer to such Data only for their Authorisation Dossier under REACH. The right to use, however, does not give citation rights in other parts of the world outside the EU, nor does it give any ownership or data compensation rights to such Data. Only the holder of the right(s) pursuant to sentence 1 of this Article 13.6 shall be entitled to use the Data or to grant a right for the use of it to third parties for purposes other than the Purpose of this Consortium to the extent not otherwise provided for in the individual case.

**13.7. New Data:** Any New Data generated or developed jointly by the Members in accordance with this Agreement shall be owned jointly by the Members provided that the individual Members have contributed to the costs thereof in accordance with this Agreement. Each of the joint owners shall obtain a full copy of the New Data. Any New Data is Confidential Information and joint proprietary data and shall be treated as such under this Agreement. The New Data shall not for the period of 12 years from the date of initial submission to the Agency be sold, licensed or otherwise made available to third parties by any Member without prior written approval of 2/3 of the owners who have financially contributed to the costs thereof unless otherwise agreed by the Members, or required by law or in civil or criminal litigation, provided that the Member shall obtain approval of the Steering Committee for any submission and shall provide a copy of the court order.

**13.8. Access by third parties:** The Consortium Members, through decision of the Steering Committee, may issue Letters of Access to third parties to cite and rely upon any and all Existing and New Data in accordance with Article 19 of this Agreement. Only the owner of the Existing Data is entitled to use the Existing Data or to grant a right for the use of such Existing Data to third parties for purposes other than the purposes of this Consortium to the extent not otherwise provided for in the individual case. Any compensation paid to the Consortium by third parties with respect to Existing Member Data shall be distributed to the members in proportion to the Cost they have contributed to such Data. Any compensation
paid to the Consortium by third parties with respect to New Data shall be distributed to the Members proportionate to the Cost they have contributed to the development of such New Data previously.

13.9. **Access by Affiliates:** Affiliates of a Member shall have the same rights on Existing and New Data as the relevant Member to which they are affiliated and provided that such Member has contributed to the costs thereof in accordance with this Agreement.

13.10. **Access by Only Representatives:** In case the Member is an Only Representative, the Affiliates of the company/ies it represents shall have the same rights provided the Only Representative has contributed to the costs thereof in accordance with this Agreement.

**14. COST SHARING**

14.1. **Costs to be shared:** Certain costs shall be shared as defined in Article 15 of this Agreement. The following costs shall be shared between the Members:

a) Administrative expenses reasonably incurred by the management of the Consortium, including the costs of the Consortium Manager, the Technical Manager, and Legal Counsel, as well as any other costs for secretarial, technical, legal or trustee services, and for external experts reasonably incurred in the performance of the activities of the Consortium, and more generally all activities of the Consortium, provided those activities are reasonable and necessary and have been approved by the Steering Committee.

b) Acquisition of rights to Existing Studies as approved in advance by the Steering Committee;

c) Costs for New Data to be jointly developed according to Article 13 of this Agreement, provided that no study will be initiated without a budget approved by the Steering Committee.

14.2. **Costs not to be shared:** Costs shall not include any charges for overhead, time, or out-of-pocket expenses (including for Members own travel, external consultants, lawyers etc.) by the Members, their delegates, or their officers or employees, which may be incurred in connection with the activities of the Consortium, except as may be approved in exceptional cases in advance by a Qualified Majority of the Steering Committee.

**15. CATEGORIES OF COSTS AND COST SHARING**

15.1. Common Costs shall be shared by dividing them into equal shares according to the number of total votes of all Members, each Member bearing the costs commensurate with its number of votes. A Member with one vote shall be allocated one Common Cost share, a Member with two votes shall be allocated two Common Cost shares etc. An Only Representative representing several Principals will be allocated costs for purposes of this provision based on the number of Principals he represents, i.e. if an Only Representative represents three Principals, such Only Representative will pay the Common Costs for three Members whose voting rights and thus Cost shares are determined for each individual Member according to the same formula used for the other Members.

15.2. Substance(s) Costs and Use Costs shall be shared along the same principles as the Common Costs under Articles 15.1 above among those Members that have notified the Manager of their interest in the specific Substance(s) and Use before the Effective Date (or later in case of additional Substances and Uses). Should a Member consider its Use as confidential, despite the broad definition of Use categories contemplated herein, such Member shall so indicate with the notification to the Manager. The same confidentiality rule shall also apply to
notification of Substances. In such cases, the Manager shall inform the Members only about
the division factor used for the specific Use and Substance(s), but shall not reveal the identity
of the Member wishing to keep its Use or Substance(s) confidential. Should any Use or
Substance Costs be common to more than one Use and/or Substance, such will be split
equally among the Uses and/or Substances concerned. The same shall apply to Use Costs
common to several Uses. In case Uses are further subdivided, the cost-sharing will be on a
per sub-category basis unless the cost is common to all sub-categories of that Use.

15.3. Categories of costs:

15.3.1. **Common Costs:** “Common Costs” are costs that are common to all Members and
shall include the project management costs of the Consortium Manager, the Technical
Manager, and Legal Counsel, as well as the costs associated with obtaining Letters of
Access or Licenses for the use of existing Authorisation dossiers.

15.3.2. **Substance Costs:** “Substance Costs” are costs related to the Authorisation of
individual Substances and shall include costs associated with preparing those parts of the
Authorisation Dossier or Broad Information on Uses specific to such Substances and the
cost of preparing and submitting the Application for such Substance/Use combinations.

15.3.3. **Use Costs:** “Use Costs” are costs related to supporting the Authorisation of
individual Uses and shall include costs associated with preparing those parts of an
Authorisation Dossier or Broad Information on Uses specific to such Uses and the cost
of preparing and submitting the Application for such Substance/Use combinations.

15.4. Any costs (including Common Costs, Substance Costs, or Use Costs) that have been incurred
by or on behalf of the Consortium prior to a Member joining the Consortium and/or prior to a
Member electing to participate with respect to a given Substance or Use shall be allocated to
that Member on the same basis as if the Member had been a participant in the Consortium or
had elected to participate with respect to that Substance or Use at the time such costs were
incurred. The Consortium Manager shall preserve the confidentiality of specific Uses by a
Member if so requested by that Member. In case Uses are further subdivided, the cost-sharing
will be on a per sub-category basis unless the cost is common to all sub-categories of that Use.

16. MEMBERSHIP CATEGORIES, VOTING AND COST SHARING

16.1. The number of Votes shall be determined based on the size of the Member at the Effective
Date using the same **cumulative** criteria (and including worldwide linkages and partners) as
are applicable to determine the ECHA administrative fees for Authorisation applications
pursuant to Annex VI of Regulation 340/2008\(^1\) in conjunction with Commission
Recommendation 2003/361/EC.\(^2\) This voting scheme applies to all committees.

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\(^1\) Commission Regulation 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to
Regulation 1907/2006, as may be amended.

\(^2\) Commission Recommendation 2003/361 concerning the definition of micro, small and medium-sized enterprises.
<table>
<thead>
<tr>
<th>Category</th>
<th>Type</th>
<th>Description</th>
<th>Size</th>
<th>Voting/Cost Sharing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 1</td>
<td>Large Enterprise</td>
<td>An Aerospace Company employing 250 persons or more; or An Aerospace Company with an annual turnover exceeding €50 Million and/or annual balance sheet exceeding €43 Million</td>
<td>Two (2) votes. Cost sharing allocation equal to 2/total votes</td>
<td></td>
</tr>
<tr>
<td>Category 2</td>
<td>SME</td>
<td>An Aerospace Company employing less than 250 persons; and An Aerospace Company with an annual turnover €50 Million or less and/or annual balance sheet €43 Million or less</td>
<td>One (1) vote. Cost sharing allocation equal to 1/total votes</td>
<td></td>
</tr>
<tr>
<td>Category 3</td>
<td>Applicant</td>
<td>An entity established in the EU that either (ii) imports and distributes a Substance or mixture containing a Substance for a Use as defined in Appendix 4, or (2) manufactures a Substance or formulates a mixture containing a Substance for a Use, and which entity applies for or intends to apply for an Authorisation in accordance with this Agreement. If an Applicant is also a Large Enterprise (Category 1) or an SME (Category 2), then such Applicant shall have the Voting/Cost Sharing rights and obligations of Category 1 or Category 2, as the case may be.</td>
<td>Applicants, other than those who are also Large Enterprises or SME’s (which have the Voting/Cost Sharing rights and obligations of Category 1 or Category 2, as the case may be), may elect either: (a) One (1) vote and a cost sharing allocation equal to 1/total votes; or (b) One-time payment of €25,000 and no (0) vote</td>
<td></td>
</tr>
<tr>
<td>Category 4</td>
<td>Manufacturer/ Formulator</td>
<td>Manufacturers of Substances or formulators of mixtures containing Substances which are used for a Use included in Appendix 4, but excluding any such manufacturer or formulator that acts as a Category 3 Applicant pursuant to this Agreement or is affiliated with a Category 3</td>
<td>No (0) vote and no cost sharing allocation</td>
<td></td>
</tr>
</tbody>
</table>
17. ACCOUNTABILITY

17.1. For purposes of accountability, the sizes notified by Members at the Effective Date shall be fixed for the duration of the Consortium, regardless of any changes of individual Members during the life of the Consortium. However, the Manager shall have the right, at the cost of the individual Member concerned, and during the entire life time of the Consortium, to request and to carry out a third party audit of the accuracy of the size notified. In case the audit reveals that a Member had asserted an incorrect size, the Consortium Member shall automatically be considered in default and may be expelled from the Consortium, thereby automatically losing its rights to compensation from Letters of Access.

18. CONSORTIUM COSTS AND PAYMENTS

18.1. **Work and Finance Plan:** Costs of the Consortium shall be invoiced based on the Work and according to a Finance Plan established by the Steering Committee. The Work and Finance Plan shall cover at least 1 year. An initial Pre-funding invoice equal to US$25,000 (twenty five thousand US Dollars) per vote shall be issued to each Member at the time such Member joins the Consortium.

18.2. **Net Payments:** All payments due hereunder, including for Letters of Access, shall be net payments, i.e. free of any bank or transfer charges or similar charges and without deduction of any taxes, levies or other dues payable. If payer is required to withhold any tax or to make any other deduction from any such payments, then such payments shall be increased to the extent necessary to ensure that, after making the required deduction or withholding, payee receives and retains (free from any liability with respect to any such deduction or withholding) a net sum equal to the sum which payee would have received and so retained had no such deduction or withholding been made or required to be made (gross-up amount). If upon application of the beneficiary any withholding tax can be reduced or refunded, or an exemption from withholding tax is granted, payer shall file on behalf of payee for such reduction, refund or exemption. Payee shall render any assistance to payer to obtain such withholding tax reduction, refund or exemption. Payer shall be entitled to any refund of withholding taxes.

18.3. **Indirect Taxes:** Indirect taxes including but not limited to Value Added Tax (VAT), as applicable pursuant to the relevant tax law, shall be borne by payer. However, payer is entitled to withhold any payment of indirect taxes unless payee has provided payer with a sufficient invoice for purposes of indirect taxation.

19. LETTERS OF ACCESS

19.1. The Steering Committee shall have the right to negotiate and grant access to third parties to use, or refer to the Dossier(s) prepared for submission to ECHA, or to any parts thereof, by means of a Letter of Access pursuant to Article 63 of REACH. Unless otherwise agreed by the Steering Committee, such Letter of Access shall be granted only for purposes of allowing the third party to support its own Authorisation Dossier or that of its Affiliates for the Substance(s) and Uses for which it was issued for purposes of REACH. Under no circumstances shall the third party be entitled to use the Data for purposes that are not expressly authorised in the Letter of Access so granted. The Letter of Access shall remain valid also for the review of the Authorisation but shall not entitle the holder to demand any update of the Dossier(s) for such review, unless a new license fee shall have been mutually agreed among the parties. Such third parties may be required to obtain additional Letters of
Access from other consortia depending on the Letters of Access acquired and used by GCCA in dossier preparation.

19.2. The Letter of Access will be granted against payment of a price as determined by the Steering Committee that is fair, transparent and non-discriminatory, to be determined by the Steering Committee on the basis of the Consortium costs as described in Articles 14, 15, 16, and 18 above, subject to a premium equal to 25% of the relevant costs. The amounts so received will be distributed to the Members on a pro rata basis as determined by the Member’s contribution to the Data covered by the Letter of Access.

20. SUBMISSION OF APPLICATION FOR AUTHORISATION

20.1. The Members shall cooperate to prepare, submit, and support one or more Application(s) including Authorisation Dossier(s) with costs to be shared as provided in this Article 20.

20.2. The Members shall form a Submission Group for each Substance (or combination of multiple Substances) with each Submission Group consisting of such Members as elect to join and participate in such Submission Group (such Members are referred to herein as “Members of the Submission Group”). Members electing to join a Submission Group shall notify the Consortium Manager of such election in writing in which case they shall be committed to jointly participating and sharing in the costs of the Submission Group. Members who elect not to join a Submission Group shall not be obligated to pay any costs associated with that Submission Group.

20.3. The Members of the Submission Group shall agree among themselves which Substance/Use combinations shall be included in the Application submitted by the Submission Group; provided, however, that a Submission Group shall not include any Substance/Use combination that would cause any Member of the Submission Group to be a Redundant Applicant. As many Submission Groups as necessary will be formed in order to ensure that a Member is not an Applicant on two or more Applications for the same Substance/Use combination. A decision to include a particular Substance/Use combination shall be made by a simple majority of the Submission Group at which a Quorum is present; provided, however, that any Member of the Submission Group may elect to terminate its participation in the Submission Group following a decision to include or exclude a particular Substance/Use combination in the Application by providing written notice to the Consortium Manager of its decision to terminate participation in the Submission Group. In the event that a Member of the Submission Group withdraws from the Submission Group, such Member may elect to form a separate Submission Group for a Substance/Use combination of interest to that Member. Other Members may elect to participate in such alternative Submission Groups at their discretion and pursuant to the terms of this Article 20.

20.4. In the event that two or more Members of a Submission Group elect to file an Application, the Members of the Submission Group shall select one Member to serve as the lead applicant (“Lead Applicant”) for purposes of the Application; it being understood that such Member may decline to act as the Lead Applicant in its sole discretion.

20.5. The Lead Applicant for a Submission Group shall file the Application with ECHA either jointly or individually, and shall otherwise work together with the Members of the Submission Group to pursue the Application until it has been approved or refused by the European Commission. This includes, but is not limited to, finalization of the Application, filing the IUCLID 5/6 document with ECHA, responding to questions of ECHA and the public during the submission phase, and conducting a PSIS.
20.6. A Submission Group shall be dissolved if no Member has volunteered to serve as the Applicant or if so agreed to by the Members of the Submission Group. If a Submission Group is dissolved, the Consortium Manager shall within 30 days prepare final invoices for any work conducted and expenses accrued and shall reimburse within an additional 30 days all Members of the Submission Group for any over-payments they may have previously made.

20.7. A Submission Group shall terminate upon the publication of the Authorisation decision relevant to the Application submitted by that Submission Group.

20.8. Except as otherwise provided in Article 20.3, all decisions of a Submission Group shall be made by 2/3 majority of the Members present at a meeting of the Submission Group, provided that a Quorum is present.

20.9. All Submission Group costs (including Common Costs, Substance Costs, and Use costs) shall be shared equally among the Members of the Submission Group consistent with the principles set forth in Articles 14, 15, 16, and 18 and commensurate with the number of votes of the respective Members of the Submission Group as determined under Article 16 of the Agreement. Submission Group costs include the following costs: technical consultancy and management fees to finalize the Application within the scope of the respective Submission Group, costs for filing the Application with ECHA, and costs for actively pursuing and supporting that Application until it has been granted or refused by the European Commission. This shall also include ECHA administrative fees for all Members of the Submission Group that act as Applicants with the limitation that only one legal entity fee for each Applicant shall be included.

20.10. Submission Groups and their Applicants shall not have the right to grant permissions to refer pursuant to Article 63 REACH. Such rights to third parties will be determined by the Consortium as a whole on fair and reasonable terms.

20.11. Unless otherwise provided above, the provisions of the Agreement shall fully apply to the Submission Groups.

21. DURATION AND DISSOLUTION OF THE CONSORTIUM

21.1. **Entry into force and Duration:** This Agreement shall enter into force when two or more parties have signed the agreement. The Consortium shall be formed for the duration necessary to achieve the Purpose unless terminated in accordance with the provisions of this Agreement.

21.2. **Dissolution:** The Consortium may be dissolved by a Qualified Majority of the Steering Committee. In the event of dissolution of the Consortium, there shall be a winding up of the Consortium. All financial obligations shall be fulfilled. All rights and obligations of Members among each other and in relation to third parties resulting from this Agreement shall be settled. Article 19 of this Agreement shall survive the dissolution of the Consortium with the following modification: Article 19 shall be performed by a Trustee designated by the Members who shall act instead of the Steering Committee. Article 4 shall survive the dissolution of the Consortium until such time as specified in Article 4.9.

22. FINAL PROVISIONS

22.1. **Entire Agreement:** The legal relationships of Members with respect to this Consortium shall be governed exclusively by this Agreement. Any other arrangements do not exist or are considered null and void. This Agreement will not be construed, nor will it be implied, to constitute any license from any Member under any of the other Members’ patents or trademarks. There are no promises, terms, conditions or obligations other than those
22.2. **Amendment**: This Agreement, its Appendixes and Annexes, which are incorporated into and form part of this Agreement, constitute the entire Agreement between the Parties with regard to the Scope and Purpose as defined in Article 2 hereof. Any variation to this Agreement shall be in writing and signed by authorised signatories of all Parties.

22.3. **Assignment**: Except as otherwise explicitly set out herein, no Member shall assign this Agreement or any of its rights, obligations or beneficial interests hereunder in whole or in part to any other party without the written decision of the Steering Committee.

22.4. **Applicable Law**: This Agreement is subject to the laws of England without giving effect to any rules on conflict of laws. All matters which are not covered by this Agreement shall be settled in accordance with the provisions of English law.

22.5. **Dispute Resolution**: In case of a dispute arising out of this Agreement, the parties to the dispute shall first attempt (in good faith) to reach an amicable settlement at Steering Committee level. Should such amicable settlement fail within 3 months after the conflict has arisen, a Member shall have the right to submit the dispute to arbitration.

**Arbitration**: In such case, the issue shall be definitively decided in accordance with the rules of conciliation and arbitration of the International Chamber of Commerce (ICC). The decision shall be binding on the parties. The arbitral tribunal consists of three (3) arbitrators: each party designates one (1) arbitrator; these two (2) arbitrators then designate the third arbitrator, who acts as chairperson; the chairperson shall have a university degree in law. The arbitration award shall include a decision on who bears the cost of arbitration. Arbitration shall take place in London, England. The language of the arbitration proceedings shall be English. No other ways of recourse shall be available. The arbitration decision shall be binding on the parties.

22.6. **Interpretations**: If a provision of this Agreement is found to be unclear or incomplete, an interpretation that best approximates the intent of the Members as expressed in this Agreement shall apply. If a provision is invalid, this does not affect the validity of the other provisions. It is deemed to be agreed upon that an admissible provision which best approximates the intent of the Members replaces the invalid provision; accordingly, the Members agree to make a respective written amendment to this Agreement without any delay.

22.7. **Copies**: This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Members have caused this Agreement to be executed by their duly authorised representative on the date set forth next to each signature.

........................................

Name: 

Title: 

Date: 

Appendix 1

Consortium Members

Paying Members

Large Companies

SME’s

Applicants

Non-Paying Members

Manufacturers/Formulators
Appendix 2

List of current Members/Affiliates
Appendix 3

List of voting representatives and deputies of the Members in the Steering Committee
Appendix 4

Use of Substances
Appendix 5

CEFIC Guidance on Competition Compliance

I.

The Members shall not make any agreements concerning coordination of conduct which restrict or affect competition within the meaning of Article 101 Treaty on the Functioning of the European Union and shall observe the prohibition of abusing a dominant market position pursuant to Article 102 Treaty of the European Union:

Article 101

[Prohibition of agreements and practices distorting competition]

1. The following shall be prohibited and is incompatible with the common market: all agreements between undertakings, decisions of associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:

   (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
   (b) limit or control production, markets, technical development, or investment;
   (c) share markets or sources of supply;
   (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
   (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this article shall be automatically void.

3. The provisions of subparagraph 1 may, however, be declared inapplicable in the case of:

   - any agreement or category of agreements between undertakings,
   - any decision or category of decisions by associations of undertakings,
   - any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

   (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
   (b) afford such undertakings the possibility of eliminating competition in respect of a
substantial part of the products in question.

**Article 102 TFEU**

[Prohibition of abuse of a dominant position within the common market]

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

**II.**

The Members of the Consortium shall act in compliance with the following checklist:

<table>
<thead>
<tr>
<th>DO</th>
<th>DON’T</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Application of competition law</strong></td>
<td>Do not assume that conflicts with competition law are excluded simply by the fact that the Consortium complies with the provisions of the REACH.</td>
</tr>
</tbody>
</table>

Articles 101 and 102 may be applicable to the foundation and activities of a Consortium.

**Consultation in Matters of Competition Law**

An in-house legal expert or the company compliance officer or an external legal counsel should be consulted whenever there are uncertainties relating to compliance with competition law.

Do not assume that the Code of Conduct deals with all competition law issues exhaustively. Essentially, compliance with Articles 101 and 102 can be determined only on the basis of market impact in each individual case. The Code may therefore be regarded only as a source of general conduct recommendations.

All Consortium meetings/discussions which are not in compliance with the Code of Conduct shall be stopped until a legal expert is involved.

**Activities of the Consortium**
<table>
<thead>
<tr>
<th><strong>DO</strong></th>
<th><strong>DON’T</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperation within the scope of the Consortium should be restricted to the initially defined goals and purposes of the cooperation.</td>
<td>Pursuant to Articles 101 and 102 the following activities are prohibited within the scope of the Consortium:</td>
</tr>
<tr>
<td></td>
<td>- Coming to arrangements on prices, markets and;</td>
</tr>
<tr>
<td></td>
<td>- Joint boycotting of other companies;</td>
</tr>
<tr>
<td></td>
<td>- Unjustified unequal treatment of trade partners;</td>
</tr>
<tr>
<td></td>
<td>- The abusive exploitation of a dominant market position.</td>
</tr>
</tbody>
</table>

**Exchange of Confidential Information**

A trustee may be involved for the exchange of confidential information, if required.

The exchange of confidential information concerning market behavior is inadmissible, specifically as it relates to:

- production capacities,
- production or sales volumes,
- import volumes,
- market shares,
- price policy,
- distribution and marketing terms,
- marketing strategies,
- information regarding supplier relationships.

**Documentation on Cooperation**

Minutes of all meetings of the Consortium shall be kept, which detail the subject of the meeting.

The contents of the minutes shall be reviewed by an in-house legal expert or the company compliance officer prior to sending them to all participants of the Consortium.

All meetings which are not in compliance with the Code of Conduct shall be stopped until a legal expert is involved.