

**Agreement for the creation of  
the EUR-OCEANS (European Research on Ocean Ecosystems under  
Anthropogenic and Natural Forcings) multi-site Consortium**

**Preliminary:**

Whereas the *EUR-OCEANS Consortium* is the solution adopted to sustain the activities of the EUR-OCEANS Network of Excellence, which is co-funded by the European Commission under the 6<sup>th</sup> Framework Programme between January 2005 and December 2008 (contract n° 511106).

Whereas the *EUR-OCEANS Consortium* aims at facilitating the long-term harmonization of the efforts of European marine research institutes and universities that sign the present agreement.

Whereas the parties wish to fund the activities of the *EUR-OCEANS Consortium* through in-cash or in-kind annual contributions.

IT IS THEREFORE AGREED AS FOLLOWS :

*[List, legal representative and addresses of the signing parties]*

**HEREAFTER REFERRED TO AS “PARTY” OR “PARTIES”**

**ARTICLE 1 – DEFINITIONS –**

*Agreement*: this entire agreement entered into by the *Parties*, including its annexes, which are an integral and substantial part.

*Coordinator*: a Party appointed according to Article 6.1, to coordinate the *EUR-OCEANS Consortium* and in charge of administrative tasks, including but not limited to administrative and financial management.

*Member Organisation (MO)*: a Party or a grouping of Parties organised in order to participate to the *EUR-OCEANS Consortium* according to Article 4.

*EUR-OCEANS Flagship Institution*: a label given to a MO, selected as described in Article 4.

**ARTICLE 2 – CREATION AND TERM**

2-1-An international research consortium, hereinafter referred to as “*EUR-OCEANS Consortium*” or “*Consortium*”, is hereby created by the *Parties* for a term of four (4) years effective on 1st January 2009.

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The *Agreement* may be renewed by written agreement. Any decision to renew shall be taken by the *Parties* following approval by the governing bodies of the *Consortium*.

2-2-Based on the principle of subsidiarity, the activities of the *Consortium* do not cover what is already done by the *Parties*. The *Consortium* aims to add value to these activities by favouring the cooperation of the *Parties* in their scientific activities, research and academic projects and programmes to address the objectives of the *Consortium*. This includes the identification of scientific priorities and agreement on resource requirements.

2.3-Use of the name *EUR-OCEANS Consortium* towards third parties shall reflect the nature of the *Parties*' relationship as a cooperation, where the visibility of each of the *Parties* as separate legal entities and as separately responsible entities is retained.

2.4-*EUR-OCEANS Consortium* is devoid of any legal status.

The *Agreement* is not intended to and nothing in the *Agreement* shall be deemed to constitute, create, give effect to, or otherwise recognise creation of a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the *Parties*.

## **ARTICLE 3 - PURPOSE**

The overall objectives of the *EUR-OCEANS Consortium* are to facilitate the promotion of:

- (1) top-level scientific research on the impacts of anthropogenic and natural forcings on ocean ecosystems, and foster collaborations across the European Research Area,
- (2) optimal use of any shared technical infrastructures and scientific facilities, and
- (3) activities to spread excellence that include training of scientific personnel and students, and dissemination of knowledge to a large public and to socio-economic users.

## **ARTICLE 4 – ACTIVITIES**

4-1-The *EUR-OCEANS Consortium*'s activities include: (1) activities implemented by the *EUR-OCEANS Flagship Institutions*, which are selected on a competitive basis by the Scientific Steering Committee (SSC) of the *Consortium*, and (2) Cluster activities, which are initiated by the SSC and coordinated by the Project Office.

4-2-*EUR-OCEANS Flagship Institutions*. The activities of the *EUR-OCEANS Consortium* are supported by one or several *EUR-OCEANS Flagship Institutions*, which are selected amongst the *MOs* for a period of two years (with possible extension to a maximum of 4 years). The status of

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*EUR-OCEANS Flagship Institution* is awarded following a bidding process within the *EUR-OCEANS Consortium*. Bids may be by *single MOs* or by groupings of *MOs*.

Each *EUR-OCEANS Flagship Institution* focuses on a specific area of cutting-edge marine science. The *EUR-OCEANS Flagship Institutions* will organise and find the funding for such activities as hosting groups of researchers, and organising workshops and summer schools.

*4-3-Cluster activities*. In order to meet its overall objective, the *EUR-OCEANS Consortium* facilitates and promotes joint activities organised by specific, time-limited clusters of *MOs*, which provide an operational framework for conducting actions. These include:

- Doctoral networks, which coordinate the PhD programmes of several *Parties*, and organise specific activities for PhD students.
- “Gordon-like” conferences or workshops on important multidisciplinary topics, which could support “think tanks”.
- Training workshops and exchange visits particularly for researchers from developing countries, for capacity building in these countries.
- Activities for public outreach (e.g. through a network of aquaria), and dissemination of knowledge to socio-economic users, for enlightening the general public and socio-economic users on the value added of marine research.
- Continuation of some of the integrating activities of the *EUR-OCEANS Network of Excellence*.

*4-4*-The structure, duration, and funding of each activity is decided by the *MOs* involved, which sign a specific agreement to this effect, according to a template provided by the *Consortium*.

*4-5*-In developing its activities, the *Consortium* favours international cooperation, in particular with Canada and the USA. Memoranda of Understanding and/or cooperation agreements shall be signed with institutions in foreign countries that would like to be associated to the activities.

## **ARTICLE 5 – COMPOSITION**

*5-1*-The *Consortium* is composed of the *MOs*, which can be Core or Invited Members.

The Core Members are *MOs* from Member States of the European Union (EU) (or of states that have formal agreements for scientific cooperation with the EU), or which were participants to the *EUR-OCEANS Network of Excellence*, which pay an annual contribution to the *Consortium*.

The Invited Members are other *MOs* from any state that are not eligible for Core membership.

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5-2-All personnel contributing to the activities of the *Consortium* shall remain assigned to their home institution.

**ARTICLE 6 – ORGANIZATION**

6-1- The *Consortium's* *Coordinator* is a *Party* appointed by the Council for a term of four (4) years amongst the Core Members. The *Coordinator* prepares the annual budget, and submits the *Consortium* annual scientific report and financial report to the *Parties* upon approval by the Scientific Steering Committee. The *Coordinator* appoints a person who acts as the representative of the *Consortium*.

6-2- The *Consortium's* Project Office (PO) implements the decisions made by the governing bodies of the *Consortium*. The PO could comprise an Executive Director, a webmaster, and a Secretary. The Project Office is located at the *Coordinator's*. The terms of reference of the PO are: (1) to promote Cluster Activities, and integrating activities initiated during the period of the EUR-OCEANS Network of Excellence, (2) to facilitate the implementation of Clusters of MOs for Cluster Activities, and (3) to generally favour long-lasting integration of the MOs.

6-3-The governing bodies of the *Consortium* are the Council, the Executive, and the Scientific Steering Committee.

a-The Council is composed of the Core MOs. Each Core MO has a number of votes proportional to its annual financial contribution to the *Consortium*; the number of votes of each Core MO is decided by the Council during its first meeting and is revised annually. The Council is chaired by one of its members, with a casting vote in case of ties. Representatives of the Scientific Steering Committee participate as non-voting members. The Council is responsible for the strategic development of the *EUR-OCEANS Consortium*, including the approval of the annual budget of the *EUR-OCEANS Consortium*, and of selection of the MO hosting the PO.

b-The Executive Committee (EXEC) is composed of five (5) members of the Council elected by the Council. The EXEC is chaired by one of its members, with a casting vote in case of ties. Three representatives of the Scientific Steering Committee participate as non-voting members. The EXEC is responsible for the implementation of the strategy of the *EUR-OCEANS Consortium*, including proposing to the Council the annual budget of the *EUR-OCEANS Consortium* and the name of the Core MO to host the PO, and organising periodic external reviews of the *EUR-OCEANS Consortium's* activities.

c-The Scientific Steering Committee (SSC) is composed of the Scientific Leaders of the *EUR-OCEANS Consortium's* *Flagship Institutions* and Cluster Activities, and of external members

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(invited by the Council). The SSC is chaired by one of its members, with a casting vote in case of ties. The SSC meets periodically to review, plan and develop the activities of the *EUR-OCEANS Consortium* on behalf of the Council and the EXEC, and to advise the Council and the EXEC. Specific tasks of the SSC are to organise competitions among MOs for some of the Cluster Activities and do the selection, favour the emergence of Clusters of MOs for Cluster Activities, advise the EXEC on the *EUR-OCEANS Consortium's* budget and on the organisation of periodic external reviews of the *EUR-OCEANS Consortium's* activities.

d-The requested quorum for the meetings of the governing bodies of the *Consortium* (Council, Executive Committee, and Scientific Steering Committee) is 2/3. Decisions are taken at simple majority.

## **ARTICLE 7 – FUNDING PROVISIONS**

7-1-The financial contributions from Core Members can be in cash or in kind (e.g. institutional resources dedicated specifically to the *Consortium*, including participation of scientific, technical and administrative staff, and access to and maintaining databases and equipment).

7-2-Each activity of the *Consortium*, i.e. *Flagship Institution* or Cluster Activity, covers its expenses from a specific budget, for one part funded by the *Consortium* and for another part self-funded. The contribution of the *Consortium's* budget to each activity is determined by the EXEC and approved by the Council in the annual budget.

7-3-Annual contributions from the MOs cover both the contributions to the specific budgets, the meetings of the governing bodies, and the Project Office of the *Consortium*.

## **ARTICLE 8 – INTELLECTUAL PROPERTY RIGHTS**

The rules for Intellectual Property Rights applying to each activity of the *Consortium* will be detailed in the relevant Specific Agreement. These rules shall nonetheless comply with the following general principles.

8.1. – *Publications*: The publication of scientific results shall be made as per the usual custom and practice of the scientific community, with the prior consent of all participants having contributed to the results. Publications related to the joint research efforts of the *Consortium* shall include reference to the *Consortium* Parties. Such publications shall bear the mandatory statement: “*Research conducted in the scope of the EUR-OCEANS Consortium.*”

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Throughout the term of the *Consortium* and for a subsequent period of two (2) years, all MOs undertake to notify the PO of any research to be published in the scope of the *Consortium* and to distribute it to the other MOs teams prior to publication.

In the event of conflict between the MOs laboratories and teams and/or its *Parties*, no publication or paper may be delayed beyond three (3) months except where such publication or paper contains important information of an industrial, commercial or strategic nature related to the activities of certain *Parties*.

8.2. *Nondisclosure* : throughout the term of the agreement and for a subsequent period of five (5) years, unless otherwise expressly agreed, the *Parties* shall refrain from disclosing to any third party any information obtained from another *Party* within the scope of the present agreement which had been previously designated as confidential by the originating *Party*.

In the event that the information contained in a proposed publication includes important information of an industrial, commercial or strategic nature, the decision regarding the nature and term of the nondisclosure shall be submitted to the Scientific Steering Committee.

None of the foregoing is intended to preclude:

- the submission of a thesis to examiners pursuant to the rules and usual practices of the *Parties*, subject where applicable to the execution of nondisclosure provisions whose terms shall not be less restrictive than those set forth above.
- the fulfilment of a duty by a *Party* to provide a scientific activity report to the government or administrative organization to which it belongs. This report shall not be considered a public disclosure, but shall be deemed an internal document of the *Party*.

8.3. – *Ownership and exploitation of results*:

a- Principles: the *Parties* shall retain exclusive title to the research results, patented or not, held prior to this agreement coming into effect or that they hold outside the scope of this agreement. The other *Parties* shall in no way acquire rights arising out of this agreement over said research results. The results, whether or not patentable, obtained in the scope of the present agreement, shall be jointly owned by the *Parties* having contributed to these Results, in proportion to their respective contributions.

All *Parties* hold a non-transferable right to use the Results obtained in the scope of the present agreement free of charge for their own research needs, with the exception of any activity, even free of charge, which is of an industrial or commercial nature.

b- Patents: any patents on the Results stemming from the *Consortium* shall be filed in the joint names and to the joint benefit of the *Parties* having contributed to the Results. The name of the inventor(s) must be mentioned.

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Each of the joint owners shall bear its proportional costs related to the filing, obtaining and maintenance of patents.

Joint owner *Parties* shall jointly name an agent to fulfil said procedural formalities on their behalf. The latter shall annually collect from the other *Parties* in proportion to their ownership interest for costs accrued.

Notwithstanding the termination or cancellation of this *Agreement* or the withdrawal or exclusion of one of the *Parties* to the present *Agreement*, the provisions of this Article 8 shall remain in force.

## **ARTICLE 9 – LIABILITY**

Except as otherwise specifically agreed, each *Party* shall only be liable towards the other *Parties* for direct damages, whether based on personal injury or material damage, it or the persons charged with the fulfilment of its obligations have caused through gross negligence or wilful misconduct.

No *Party* shall be responsible to any other *Party* for indirect or consequential loss or damages such as, but not limited to, loss of profit, loss of revenue, or loss of contracts.

Each *Party* shall be solely liable for any loss, damage or injury to third parties resulting solely from the performance of its duties under the *EUR-OCEANS Consortium*.

## **ARTICLE 10 – MISCELLANEOUS**

*10.1. Membership:* all additions to the *Consortium* of a new member organisation require the consent of the Council after proposition by the Scientific Steering Committee.

The addition of new parties to the *Consortium* shall require an amendment to this *Agreement*, signed by the new parties and those having executed the initial agreement.

*10.2. Withdrawal:* *Parties* may withdraw from the *EUR-OCEANS Consortium* upon request, provided that 6 months' prior notice is given to the *Parties*. The withdrawing *Parties* undertake to complete their commitment for the running year regarding the joint activities and the financial contribution.

*10.3. Exclusion:* in the event of negligent failure to perform a *Party's* duties, including the non payment of the annual contribution, the EXEC after consultation of the Scientific Steering Committee may recommend the Council to exclude one or more MOs.

Such a decision requires the unanimous vote of the Council members present, excluding the concerned representative(s) from voting and with at least three-quarters of the Council members voting.

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*10.4. Cancellation:* this *Agreement* may, for exceptional and justifiable reasons, be cancelled before the term defined in Article 2 has expired, upon six (6) months' prior notice. In such a case, the *Parties* shall endeavour to complete any pending joint activities.

The decision to cancel shall be taken by the Council.

*10.5. Entire agreement:* the *Agreement* is composed of the core agreement and the annexes.

In case of conflict or inconsistency between the core agreement and the annexes, the core agreement shall prevail.

*10.6. Settlement of disputes:* in the event of difficulties related to the interpretation or performance of this *Agreement*, the *Parties* shall endeavour to settle their dispute through arbitration. Should they fail to do so, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. Arbitration proceedings shall be conducted in English.

*10.7. Copies:* this *Agreement* has been drafted in one (1) original and in (*number of parties signing the agreement*) copies, together constituting one and the same instrument.

A total of (*number of parties signing the agreement*) copies are printed in English. Each *Party* initials and signs one copy and returns it to CNRS. CNRS collates and archives these copies. It will also send a certified copy to each of the *Parties*.

**Name of Member Organisation:**

**Name and position of the authorised representative:**

**Date, place:**

**Signature:**