FUSEL OIL CONSORTIUM AGREEMENT

concerning REACH registration of

FUSEL OIL

pursuant to requirements of
Regulation (EC) No 1907/2006 of the European Parliament
and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

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CONSORTIUM AGREEMENT

This Consortium Agreement (hereinafter **"Consortium Agreement" or "Agreement")** is made by and among the Parties listed in **Appendix 1**.

PREAMBLE

WHEREAS EU Regulation 1907/2006/EC on Registration, Evaluation and Authorization and restriction of Chemicals (hereinafter the "**REACH Regulation**") aims at ensuring a high level of protection for human health and environment, while promoting the efficient functioning of the EU internal market and stimulating innovation and competitiveness in the chemical industry;

WHEREAS REACH Regulation imposes on manufacturers and importers as well as on only representatives, an obligation to register the Substances as such, in preparation or, under certain conditions, in articles within the prescribed deadlines.

WHEREAS REACH further imposes rights and obligations on legal entities that are not manufacturers or importers but for instance downstream users or distributors and therefore also affected by REACH Regulation;

WHEREAS REACH Regulation requires, subject to certain exceptions, multiple registrants of the same substance to share certain data and jointly submit part of the registration relating to the substance(s);

WHEREAS The Members are, as the case may be, manufacturers, importers, only representatives and/or third party representatives of Non EU manufacturers, downstream users, distributors, Industry associations and/or third parties holding information on the substance(s) (Data Holder), as defined in Reach Regulation, concerned by the Substance(s) (as defined hereafter) on their own, in preparations or in articles, and therefore, all affected by REACH Regulation.

WHEREAS The Members are all adherents of EtOH REACH ASSOCIATION and have agreed to carry out certain preliminary discussions within a special interest group under EtOH REACH ASSOCIATION umbrella in order to prepare the creation of the Fusel Oil Consortium herein (hereinafter referred to as "**Consortium**") and the EtOH REACH ASSOCIATION has proposed to host the Fusel Oil Consortium and to provide its Secretariat.

WHEREAS With a view to fulfilling their regulatory obligations under the REACH Regulation in respect to the Substance(s) as listed in **Appendix 2**, the Members have agreed to cooperate, join force and share human and financial resources in order to establish a set of legal and technical policies that will facilitate, for the benefit of all Parties involved, the building and submission of Joint Registration Dossier(s), in order to comply with the requirements of the REACH Regulation for the purpose of the registration of the Substance(s), in form of a consortium concerning REACH registration of Fusel Oil, in accordance with the terms and conditions stipulated herein in the present Fusel Oil Consortium Agreement (hereinafter referred to as "**Consortium Agreement**" or "**Agreement**") and in order to legally structure their cooperation via fundamental operating rules (hereinafter the "**Purpose**"). Such Consortium being open to any other interested third parties subject to the criteria defined hereunder.

WHEREAS The Members agree that the discussions and work required to achieve the Purpose of the Fusel Oil Consortium defined hereunder may benefit from the use of a secretariat (hereinafter referred to as "**Secretariat**") to ensure effective discussions and organization of the work contemplated to take place in the Consortium.

WHEREAS Et-OH REACH Association has proposed LEJEUNE ASSOCIATION MANAGEMENT to host the services of Secretariat to the Consortium, through M.S. Macaré, and the Parties are willing to accept such offer.

NOW THEREFORE, the Parties have agreed to the following Agreement (this Agreement including all its Appendices and Addenda)

AGREEMENT

ARTICLE 1. DEFINITIONS

Terms written in capital letters are defined in the Preamble above, in this **Article 1** or in other parts of this Agreement. To the extent not otherwise defined in this Agreement, any definition specified in REACH Regulation, in particular in its Article 3, shall apply to this Agreement:

Furthermore, in this Agreement, the following terms shall have the following meanings:

"**Affiliate**"	means any legal entity, company or other business entity controlling, controlled by, or under common control with a Party,. For these purposes, "control" shall refer to : (i) the possession, directly or indirectly, of the power to direct the management or policies of an entity or 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 an entity or a person, or otherwise having the right to exercise a dominant influence over such an entity or a person at issue.
"**Agreement**"	means this Consortium Agreement, as the case may be modified from time to time, including any Appendices or Addenda.
"**Agency**"	means the European Chemicals Agency (ECHA).
"Associate Consortium Member"	means any natural or legal person which: - is a Downstream user, Distributor, third party holding information, of one or more Substance(s), and/or industry association or trade federation representing the interests of entities or individuals that are themselves entitled to membership, - who is not subject to the registration requirements pursuant to REACH Regulation but who has an identified and reasonable interest in contributing to the Purpose pursued by the Consortium, in particular by providing scientific and technical data and data on Use, and - is a Party to this Agreement, as an as Initial Associate Consortium Member, or is subsequently admitted as new Associate Consortium Member by the Steering Committee. (and "**Associate Consortium Membership**" shall have the corresponding meaning).
"**Association**"	means the EtOH REACH Association.
"**Chemical Safety Report**"	means the report described in Article 14 of the Reach Regulation.
"**Confidential Information**"	shall have the meaning given to that term under Article 4.1.1 to this Agreement.
"**Consortium**"	means the consortium of the Members formed pursuant to this Agreement.
"Core Data"	means data to be submitted by Registrants pursuant to the Reach Regulation, and which include in particular: - Classification and Labelling of Substances; − Study Summaries of Information derived from the application of Annexes VII to XI to the Reach Regulation.

	− Robust Study Summaries of Information derived from the application of Annexes VII to XI, if so required under Annex 1 to the Reach Regulation; − Testing Proposals where listed in Annexes IX and X to the Reach Regulation; − The Chemical Safety Report where required under Article 14 of the Reach Regulation, in the format specified in Annex I of the Reach Regulation including the relevant use and exposure categories and if the substance(s) meets the criteria for classification as hazardous or is assessed to be a PBT or a vPvB substance, including exposure assessment (exposure scenarios and risk characterisation); − waiving argumentation per end-point − hazard assessment as specified art 10b) and 14 of the REACH regulation − The Guidance on safe use of the Substance as specified in section 5 of Annex VI of the Reach Regulation; being understood that the scope of the Core Data shall correspond to the requirements of Reach applicable to a Member manufacturing or importing the specified highest tonnage band of any Substance covered by this Agreement.
"Deadline for Registration"	means the date by which the Substance(s) covered by this Consortium Agreement must be registered at the latest as specified in Article 23 of the Reach Regulation.
"**Disclosing Party**"	means any natural or legal person that discloses Information in the framework of this Consortium Agreement.
"Information"	means Studies or other tests, data and information including but not limited to composition, characteristics, properties and processes and applications, and any information in any form **-** made available to the Parties by a Member or any third party, or **-** generated by the Consortium within the framework of this Consortium Agreement, whether in writing, by email, by other tangible electronic storage medium, orally or visually. It also includes all statistics, information, data or conclusions that could be deduced from such Studies and other tests, data and information, which might be written, oral or visual information.
"**Lead Registrant"**	means the Regular Consortium Member who is responsible for submitting the Joint Registration Dossier relative to a Substance to the Agency on behalf of of the SIEF participants, including the Regular Consortium Members, assuming it has been legitimately appointed as lead registrant by the SIEF participants pursuant to Article 11(1) of the Reach Regulation.
"**Letter of Access**"	a letter granting the rights to refer to a Study submitted to the Agency.
"**Members**"	mean the members of the Consortium being the initial members to this Agreement listed in Appendix 1 as well as any other legal entity which becomes new member to this Agreement in the future, including Regular Consortium Members and Associate Consortium Members. Consortium membership shall have the corresponding meaning.
"**Only Representative**"	has the meaning as per Article 8 of the Reach Regulation.
"Parties"	any natural or legal person who is a Party to this Agreement, as an initial signatory of this Agreement (Initial Parties), or is subsequently admitted as new Parties.

"**Purpose**"	means the purpose as defined under the **Preamble** and **Article 2** of this Consortium Agreement.
"**Receiving Party**"'	means any Party to this Agreement to which Information is made available in any manner whatsoever in the framework of this Consortium Agreement.
"**Representative**"	means a natural or legal person authorized to represent and act on behalf of a Member.
"**Regular Consortium Members**"	means any natural or legal person which : - is a EU-based Manufacturer or Importer of Substance(s) and their Third Party Representative; or - is a Non-EU-based Manufacturer and formulators of preparations containing one or more Substances and their Only Representative; - who is a SIEF participant, subject to the registration requirements pursuant to REACH Regulation ; and - is a Party to this Agreement, as an initial Consortium Regular Member signatory of this Agreement, or is subsequently admitted as new Regular Consortium Member by the Steering Committee. (and "**Regular Membership**" shall have the corresponding meaning).
"Secretariat"	means the natural or legal person, tasked with the daily management of the activities of the Consortium and reporting to the Steering Committee according to article 6.2.5.1.
"Steering Committee"	Steering Commitee as defined in **Article 6.2.2 (Bodies)**
"**Study(ies)"**	means report, in written or electronic form, on investigations, tests, or other examinations (excluding or including vertebrate animals), which relate to intrinsic Substance(s) properties or to the exposure assessment and risk characterisation in the Chemical Safety Report, and as such are of relevance for registration pursuant to the Reach Regulation; these also include Study Summaries and Robust Study Summaries of the reports.
"**Sub-groups"**	means grouping of similar Substances, within the overall core data scope, that improve the cost effectiveness of dossier development and enable a more equitable distribution of costs amongst the Members.
"**Substance**"	means the substances covered by this Consortium agreement listed in Appendix 2B, amongst others associated substances to Ethanol as defined under Article 3.3 of the Association Bylaws.
"**Trustee**"	An independent third party who in view of the exchange of sensitive individual data, is appointed by the Steering Committee and who is a legal or natural person not directly or indirectly linked to a Member.

ARTICLE 2. PURPOSE AND OBJECTIVES

2.1. The Members undertake to cooperate, join force and share human and financial resources in order to establish a set of legal and technical policies that will facilitate, for the benefit of all Parties involved, the building and submission of Joint Registration Dossier(s), in order to comply with the requirements of the REACH Regulation for the purpose of the registration of the Substance(s) covered by this Agreement as listed in **Appendix 2**, and in order to legally structure their cooperation via fundamental operating rules, always in full compliance with competition law**,** (hereinafter "the **Purpose**")

2.2. The main objectives of the Agreement are to agree on :

- the operating rules governing the exchanges of information and cooperation among the Parties in the phase of joint preparation of the dossier(s).
- the allocation of tasks among Members, in particular the way to commission the technical work
- the rules regarding the data sharing and costs sharing among Members.
- the right to participate in the process of submission of the Joint Registration Dossier(s) commonly developed and compiled between the Members
- the right to exchange information in the process of submission of the individual dossier(s) developed and compiled by each Member
- confidentiality obligations
- proxy given to the Lead Registrant(s) to represent the Members in the SIEFs and in the Consortium
- proxy given to the Secretariat to act on behalf of the Consortium Members.

2.3 The Members undertake to pursue jointly the following objectives, issues, general principles and policies, in particular:

2.3.1 Agreement on the identity and the sameness of the Substance(s) and its regulatory status, as well as on other substances for which the available Information might be relevant for the Substance of interest for the Members.

2.3.2 Building of Joint Registration Dossier(s)

2.3.2.1 Exercising the rights to the Studies and development of the Core Data for the Substance(s), in particular

- Inventory and assessment of available data;
- Development of read-across approach based on surrogate data where possible; data waiving assessment, data-sharing and cost-sharing activities, making decisions about Data Waiving possibilities;
- Gathering and assessing Existing Studies on the Substance individually held by the Members or third parties as well as any data in the public domain (literature, etc.);
- Identification of data gaps between the Existing Studies gathered pursuant the previous point and the requirements of Annexes VI to XI of the REACH Regulation;
- Selection of the key studies;
- Prepare proposals for new testing not involving vertebrate animals and have such tests performed;
- Identify, propose and perform jointly vertebrate animal Studies for the registration purpose, when absolutely necessary and required according to the REACH regulation;
- Subject to obligations under Art. 30 of REACH Regulation, carrying out of testing to close the data gaps identified in relation to Annexes VI to VIII of the REACH Regulation taking into account Annex XI;
- Development of testing proposals as required according to Annexes IX and X of the REACH Regulation taking into account Annex XI;
- Preparation of study summaries and robust study summaries, where appropriate;
- Development of uniform classification and labelling;
- Required parts of the hazard assessment pursuant Annex I of the REACH regulation for non hazardous substance over 10 t/y will be prepared jointly: (establishment of DNEL(s)/PNEC(s), if relevant, and PBT/vPvB assessment, etc.), and if the Substance is confirmed to meet the criteria for classification as hazardous or is assessed to be a PBT or vPvB, the chemical safety assessment shall include exposure assessment including exposure scenario(s) and risk characterization;
- Assessment of opportunities for exposure-based waivers;
- Gathering information on use and exposure categories of the Substance, conditions of use and exposure to humans and environment;
- Identified uses of the Substance to be assessed in the Chemical Safety Report

shall be listed. (only uses which are common to all the Regular Consortium Members based on information transmitted and aggregated by a Trustee);
- Performing a risk assessment according to the scientific principles as agreed by the Core group with the intention to demonstrate safe manufacturing and use of the Substance(s) in the defined application areas [and develop guidance on safe use];
- Initiating testing where a higher tier risk assessment is needed to demonstrate a safe use in a specific application or specific conditions of use in an application.

2.3.2.2 Preparation of the IUCLID 5 registration dossiers;
- prepare the Core Data;
- address technical issues in relation to registration;
- template dossiers for the Substances;

2.3.3 Submission of the Joint Registration Dossier(s) for the purpose of Registration to the Agency by the Lead Registrant(s) pursuant to Article 11 REACH on behalf of Regular Consortium Members and on behalf of their Affiliates.

2.3.4 Addressing technical and legal issues in relation to the Purpose.

2.4 The list under **Article 2.2** and **2.3** above is considered non-exhaustive and other subjects of relevance to meeting the REACH objectives may be discussed, all subject to ***Articles 4 (confidentiality)*** *and* ***6.2.2 (Steering Committee).***

2.5 The Members undertake to use all reasonable efforts to ensure the appropriate and timely achievement of the Purpose

2.6 Provided all Members agree unanimously, certain subjects may be referred to a selected group of appointed Members if such limited forum is deemed convenient by the Members, merely to ensure speedy and effective discussions and work in the Fusel Oil Consortium.

3 MEMBERSHIP

3.1 General

- Members of the Consortium are the initial members, all listed in this Agreement, as well as any other legal entity or individual which becomes Member to this Consortium Agreement in the future.

- Membership shall be open to any applicant who fulfils the membership criteria and is committed to pay the financial contribution as laid down in this Agreement.

3.2 Eligibility

3.2.1 The following are eligible to be Parties of the Consortium:

3.2.1.1 **As Consortium Members**:
- As **Regular Consortium Member** : any natural or legal person which is a:
  - EU-based Manufacturer or Importer of Substance(s) and their Third Party Representative; or
  - Non-EU-based Manufacturer and formulators of preparations containing one or more Substances through their Only Representative; and
  - Member to this Agreement, as an initial signatory of this Agreement as **Initial Regular Consortium Member**, or is subsequently admitted as **new Regular Consortium Member** by the Steering Committee.

that include **the Lead Registrant(s)**.

- As **Associate Consortium Member** any natural or legal person which is :

- A Downstream user, Distributor, third party holding information, of one or more Substance(s) that are entitled to be members of the SIEF for the Substance(s), and/or industry association or trade federation representing the interests of entities or individuals that are themselves entitled to membership; and
- Not subject to the registration requirements pursuant to REACH Regulation but who has an identified and reasonable interest in contributing to the Purpose pursued by the Consortium, in particular by providing scientific and technical data and data on Use; who will receive SIEF progress reports, and
- A Member to this Agreement, as an initial signatory of this Agreement as **Initial Associate Consortium Member**, or is subsequently admitted as **new Associate Consortium Member** by the Steering Committee.

3.2.1.2 **As other Parties of the Consortium** : non SIEF Members such as

- the Secretariat
- the Association, and
- Other natural or legal persons engaged in a professional way with one or more Substance(s) not falling into the previous categories but complying with the eligibility criteria.

3.2.2 For the avoidance of any doubt, applicant to Regular Consortium Membership or Associate Consortium Membership must be Member of the Association, as provided by the "Application for Membership of Fusel Oil Consortium under the umbrella of the EtOH-REACH Association".

3.2.3 All applicant to Membership as Regular or Associate Consortium Member must separately become a Member of the Consortium and of the Association, either directly or through a Third Party Representative or an Only Representative, as the case may be.

3.2.4 All Affiliate of a Member that wish to register one or more Substance(s) must separately become a Member of the Consortium and of the Association, either directly or through a Third Party Representative or an Only Representative, as the case may be.

3.2.5 All rights and obligations of a Member and all issues, in particular, regarding the membership of the Association (eligibility, admission, termination, withdrawal….) shall be treated in accordance with the provisions the Association's Bylaws. Should any provision of these Association's Bylaws contradict the provisions of the Consortium Agreement, the provisions of the Association's Bylaws shall prevail, as far as the rights, obligations and membership of a member of the Association is at stake.

3.2.6 All rights and obligations of a Member and all issues, in particular, regarding the membership of the Consortium (eligibility, admission, termination, withdrawal….), and regarding the achievement of the **Purpose** and objectives of the **Consortium,** shall be treated in accordance with the provisions this Consortium Agreement. Should any provision of this Consortium Agreement contradict the provisions of the Association's Bylaws, the provisions of the Consortium Agreement shall prevail, as far as the rights, obligations and membership of a Member of this Consortium Agreement is at stake.

3.3 Membership categories

3.3.1 The Consortium is made up of Members and others parties. Within the category of Members, a distinction is made between Regular Consortium Members and Associates Consortium Members

3.3.2 **Regular Consortium Members** are or have the intention to be EU-based manufacturers and importers of one ore more Substance(s) and Non-EU-based manufacturers of one ore more Substance(s) and formulators of preparations containing one ore more Substance(s) and Third Party Representatives and Only Representatives intending to register one ore more Substance(s) under the Reach Regulation.

3.3.3 Within the category of Regular Consortium Members of this Consortium Agreement, a distinction is made between
- Large Regular Consortium Members intending to register one or more Substance(s) in the tonnage band greater than 1000 metric tonnes per annum;
- Small Regular Consortium Members intending to register one or more Substance(s) in the tonnage band above 100 and up to 1000 metric tonnes per annum;
- Micro Regular Consortium Members intending to register one or more Substance(s) in the tonnage band from 1 to 100 metric tonnes per annum;

3.3.4 Only Representatives and Third Party Representatives will provide the Secretariat with an up-to-date list of all the manufacturers and/or importers that they represent for the purposes of the Reach Regulation. Third Party Representatives and Only Representatives will pay a membership fee for each manufacturer and/or importer that they represent in accordance with their respective tonnage band.

3.3.5 The Steering Committee will require proof of the correctness of the number of manufacturers and/or importers that the Third Party Representative and Only Representatives represent and whether they are Large, Small or Micro Regular Member, to be updated at least twice a year.

3.3.6 **Associate Consortium Members** are those Members who are not Regular Members in the Consortium Agreement. Within the category of Associate Consortium Members, a distinction is made between:

- Non-Registration Members: manufacturers and importers of one or more Substance(s) who are not subject to a registration requirement of one or more Substance(s);
- SIEF Members: any natural or legal person not falling into one of the membership categories above who is entitled to be a member of the SIEF for one or more Substance(s);
- Trade federation Members: trade associations or federations of companies or natural persons engaged in a professional way with one or more Substance(s);
- Other Associate Consortium Members: natural or legal persons engaged in a professional way with one or more Substance(s) not falling into the previous categories but complying with the eligibility criteria.

3.4 Admission

3.4.1 Any application for Membership shall be in writing and shall be sent to the Secretariat. Upon receipt of the application, the Secretariat will send a message confirming its receipt, which officially marks the start of the application process.

3.4.2 The applicant shall declare that it agrees to comply with the Consortium Agreement and its membership obligations, and in addition for applicant to Regular or Associated Consortium membership to the Association's bylaws.

3.4.3 The Secretariat will propose acceptance of the applicant :

- as member of the Association in accordance and pursuant to the Association's Bylaws. As far as the Association membership is concerned, the provisions of the Association's Bylaws shall apply.

- as Member or Party of the Consortium, to the Steering Committee, which shall take a decision within one (1) month after this proposal.

3.4.4 The admission of a new Party or new Member shall be subject to the *majority vote* of the Steering Committee, it being understood that such consent shall not be unreasonably withheld or delayed. The admission shall not be denied if the applicant fulfils the Membership criteria specified above and has committed to pay the financial contribution referred to below :

- Financial contribution in relation to the adhesion to the Association as set out in the Association Bylaws;

- Financial contribution in relation to the Consortium membership, as set out in this Agreement.

3.4.5 Matters concerning adherence of an applicant shall be handled in a fair and non-discriminatory way, be based on objective criteria and be handled in accordance with applicable competition law and more generally in compliance with applicable laws, which could be reminded appropriately by the Secretariat when necessary.

3.4.6 To the extent required to comply with applicable competition law, the Parties shall discuss and establish reasonable means of bringing attention to the existence of the Consortium to other potentially interested third parties.

3.4.7 A new Party shall fully adhere to the terms and conditions set out in this Agreement. The new Party shall have the same rights and obligations as any existing Parties with respect to its membership category.

3.5 Refusal of membership

3.5.1 The applicant for membership waives all legal rights on privacy and secrecy regarding the information provided to the Association and the Secretariat during the application procedure.

3.5.2 In the case of a refusal of membership of the Consortium, the applicant will receive the decision by letter. Any decision refusing membership shall clearly state the reasons why the membership is not granted. The applicant whose application was turned down has the right to object to the refusal by registered letter within *two (2)* weeks providing additional information and explanation. It can request a personal hearing by the Steering Committee. The cost of the hearing will be born by the applicant. The Steering Committee shall review the observations and reply in writing within one (1) month.

3.5.3 The non admitted applicant may be offered by the Steering Committee a Letter of Access to the Studies or Core Data necessary to fulfil his registration requirements in accordance with **Articles 7 and 10** of this Agreement or may be included in the joint submission of data for the Substance(s), subject to the financial compensation of an appropriate contribution towards the cost, as determined by the Steering Committee.

3.5.4 The Steering Committee will refrain from any decision that would bring the Association or any of its members (including Members of the Consortium) in violation of European competition law.

3.6 Transfer of Membership

3.6.1 A Regular Consortium Member shall be entitled to transfer its membership, including all rights and obligations, to a new Regular Consortium Member who belongs to the same group of companies.

3.6.2 Subject to the consent of the Steering Committee, a Regular Member shall be entitled to transfer its membership, including all rights and obligations, to a new Regular Member who does not belongs to the same group of companies.

3.6.3 The Steering Committee will publish its intention to give its consent to a transfer of Regular Membership and allow members to file objections against this decision within two (2) weeks. The Steering Committee may, before taking a decision, formally hear the persons involved, organise an internal arbitration or mediation.

3.6.4 The Member shall notify the Secretariat by registered letter at least thirty (*3*0) days before the transfer of membership. In any case, Regular Members affected by the above provisions will not be entitled to any refund of monies.

3.6.5 Associate Consortium Members are not allowed to transfer their membership in the Consortium.

3.6.6 Other Parties of the Consortium are not allowed to transfer their membership in the Consortium.

3.7 Withdrawal

3.7.1 A Member can terminate its membership in the Consortium, upon completion of the first phase of the Consortium work, that is Substance(s) sameness check and the data-gap analysis, once the estimate of the costs for the second phase of registration have been presented, by registered mail to the Secretariat. In this case, Membership shall be terminated as of the date of receipt of the termination notification to the Secretariat.

3.7.2 At any time, a Member can terminate its membership in the Consortium without giving reason by registered mail to the Secretariat with a notice period of *six (6) months* at the end of the calendar year.

3.7.3 At any time, a Member can terminate its membership in the Consortium by registered mail to the Secretariat with a notice period of *three (3) months* at the end of the calendar year, if due to circumstances involving the Member, the Member is no longer subject to registration requirements or in the event that other serious reasons arise which make continued membership in the Consortium Agreement unreasonable.

3.7.4 In any event, the effectiveness of termination is subject to the terminating Member having fulfilled all of its financial obligations up to the date of termination.

3.8 Exclusion

3.8.1 Any Party may be excluded from the Consortium with *immediate effect* in the event of breach of this Consortium Agreement or Competition Law, or in the event of unacceptable behaviour possibly affecting the interests of the other Parties, or causing a direct or indirect damage or potential threat. Such exclusion shall be without prejudice to any other rights the Parties may have against the defaulting Party under the applicable law.

3.8.2 The defaulting Party shall be excluded by a decision of the Steering Committee with a majority vote of the Members present or represented. The defaulting Party shall have the right to object to decision of the Steering Committee. This objection shall defer the decision of the Steering Committee until Steering Committee takes a new decision which will be final. The decision of the Steering Committee shall be immediately notified to the Party by registered mail and the exclusion shall be effective upon the date of receipt of this letter.

3.9 **Consequences of withdrawal and exclusion**

3.9.1 Subject to Article 3.9.4 hereunder, withdrawal or exclusion of a Party is without prejudice to the rights and obligations of the Party that is withdrawing or is excluded (hereafter exiting Party) which have accrued up to the date of effective withdrawal or exclusion provided that the exiting Party meets his payment obligations, including all payments related to Studies agreed on, which have arisen during the time of his membership. In particular, the exiting Party shall remain liable for the activities undertaken under this Agreement for the period of his membership, it being understood that Regular Members who terminate their membership in accordance with **Article 3.7**, shall only be liable for any costs in accordance to the provisions set out in **Article 10**. The exiting Party shall have no further rights to any results arising out of this Agreement in respect of which he has not fulfilled his financial contribution or to any compensation from new Parties who have subsequently joined the Consortium for Studies developed before cessation of his membership.

3.9.2 The other Parties shall continue to be entitled to make use of the Information and contribution made available by the exiting Party on the conditions specified in this Agreement and provided that that Party has been fairly and duly compensated under

the conditions defined in this Agreement. Any recoverable collective damages suffered by the remaining Parties as a result of the defaulting Party's actions shall be off set against any compensation payable to the exiting Party.

3.9.3 The exiting Party shall have no claims for reimbursement of his financial contribution to the Consortium for the period prior to his effective withdrawing or exclusion.

3.9.4 With regard to on-going Studies to which the exiting Party committed, the exiting Party *shall* financially contribute to all further costs of the Study as well as to all administrative costs incurred until the Study is completed and thereby acquire a joint ownership of the Study.

3.9.5 With regard to the Studies, the obligations specified in **Article 4** of this Agreement shall continue to apply to the exiting Party for a period of twelve (12) years following the initial submission to the Agency by a Party. With regard to all other Information, the obligations specified in **Article 4** shall continue to apply for a period of twelve (12) years as of the execution by a Party of the Confidentiality obligations.

4 CONFIDENTIALITY, NON-DISCLOSURE AND NON-USE OF CONFIDENTIAL INFORMATION

4.1. Each Party to this Agreement, agrees to be bound by the following provisions of confidentiality, non-disclosure and Non-Use of the Information (as defined in article 1) and other information, which are considered as confidential (hereinafter "Confidential Information").

4.1.1. The Parties shall :

- treat all Confidential Information as confidential and not disclose it to third parties, unless regulatory disclosure requirements apply (specified in **Article 4.4**).
- use the Confidential Information only for the Purpose or otherwise as permitted under or in accordance with this Agreement, and for no other purpose.
- disclose the Confidential Information to their employees, Affiliates, internal and external experts and/or consultants and if a Party is an only representative, the non-EU manufacturer(s) or the legal entity(ies) represented by any of them, 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 and who agree to be bound by obligations regarding confidentiality and restrictions of use not less strict than the terms of this Agreement.

4.1.2. The obligations specified in **Article 4.1.1** above shall not apply to Information and other information for which the receiving Party can reasonably demonstrate that such Information and other information:

- was known to the receiving Party on a non-confidential basis prior to its disclosure pursuant to this Agreement;
- 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 Party;
- becomes known to the receiving Party through disclosure by sources other than the disclosing Party, having a right to disclose such Information,
- was independently developed by the receiving Party without access to the disclosing Party's Information, as evidenced by documentary records,

4.1.3. Specific items of Confidential Information shall not fall within any exception merely because they are combined with more general information falling within any exception. Likewise, any combination of specific items of Confidential Information shall not fall within any exception merely because the specific items fall within any exception, but only if the combination itself, and its principles of operation, fall within any exception.

4.2. Should, in spite of the operation of the Secretariat, a Party to this Agreement obtain, as Receiving Party, access to Confidential Information from any other Party, the Receiving Party undertakes to return the Confidential Information to the Secretariat and not to use or disclose such Confidential Information to other Parties to this Agreement or to third parties. The same applies to Confidential Information explicitly declared confidential by a Party and provided by

that Party to the other Parties, unless prior written consent is obtained from the Disclosing Party.

4.3. Non disclosure among the Parties and vis-a-vis third parties shall apply only to the extent permitted under the REACH Regulation, and provided that no other legal disclosure requirement applies. The Parties agree to use the Confidential Information disclosed to them exclusively for the Purpose of the present Agreement.

4.4. Each Party undertakes to advise immediately the other Parties in writing of any unauthorised disclosure or misuse by any Party or third party of Confidential Information, as well as any request by competent authorities relating to the disclosure of that Confidential Information. Disclosure of Confidential Information as required for legal and/or regulatory purposes including the REACH Regulation, shall only take place by the Parties in a form (for example short summaries where possible) reflecting the minimum Confidential Information required to be disclosed. This restriction does not apply to the Party who has provided the Confidential Information.

4.5. Each Party to the Agreement shall submit Confidential Information, which could be deemed to be sensitive in respect of commercial confidentiality and/or EU competition law, but which is necessary to achieve the purpose of the Consortium. Such submission shall be effected only through the Secretariat and/or a Trustee, which shall be obliged to make only non confidential parts of such Confidential Information known to the other Parties. The Secretariat must adopt procedures for receiving, recording and aggregating sensitive Confidential Information that effectively protects commercial confidentiality. The Secretariat and/or a Trustee shall be bound by a Confidentiality Agreement as set out in **Article 4** and shall only disclose such data in aggregate form.

4.6. The Receiving Party agrees and acknowledges that the exchange of Confidential Information does not imply any transfer of title and/or ownership to Confidential Information or the creation of any intellectual property rights, and thus title and ownership to Confidential Information shall remain vested at all times in the Disclosing Party. Further, no license is hereby granted directly or indirectly under patent, invention, discovery, copyright or other industrial property right held or licensable by either Party.

4.7. Confidential Information will be provided without any warranties and representations as to its accuracy or suitability to reach the Purpose of this Agreement. The Disclosing Party shall not be liable for any damage or loss, incurred by the Receiving Party as a result of the use of such Confidential Information.

4.8. Each Party acknowledges that damage alone would not be an adequate remedy for any material breach of this Agreement and agrees that a Party shall be entitled to the remedies of injunction, specific performance or other equitable relief of other remedies available. Failure by a Party in exercising any right, power or privilege hereunder shall not act as a waiver, nor shall any single or partial exercise thereof preclude any further exercise of any right, power or privilege.

4.9. In the event of breach of the confidentiality and non-use obligations set out in Article 4.1 , the Steering Committee is entitled to exclude the breaching Party from any further cooperation and activities under this Agreement.

4.10. The Receiving Party agrees to return all Confidential Information at the Disclosing Party‘s request except that the Receiving Party may retain for its records one confidential copy of such Confidential Information for purposes of evidencing compliance with this Agreement.

4.11. Each Party shall have the right (but not the obligation) to mark its Confidential Information as “confidential”. In case Confidential Information is disclosed in oral form each Member shall have the right to announce before disclosure that the Confidential Information is considered confidential and/or to confirm in writing to the other Parties after disclosure that such Confidential Information is considered confidential. Further, each Party may request that it is stated in the minutes that specific Confidential Information was disclosed by a Party under a given Consortium meeting. However, neither of the actions described in this Clause shall be a condition or requirement of confidentiality.

ARTICLE 5.OWNERSHIP AND USE OF INFORMATION

5.1. Within two (*2)* weeks of the entry into effect of this Agreement, or within two (*2)* weeks after joining the Consortium subsequently to the entry into effect of this Agreement, all Regular or Associate Consortium Members shall make available to the Secretariat a list of their existing Studies. The Secretariat shall make a list of these Studies and shall make the necessary arrangements for the access and review of these Studies according to the data and cost sharing principles, and cost allocation agreed upon under **Article 10** of this Agreement and according to the detailed Data and Cost sharing Policy to be agreed by the Steering Committee.

5.2. The Secretariat shall make a list of the other studies made available by data owners to the Lead Registrant(s) via a Letter of Access, in order for him to complete the Joint Registration Dossier.

5.3. Any intellectual property or ownership rights to any existing Information independently developed by a Party or any third party and made available to the Parties in accordance with this Agreement shall remain unaffected by this Agreement. The other Members shall have for an indefinite period of time the non-transferable right to use the Information for the Purpose pursuant to the REACH Regulation, including the right to refer to the full Study report, provided that they share in its cost in accordance with the Data and Cost Sharing Principles agreed upon under **Article 10** of this Agreement and the detailed Data and Cost sharing Policy to be agreed by the Steering Committee.

5.4. The Study made available by a Party or a third party to other Parties may not be sub-licensed or otherwise made available to third parties without prior written approval of the Party or a third party who provided the Study.

5.5. The Party who provided a Study to other Parties may extend, at a cost or free of charge, the right to other Parties to use or refer to the Study for other purposes; the extension of the right has according to **Article 9** of this Agreement to be in full compliance with competition law.

5.6. Existing Studies which are owned by several Parties or by one or several Parties and one or several third parties can only be made available to the other Parties with the prior written approval of all owners unless otherwise agreed among the owners of the Study.

5.7. In case of admission of new Parties usage rights as defined in **Article 5.3** above shall be granted to new Parties by the Secretariat who is entitled to do so by the respective Parties owning the Study.

5.8. With regard to any new Information generated or developed jointly by the Parties pursuant to or in the course of this Agreement, the Secretariat shall transfer joint ownership rights to the Members provided that the individual Members have contributed to the costs thereof in accordance with the cost allocation method set out in **Article 10** of this Agreement. Each of the joint owners shall obtain a copy of the full Study report. The Information referred to in the first sentence may be used by the Members who have contributed to the costs thereof for the Purpose and shall not for the period of twelve (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 all remaining owners who have financially contributed to the costs thereof unless otherwise agreed by the Members.

5.9. In case of admission of new Members, rights of new Information shall be granted to the new Member by the Secretariat who is entitled to do so by the Members jointly owning the Study.

5.10. Upon request, Associate Consortium Members, other Parties of the Consortium and any potential registrants of the Substance, including the applicants for the Membership whose application was refused may be granted a non-exclusive and non-transferable right to use or to refer to the parts or all of the Joint Registration Dossier including to particular Studies to the extent the Parties of the Consortium are entitled to do so.

5.11. The Steering Committee shall take all decision whether or not to grant such rights and determine the amount of compensation payable in accordance with **Article 10** by a majority vote of the Members present or represented without undue delay. The Secretariat shall provide the requesting party the proof of cost within one (1) week of the decision of the Steering

Committee. The Secretariat shall issue a Letter of Access within two (2) weeks of receipt of payment of the compensation.

5.12. The terms and conditions of access will be set out in each case specifying the exact scope in accordance with the Letter of Access.

5.13. Neither this Agreement nor any disclosure of Information shall be deemed by implication or otherwise to vest in one Party any present or future rights in any patents, trade secrets or property rights in data belonging to another Party and no licence is granted except as explicitly stated in this Agreement.

ARTICLE 6. ORGANISATION

6.1. Legal personality

6.1.1. This Agreement, the Consortium or the cooperation contemplated herein shall not constitute or be deemed to constitute a legal entity, joint-venture or partnership between the Parties nor make a Party or Member the agent or representative of another Party or Member unless expressly stated otherwise. In its external relations, the Consortium will not act under its own name.

6.1.2. Each Party appoints the Secretariat to act in the Secretariat's own name but on behalf and on account of all Parties concerned.

6.1.3. No contractual commitments in relation to the Purpose of this Agreement shall be entered into by any Member on behalf of the other Members with third parties without the prior approval of the Steering Committee

6.1.4. The Lead Registrant(s) and the Secretariat shall act with respect to the third parties on behalf of all Parties concerned pursuant to the Steering Comittee decisions.

6.2. Bodies of the Consortium

There shall be the General Assembly and Technical Committees and other sub-groups when necessary.

6.2.1. General Assembly

In order to take strategic decisions related to the Consortium, its objectives and activities and those decisions which are a more specifically referred to as being under its competence, all Parties are entitled to appoint a Representative to meet in the General Assembly.
Such Representative shall have authority to commit the Parties(s) he/she represents in General Assembly decisions. Each Party Representative is entitled to one weighted vote, as specified below, in the General Assembly :

- Regular Consortium Members
  - Large Regular Members are each assigned ten (10) votes
  - Small Regular Members are each assigned eight (8) votes.
  - Micro Regular Members are each assigned three (3) vote.

- Associate Consortium Members are allowed to participate in the meetings of the General Assembly without any voting rights.

- Other Parties are allowed to participate in the meetings of the General Assembly without any voting rights.

A Representative may be appointed and may represent more than one Member. Substitutes for representatives may also be appointed. Replacements of Representatives, proxies or substitutes shall be possible and shall be communicated in writing or electronically to the Secretariat who shall promptly advise the other Parties of the change.
The Representatives may be accompanied by internal or external experts/ consultants in meetings of the General Assembly.

The Secretariat or One of Lead Registrant(s') Representatives shall be the Chairman of the General Assembly.

Ordinary Meetings of the General Assembly shall be convened every twelve (12) months to review, on the basis of the technical and financial progress reports of the Secretariat and the progress relative to the work schedule and the budget.

Extraordinary meetings of the General Assembly will be convened by the Secretariat at the request of the Steering Committee, or wherever the agreed deadlines or estimated budget are overrun or when other extraordinary circumstances occur.
The Members shall have the opportunity on that occasion to consider their participation in the cooperation based on documented reasons.
The General Assembly shall have all powers and make all decisions necessary to ensure that the Purpose is achieved.

The Members Representatives shall meet in the General Assembly in person, by telephone or video conference in order to take decisions on the overall organisation and activities.

Minutes of General Assembly meetings, to include all decisions made, shall be written by the Secretariat which shall issue them promptly, for comments and/or approval, to the General Assembly. Comments and/or approval shall be returned to the Secretariat within fourteen (14) calendar days.
The absence of a Party response will be noted, but will be recorded as a positive vote or approval of the minutes.

Decisions can be taken by the General Assembly if at least half of the Regular Consortium Members are present or represented
Decisions of the General Assembly shall be taken by a majority of the voting Representatives present or represented unless otherwise provided for in this Agreement.
Blank votes, incorrect or incomplete votes or abstentions are not valid

If a Party is an only representative, such Party should declare to the Lead Registrant the number of non-EU manufacturers it represents. For cost sharing and voting rights calculation purposes, each non-EU Manufacturer and its affiliates will separately count for one and the combined share will be allocated to the only representative.

6.2.2. Steering Committee

6.2.2.1. Composition of the Steering Committee

In order to take strategic decisions related to the Consortium, its objectives and activities and those decisions which are a more specifically referred to as being under its competence, the Steering Committee shall consist of:

- The Representatives of Regular Consortium Members
- The Secretariat

Such Representative shall have authority to commit the Regular Consortium Members he/she represents in Steering Committee decisions.
Each Representative is entitled to one (1) vote, in the Steering Committee.
The Secretariat is allowed to participate in the meetings without any voting rights.

A Representative may be appointed and may represent more than one Member. Substitutes for representatives may also be appointed. Replacements of Representatives, proxies or substitutes shall be possible and shall be communicated in writing or electronically to the Secretariat who shall promptly advise the other Parties of the change.
The Representatives may be accompanied by internal or external experts/consultants in meetings of the Steering Committee.
The Secretariat or One of Lead Registrant(s') Representatives shall be the Chairman of the Steering Committee.

6.2.2.2. Meetings of the Steering Committee

Ordinary Meetings of the Steering Committee shall be convened as frequent as necessary and at least every twelve months to review, on the basis of the technical and financial progress reports of the Secretariat and the progress relative to the work schedule and the budget.

Extraordinary meetings of the Steering Committee will be convened by the Secretariat at the request of the majority of the Members, or wherever the agreed deadlines or estimated budget are overrun or when other extraordinary circumstances occur. The Members shall have the opportunity on that occasion to consider their participation in the cooperation based on documented reasons.

The Members Representatives shall meet in the Steering Committee in person, by telephone or video conference in order to take decisions on the overall organisation and activities.

Minutes of Steering Committee meetings, to include all decisions made, shall be written by the Secretariat which shall issue them promptly, for comments and/or approval, to the Steering Committee. Comments and/or approval shall be returned to the Secretariat within fourteen (14) calendar days. The absence of response will be noted, but will be recorded as a positive vote or approval of the minutes.

6.2.2.3. Tasks of the Steering Committee

The Steering Committee shall take necessary decisions related to the Consortium, its objectives and activities, and in particular decide on the proposals from the Technical Committees or on other subject matters the Steering Committee wishes to treat per its agenda. It shall have all powers and make all decisions necessary to ensure that the Purpose is achieved.

The tasks of the Steering Committee may include inter alia the following :

- Removal and Appointment of a Secretariat where appropriate;
- Designation of a Lead Registrant for each Substance;
- Coordination and supervision of activities of the Lead Registrants and the Secretariat;
- General coherence between the Parties, the various Bodies of the Consortium (General Assembly, Steering Committee, Technical Committees, Subgroups, Secretariat) and the activities carried out therein;
- Designation of the Member representatives participating in the Technical Committees and directing it;
- Decision regarding the establishment, terms of reference and composition of Sub-groups and approval of the rules on cost sharing mechanisms for Sub-groups;
- Decisions on working and finance plan and management of financial resources of the Consortium, including budgeting, funding collection and accountancy;
- Decisions on funding, scope and matters of policy;
- Decisions on coordination of and guidance for data collection concerning the Substance(s);
- Decisions to carry out and on proposals for testing;
- Arbitration in cases of disagreement or disparities within the Technical Committees and Sub-groups;
- Resolving of disputes and arbitration in cases of disagreement or disparities with the Secretariat;
- Approval of the Core Data and Joint Registration Dossiers to be submitted jointly to the Agency; as well as determination of the Information which shall be subject to a request for confidentiality according to Article 119 of the REACH Regulation;
- Approval of items to be jointly submitted, namely the Chemical Safety Report and the Guidance on safe use of the Substance(s);
- Decision regarding transfer of Membership;
- Endorsement of decisions on admission to the Consortium of new Party and determination of the financial contribution of such new Party; and of expulsion of a Party, including specification of the conditions of such expulsion, in particular as to any funding obligation and right to use, cite or refer to Information
- Decision for right(s) to use new Information jointly owned by Consortium Members (possible granting of Letters of Access);
- Appointment of a Trustee;
- Decision of modification or amendment to any provision to this Consortium Agreement and its Appendices;
- Decision to end the Consortium and terminate the Consortium Agreement.
- Approval of the Member representatives participating in the Technical Committees;
- Revocation or modification of the Secretariat;
- Approval of financial affairs of the Consortium, including its budget, funding and accounts;

- Coordination of, and guidance for, Information collection and sharing concerning Substance covered by this Agreement
- process for defining Information gaps, including the development of waivers and use of surrogate Information
- Compilation of Core Data
- Defining test programs;
- Analysis of tests results;
- Approval for possible protection of intellectual property rights ("IPR");
- Response to request(s) for further information by the Agency.
- Internal and external communication
- Proper communications between all Parties (Member and third) involved;
- Proposal for adaptation of the Agreement in light of legislative and technical adaptation of the REACH requirements
- Approval of the proposals to be made to the General Assembly

In addition, in order to fulfill the Purpose, the Steering Committee shall be empowered to set up Sub-groups, task forces or consultancy (including appointment of external consultants), the composition, mandate, duration and rules of which shall be determined by the Steering Committee in accordance with the rules specified hereunder.

6.2.2.4. Decisions Protocols

Decisions can be taken by the Steering Committee if at least half of the concerned Representatives are present or represented.
Upon *majority d*ecision, the Steering Committee is entitled to modify the Appendices of this Agreement.
Decisions of the Steering Committee *concerning the following aspects shall always be adopted on the basis of a* 2/3 majority of the voting Representatives present or represented unless otherwise provided for in this Agreement.

- Designation of the Lead Registrants;
- Decisions to carry out and on proposals for testing;
- Approval of the Core Data and Joint Registration Dossiers to be submitted to the Agency;
- Exclusion of a Member;
- Appointment *of the Trustee if necessary for compliance with competition law.*

Other Decisions of the Steering Committee *shall be adopted on the basis of a* majority of the voting Representatives present or represented. Blank votes, incorrect or incomplete votes or abstentions are not valid.

A Representative shall be excluded from voting in the event of a vote on the exclusion of that Member of the Consortium or on matters in which he has no vested interest, including a vote on testing proposals which he is not required to provide for the purpose of registration and in which he does not intend to participate, in particular in accordance with the establishment of Sub-groups for the Substances, if applicable.
All contracts with further external service providers, including laboratories, to perform technical and scientific tasks, shall, upon prior approval of the Steering Committee, be concluded by the Secretariat, in its own name and on account of all Parties.
If a Party is an only representative, such Party should declare to the Secretariat the number of non-EU manufacturers it represents.
For cost sharing and voting rights calculation purposes, each non-EU Manufacturer and its affiliates will separately count for one and the combined share will be allocated to the only representative.

6.2.3. Technical Committee(s)

6.2.3.1. Technical Committees could be active for the daily management of the Consortium, if needed

- a Committee for the sameness statement and (eco-)toxicological assessments, sample coordination etc. constituted of
  - The Representatives of each Lead Registrant.
  - The Representatives of Regular Consortium Members representing a fair cross section of the Sub-groups of Substance(s).
  - The Secretariat
  - External consultant(s) if relevant

- a Legal Committee to further develop agreements and policies constituted of
    - The Representatives of each Lead Registrant.
    - The Representatives of two (2) Regular Consortium Members
    - The Secretariat

6.2.3.2. Organization of the Technical Committees

Each Technical Committee, in coordination with the Secretariat, shall submit to the Steering Committee any proposals for Steering Committee decisions.
Notice of each Steering Committee meeting and the agenda shall be transmitted to each Member by the Secretariat at least seven (*7)* days in advance.
No decision can be taken on an item which does not appear on the circulated agenda.
A Representative of a Member who is prevented from attending may be represented only by another Representative of another Member. The written proxy shall be presented to the Secretariat, before the meeting.
Members of the Technical Committee shall elect amongst themselves a Chairman.
The Chairman shall organise meetings and the work of the Technical Committee with the assistance of the Secretariat. The Chairman shall report to the Steering Committee.

6.2.3.3. Tasks of the Technical Committees

The tasks of the Technical Committees shall be directed by the Steering Committee.

It shall in this regard particularly, but not exclusively, deal with the following:
- Steering the technical work;
- Developing work plans; Proposing test plans
- Delegating and directing sub-tasks;
- Selecting external consultants, if and when required and subject to approval of the Steering Committee;
- Proposing the establishment, terms of reference and composition of Sub-groups and rules on cost sharing mechanisms for Sub-groups
- Overseeing the progress – reporting deviations to the Steering Committee;
- Coordinating, guiding and collecting and evaluating the Substance(s) related Information to be shared;
- Giving input/ guidance to the Secretariat on the value of knowledge developed;
- Estimating financial resources required to comply with REACH requirements;
- Preparing the Core Data for registration, including the determination of data gaps, waivers and surrogate data as well as completion of data gaps in compliance with the legal requirements laid down by the REACH Regulation regarding data sharing and submit them for approval to the Steering Committee;
- Preparing Chemical Safety Report, if appropriate; in particular collecting and evaluating the uses and exposure scenarios and submit them for approval to the Steering Committee*;*
- Collecting classification and labelling data from all Members and preparing harmonised classification and labelling in accordance with the GHS and submit them for approval to the Steering Committee;
- Supervising performance of the testing;
- Arbitration in cases of disagreement or disparities within the Sub-groups;
- Coordination and supervise the activities of the Secretariat and the Lead Company(ies) and any Sub-groups in coordination with the Steering Committee;
- Proposals for right(s) of use by third party of new Information jointly owned by Consortium Members (possible granting of Letters of Access); monitoring thereafter;
- Proposals regarding expulsion of a Member, including specification of the conditions of such expulsion, in particular as to any funding obligation and right to use, cite or refer to Information;
- Proposals for adaptation of the Consortium Agreement in light of legislative and technical adaptation of the Reach requirements;
- Proposals for modification or amendment to any provision of this Consortium Agreement, and its Appendices, if and when needed;
- And more generally, guidance on the day to day management of the Consortium carried out by the Secretariat, including the financial resources of the Consortium, including

proposals for budget, funding and accountancy, data and cost sharing policies, and proposals for licensing, from any third party, existing Studies or Information that can assist Consortium Members for the Purpose.

The Technical Committee may delegate, by specific mandates, certain tasks to designated party(ies), such as but not limited to, Sub-groups, acting within the limits defined in such mandate(s).

6.2.3.4. Meetings of the Technical Committees

The meetings of the Technical Committees shall be convened by the respective Chairmen of the Technical Committees upon necessity to review the progress relative to the work schedule and the budget. The meetings of the Technical Committees shall be announced through prior notification by the Secretariat. Meetings may be held in person, by telephone or video conference.
Meetings of the Technical Committees shall approve the proposals to be made to the Steering Committee and to approve, after completion of relevant work by any Sub-groups.
Minutes of the Technical Committees meetings, to include all decisions made, shall be written by the Secretariat which shall issue them promptly, for comments and/or approval to the Technical Committees, and for comments to the Steering Committee. Comments and/or approval shall be returned to the Secretariat within fourteen (*14)* calendar days. The absence of a Member response will be noted, but will be recorded as a positive vote or approval of the minutes.

6.2.3.5. Decisions Protocols

All decisions of the Technical Committees shall be recorded in the minutes and communicated to Membership.

Decisions can be taken by each Technical Committee if at least *half* of its Members are present or represented. In case such quorum is not reached, another meeting shall be deemed to have quorum, irrespective of the number of present or represented Members.
Members of the Technical Committees may be represented by another Technical Committee members provided the latter is able to show a duly signed proxy of the former.
TheTechnical Committees shall use its best endeavours to make decisions by consensus.
Each Member of the Technical Committees are entitled to one vote.
A Member shall not take part in a vote in the event of a conflict of interest or on matters in which such Member has no vested interests.
Decisions of the Technical Committees shall be taken by a majority vote of its members present or represented.

6.2.4. Sub-Groups

6.2.4.1. In order to pursue the Purpose of the Consortium, the Steering Committee may establish Sub-Groups, whenever necessary, including for but not limited to, for the development of Core Data required for each specific Substance(s) covered by the Consortium. The list of these sub-groups is set forth in Appendix 3A.

6.2.4.2. The Steering Committee shall specify the scope, composition, organization, mandate, duration, rules and budget of the Sub-Groups in writing. All the elements provided in this article are set forth in the Appendix 3B.

6.2.4.3. Each Sub-group shall be chaired by one of its members appointed for such task by the Steering Committee. The Sub-Groups may rely on the Secretariat to assist in the work which is entrusted to them, provided that the costs involved fall within the budget of the Sub-Groups as approved by the Steering Committee.

6.2.5. The Secretariat

6.2.5.1. The Secretariat shall be appointed by and accountable to the Steering Committee. The Secretariat may be changed at any time by the decision of the Steering Committee given a notice period of Three (3) months.

6.2.5.2. At the date of signature of this Agreement, the Steering Committee appoints LEJEUNE ASSOCIATION MANAGEMENT as Secretariat on proposal of the Association.

6.2.5.3. The Secretariat shall be responsible for daily management and shall at all times act in the best interests of the Members of the Consortium, in strict compliance with the mandate(s) given by the Steering Committee. For such purposes, the Secretariat may make use of own staff or further external service providers

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6.2.5.4. The Secretariat shall conduct all normal business of the Consortium, to the exclusion of strategic activities exclusively attributed to the General Assembly, Steering Committee and/or Technical Committee, and shall in this regard deal particularly with the following:

- Proposing the working and finance plan;
- Organising and convening meetings, distribution of agenda and making minutes, archiving, and distribution of information;
- Keeping archives for a minimum period of twelve years and notifying the Members before the archive will be disposed of;
- Ensuring compliance with competition laws;
- Handling of Information (production volumes, capacities, markets etc.).
- Supervising the external consultants and experts;
- Following up the legislative and technical development of the REACH Regulation and informing the Technical Committee, Sub-groups and Steering Committee about relevant new developments;
- Following up on progress in the technical activities of the Consortium and reporting on the technical and financial aspects to the bodies of the Consortium;
- Providing technical and administrative support for the Technical Committee, Sub-groups;
- Coordinating and providing guidance for data collection concerning the Substance(s);
- Performing sub-tasks as agreed by the Technical Committee;
- Processing of purchase orders/contracts for studies/work in line with the test plans approved by the Steering Committee of the Fusel Oil Consortium and the representative of EtOH-REACH;
- Handling financial matters and being responsible for the accounting, including budgeting, invoicing, keeping track of costs/value of information;
- Keeping an updated list of Regular Members, Associate Consortium Members and their Representatives;
- Preparing the budget and the annual accounts of the Consortium.
- Communicating to organisations, associations and potential new Members.
- Planning and organising the subjects to be discussed by the relevant Members at relevant points of time in the Consortium;
- Manage confidential information and share it through enforcing the transparent agreed-upon rules;
- Reminding competition law and more generally other applicable law to the Members, Assisting in the process of setting-up and defining relevant Subgroups and defining the membership criteria of such groups;
- General liaising between the Members as needed on a case by case basis; and
- If required, on behalf of the Members, act as a trustee in order to look at, in confidentiality, whether an applicant fulfils the criteria membership and advise the Members in this respect

6.2.5.5. The Secretariat is responsible for receiving, collecting, recording and aggregating any information, including confidential and proprietary information, as well as sensitive business secrets and other information which if disclosed to other Member(s) might be regarded as a breach of competition law, and thereafter circulating and disclosing sufficient and appropriate information, as required for the purposes of the Consortium Agreement.

6.2.5.6. The Secretariat shall, upon prior written approval of the Steering Committee, sign all contracts with external consultants, experts, including the laboratories, to perform

technical and scientific tasks, in its own name but on behalf and on account of the Members who are required to submit the Study according to their tonnage band. Only the Members who are required to submit the Study according to their tonnage band shall be listed as parties to the agreement and shall be liable for the expenses incurred.

6.2.5.7. The Secretariat is empowered to represent the Members for all acts necessary to achieve the Purpose, unless stated otherwise in this Agreement, and shall fully and timely comply, on behalf of Members, with the relevant provisions of REACH in this respect.

6.2.5.8. The Secretariat may delegate by specific mandates certain tasks to the Association, such as but not limited to signing external provider agreement(s), acting within the limits of such mandates.

ARTICLE 7. OPERATING RULES BETWEEN THE PARTIES

7.1. Representation and activities in relation to third parties

No contractual commitments in relation to the Purpose of this Agreement shall be entered into by any Member on behalf of the other Members of the Consortium with third parties without the prior approval of the Steering Committee.

The Secretariat shall act with respect to the third parties in its own name but on behalf and on account of all Members concerned pursuant to **Articles 6.1 and 6.2.5** of this Agreement.

7.2. Working language

The working language of the Consortium shall be English.

7.3. Data sharing and submission and of the Joint Registration Dossier(s)

7.3.1. Preparation of the Joint Registration Dossier(s)

7.3.1.1. The Parties shall cooperate for the Purpose of this Agreement.
They will endeavour to assign resources and to monitor, control on progress, resources and agreed deliverables related to the joint preparation of the Joint Registration Dossier(s).
The Parties shall also handle jointly general SIEF management issues such as setting up agreements) between the Secretariat and consultants and laboratories, and will manage financials such as preparing a budget, sending invoices, book-keeping, tracking invoices.

7.3.1.2. The Parties make available to the Secretariat a list of their existing Studies in accordance with **Articles 5 and 10**, and to the Lead Registrant the (robust) study summaries of the existing studies they own in order to prepare the joint registration dossier. The Secretariat shall make a list of these studies and shall make the necessary arrangements for the review of these studies according to the data and cost sharing principles, and cost allocation agreed upon under **Article 10** of this Agreement and the detailed Data and Cost sharing Policy to be agreed by the Steering Committee.
The Parties grant each other the limited, non-transferable and non-terminable right to refer to the (robust) study summaries via a Letter of Access .The permission to refer to the existing full study reports owned by the respective Party for the limited purpose of registration of the Substance(s) according to REACH is granted, provided that they share in its cost in accordance with the cost allocation method agreed upon under **Article 10**.
Any intellectual property or ownership rights to any existing Information independently developed by a Member or any third party and made available to the Members in accordance with this Agreement shall remain unaffected by this Agreement.

The study summaries, made available by a Member or a third party to the Lead Registrant may not be sub-licensed or otherwise made available to third parties without prior written approval of the Member who provided the Study.
The Member who provided a Study to other Members may extend, at a cost or free of charge, the right to other Members to use or refer to the Study for other purposes.
Existing Studies which are owned by several Members or by one or several Members and one or several third parties can only be made available to the other Members with the prior written approval of all owners unless otherwise agreed among the owners of the Study.

7.3.1.3. In case of admission of new Members, joint ownership rights above shall be granted to the new Members by the Lead Registrant(s) who are entitled to do so by the respective Members owning the Study.

7.3.1.4. Affiliates of a Member who is not by itself a Member shall have no right on Information, unless otherwise agreed by the Parties.

7.3.1.5. Any Information that might have to be generated jointly in the context of registration and/or evaluation or other REACH requirements will be carried out by the Secretariat in its own name and on its own as well as on the other Parties' account. Each of the joint owners shall obtain a copy of the full study report. The Information referred to in the first sentence may be used by the Parties who have contributed to the costs thereof for own purposes and shall not for the period of twelve (12) years from the date of initial submission to the Agency be sold, licensed or otherwise made available to third parties by any Party without prior written approval of *all* remaining owners who have financially contributed to the costs thereof unless otherwise agreed by the Parties.

7.3.1.6. The Parties shall review and approve the Joint Registration Dossier(s) before its submission to the Agency by the Lead Registrant(s).

7.3.2. Submission of the Joint Registration Dossier(s)

7.3.2.1. The Lead Registrant(s), assuming its legitimate appointment by the SIEF participants, shall submit to the Agency pursuant to Article 11 (1) REACH the Joint Registration Dossier(s) for the registration of the Substance(s) with the Agreement of and on behalf of the other Parties.
If a Party requests the submission of the Joint Registration Dossier(s) on behalf of an Affiliate, that Party shall notify the Lead Registrant with its name, address and other relevant data documenting such status of Affiliate before the registration due date. Upon receipt of such information, the Lead Registrant(s) shall submit the Joint Registration Dossier(s) also on behalf of such Affiliate.

7.3.2.2. The Lead Registrant(s) will complete the Registration Dossier(s) upon demand of ECHA if necessary, with the assistance of the Secretariat and other bodies of the Consortium.

7.3.2.3. If agreed upon by the Parties, the Lead Registrant(s) shall duly apply for non-disclosure according to Article 10(a)(xi) REACH with respect to information which may be kept secret according to Article 119 (2) REACH.

7.3.2.4. Notwithstanding anything to the contrary under this Agreement, the Parties remain individually responsible to comply with REACH, in particular, but not limited to, in relation to the individual submission of the information required under Article 11(1) REACH.

7.3.2.5. After submission of the Joint Registration Dossier(s), the Lead Registrant(s) shall provide the other Parties with a complete set of copies of the Registration Dossier(s) submitted.

7.3.3. Ownership and use of Information

7.3.3.1. This Agreement does not grant any ownership rights or change existing ownership rights to any of the Information provided under this Agreement by a Party.

7.3.3.2. Neither this Agreement nor any disclosure of Information shall be deemed by implication or otherwise to vest in one Member any present or future rights in any patents, trade secrets or property rights in data belonging to another Member and no license is granted except as explicitly stated in this Agreement.

7.3.4. Access to the Joint Registration Dossier(s) granted to Non-Lead Members

7.3.4.1. Access to the Joint Registration Dossier(s) to SIEF Non-Lead Members will be granted by the Parties *(*via the SIEF agreement process*)*.

7.3.4.2. If the Parties have been granted by Data Owners the rights to sub-license the rights to use the (robust) studies summaries and to refer to the full study reports to the other SIEF participants, these rights shall also be transferred by the Parties (via the SIEF agreement process).

7.4. Lead Registrant(s)

7.4.1. The Steering Committee shall appoint one Lead Registrant per Substance from the Membership, in accordance with the establishment of Sub-groups. The Lead Registrant shall be a Regular Consortium Member who has been legitimately appointed as Lead Registrant pursuant to Article 11 (1) of REACH by the SIEF participants and shall be subject to the same rights and obligations as the other Members, in particular regarding confidentiality obligations.

7.4.2. The decision to either terminate or change a Lead Registrant shall require a majority *of two thirds (2/3)* of the votes of the Members concerned by the Substance present or represented at the Steering Committee notwithstanding the right of the Lead Registrant to resign upon written notice to the Steering Committee with a notice period of six (6) months. Such resignation, however, is only admissible if not endangering the Purpose of the Consortium.

7.4.3. The Lead Registrant(s), with the assistance of the Secretariat and other bodies of the Consortium, shall prepare and submit to the Agency, in the agreement of and on behalf of the concerned Members and in the format specified by the Agency, after approval by the Steering Committee, the Core Data and, if applicable the Chemical safety Report and /or Guidance on safe use for the purpose of registering the Substance(s).

7.4.4. The Lead Registrant(s) shall pay its fee as invoiced by the Agency after submission of the Core Data.

7.4.5. The Lead Registrant(s) undertakes to inform the concerned Consortium Members regularly on the developments of the registration dossier. In addition, the Lead Registrant shall forward in writing to the Secretariat any communication received from the Agency regarding the joint submission.

7.4.6. The Lead Registrant(s) shall get the support from the Secretariat and other regular Consortium members for their tasks.

ARTICLE 8. INDIVIDUAL OBLIGATIONS

8.1. The Members undertake to make all reasonable efforts to ensure the appropriate and timely achievement of the Purpose. In particular, each Member shall:

- Observe and comply with the provisions of this Agreement;
- Timely provide any available Information, including existing Studies, on the Substance(s), its applications and areas of use, if applicable, to the extent necessary for the Purpose;
- Critically assess the Information submitted to or generated by the activities contemplated herein;

- Allocate human and financial resources to the Steering and Technical Committees and other Consortium bodies;
- Participate in the work of the Steering, and Technical Committees as well as any Sub-groups;
- Fund the agreed work plans and other agreed actions;
- Inform the Chairman of the Steering and Technical Committees and the Secretariat of any significant change with respect to legal status or organization;
- Keep the Chairman of the Steering Committee, the Technical Committee and the Secretariat continuously informed of a Representative and responsible contact person for the duration of this Agreement.

8.2. Each Member is responsible for observing its rights and obligations pursuant to the REACH Regulation, in as much as these rights and obligations are not observed by the Members of the Consortium in accordance with this Agreement.
This applies, in particular, to information that is to be submitted to the Agency within the registration dossier in due time by each Member as well as any information communicated by the Members to customers, suppliers and other third parties, such as Safety Data Sheets.

8.3. This Agreement does not create any obligation on the Parties to enter into any subsequent agreement of whatever nature.

ARTICLE 9. COMPETITION LAW COMPLIANCE

9.1. The Members acknowledge that any activities carried out under this Agreement have to be carried out in full compliance with EU competition law, in particular but not limited to Articles 101 and 102 of the Treaty on the Functioning of the EU (formerly, Articles of 81 and 82 of EC Treaty) as well as any applicable national laws. The Members explicitly agree to observe Cefic REACH competition law compliance guidance.

9.2. Should it become apparent at any time that this Agreement, any provision of this Agreement, or any activity or decision of the Parties of the Consortium, can have a potentially restrictive effect on open and fair competition, in breach of any statutory provision, each Party to this Agreement shall take immediate steps to remedy that situation.

ARTICLE 10. DEFINITION OF COSTS, DATA AND COST SHARING, AND COST ALLOCATION

10.1. Data and Cost Sharing Principles

10.1.1. Valuation of Existing Studies

The value of existing Studies made available by a Member to other Members shall be determined by the Steering Committee on the basis of an evaluation of the scientific quality, adequacy and relevance in relation to the achievement of the Purpose, in accordance with rules to be set out by the same Steering Committee, further to a proposal of the Technical Committees.

10.1.2. Cost sharing principles

The following costs shall be shared between the concerned Members, as the case may be, in accordance to the inclusion of the Sub-group:

- Administrative expenses reasonably incurred by the Parties for the management of the Consortium, including secretarial services, management of confidential data or external experts which have been approved by the Steering Committee. Any such costs shall not include any out-of-pocket expenses incurred by the Parties unless approved in advance by the Steering Committee.
- Acquisition of rights to existing Studies valued under conditions specified above provided that the Member needs to submit the Study according to its tonnage band and inclusion in Sub-groups;
- Costs for new Studies to be jointly developed according to Annexes VI to VIII of the REACH Regulation, provided that the Member needs to submit the Study according to its tonnage band, adhesion to Sub-groups and provided that no study will be initiated without a budget approved by the Steering Committee;

- Costs for new Studies to be jointly developed pursuant to the evaluation of testing proposals by the Agency, provided that the Member needs to submit the Study according to its tonnage band, adhesion to Sub-groups and provided that no study will be initiated without a budget approved by the Steering Committee.
- Other costs incurred by the Members in the context of this Agreement shall not be compensated unless agreed by the Steering Committee.

The expenses shall be allocated to Members in accordance with the Cost sharing rule and allocation principles detailed in a Data and Cost sharing Policy that the Steering Committee shall approve, on the basis of a Technical Committee proposal and the rules previously agreed under the Association umbrella**.**

If a Member fails to meet its financial and other member obligations as basic member or associated member of EtOH-REACH Association and/or as Regular or Associate Consortium Member of the Fusel Oil Consortium, access to the dossier will be prohibited till company has met its commitments.
All payments due hereunder 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 the said payments shall be increased to the extent necessary to ensure that, after making of the required deduction or withholding, payee receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it 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.

Indirect Taxes, including but not limited to Value Added Tax (VAT), Goods and Service Tax (GST), Service Tax, Business Tax, 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.

The payment settlement will be executed by

- *Secretariat – acting in it's own name but for the account of the Members – with regard to Administrative Expenses and other Costs*
- *Secretariat – acting in it's own name but for the account of the interested Members – with regard to Costs for new studies ,*
- *The owning Member with regard to Acquisition of rights to existing Studies.*

10.1.3. The Cost sharing rules for the submission of the Joint Registration Dossier(s)

Costs relative to Joint Registration Dossier for each Substance will be compensated taking into account the number of members in each Sub-group intending to register the concerned Substance
The detailed Data and Cost Sharing Policy and its mechanisms are to be agreed by the Steering Committee.

10.2. Administration and reporting of Costs – Cost allocation

10.2.1. The Secretariat shall administer and keep records of all expenses incurred including allocation and cost-splitting as well as credits and present a costs overview to the Steering Committee on a bi-*monthly* basis. The Secretariat shall administer invoices and the compensation payable to Members or from the Members based on their respective verification. The Secretariat shall keep records of the full value of the data obtained/generated.

10.2.2. Until disbursed pursuant to this Agreement, all the funds of the Consortium shall be maintained by the Secretariat in guaranteed accounts approved by the Steering Committee, which preserve the principal while providing a reasonable rate of return. The

Secretariat shall be responsible for making any disbursement relevant for the activities of the Consortium, subject to prior approval of the expense by the Steering Committee. All earnings shall be credited by the Secretariat to the account of the Consortium.

10.2.3. The Steering Committee or Sub-group Committee shall base decisions on contributions and payments on the principle that provided Information shall be assessed and incurred costs shall be split in a fair, transparent and non discriminatory way and in accordance with the detailed Data and Cost Sharing Policy.

10.2.4. The financial year shall run from 1 January to 31 December of each calendar year.

10.2.5. Each year the Secretariat shall submit to the General Assembly for approval the accounts of the past financial year and the budget for the following year.

10.2.6. The Accounts of the Consortium shall be subject to external and independent audit on a yearly basis, by an auditor designated by the Steering Committee, and based on recognized accounting standard procedures. This review shall result in a financial statement to be made available to all the Members that contribute to the budget.

10.2.7. When for appropriate reasons the budget agreed by the Steering Committee has to be increased in the course of the financial year, such budget increase shall be subject to prior approval by the Steering Committee at its next meeting.

10.2.8. A favourable vote of the majority of the Members present or represented shall be required for all decisions concerning financial matters.

10.2.9. To finance the activities carried out under this Agreement, each Party concerned, including any new Party, shall pay the provisional amounts to be jointly determined.

ARTICLE 11. LIMITATION OF LIABILITY

11.1. The Parties shall undertake their Purpose related activities specified hereunder in good faith and according to all applicable laws and regulations, and they shall use all reasonable endeavours to ensure the best possible results based on the evidence, methods and techniques known at the time.

11.2. Subject to **Article 11.3**, each Member shall assume liability for the availability of the Study or Information which he makes available to other Members and that he is authorised to do so. No warranty for acceptance of the Study by the Agency at the dossier evaluation (according to Title VI of REACH) is given.

11.3. The Member who submits a Study to other Members will indemnify them in respect of any claims for unauthorised use or breach of the intellectual property rights of any third party relating to that Study. It is the individual responsibility of each Party to critically assess the Information that is generated or that is made available. Each Party assumes the full responsibility for its own use of the Information so developed or received. No warranty for acceptance by the Agency of the Joint Registration Dossier(s) or any data it contains is given.

11.4. None of the Parties, including the Lead Registrant, shall be held liable for any direct, indirect or consequential loss or damage incurred by any Party in connection with the activities contemplated in this Agreement, unless caused by gross negligence or wilful misconduct. In particular, the Lead Registrant shall not be held responsible and liable for delays in the completion and submission of the Joint Registration Dossier, unless caused by gross negligence or wilful misconduct.

11.5. Each Member shall be liable vis-a-vis third parties within the scope of its responsibility. The other Members of the Consortium shall support to the extent possible and reasonable, any Member against whom a liability claim has been made by a third party in its defence against such claim.

11.6. In any case the liability of Members shall be several and non joint.

11.7. The Secretariat acts entirely in its capacity as representative of the Members and bears no individual responsibility or liability for its actions taken in this capacity, with the exception of gross negligence, fraud or wilful misconduct.

ARTICLE 12. DURATION AND TERMINATION

12.1. This Agreement shall enter into force and become effective as of August 11th 2010.

12.2. The initial Parties hereby confirm to accept the resumption of the accomplished acts and commitment signed for the consortium during its constitution and before the signature of the present Agreement, and declares and warrants that during this constitution period they have complied with all terms and provisions of this Agreement.

12.3. The Consortium shall be formed for the duration necessary to achieve the Purpose.

12.4. Upon achievement of the Purpose or prior to that date the Consortium may be dissolved by a *2/3* majority decision of the Steering Committee.

12.5. This Agreement shall become effective upon execution thereof. Neither expiration nor termination of this Agreement shall relieve the Parties hereto from the duty to discharge in full any obligations accrued or due prior to the date of such expiration or termination, and such obligation (until so discharged) shall expressly survive expiration or termination. The obligations set forth in **Article 14** hereof shall expressly survive any termination or expiration of this Agreement.
This Article and the provisions relating to the protection of confidentiality (e), ownership and use of Information (Article 5), dispute resolution and applicable law (Article 14) and limitation of the liability (Article 12) shall survive the termination of this Agreement. With regard to the Studies, the obligations specified in Article 4 of this Agreement shall survive for a period of twelve (12) years following the initial submission to the Agency. With regard to all other Information, the obligations specified in Article 4 shall continue to apply for a period of tweve (12) years after termination of this Agreement

12.6. The Lead Registrant has the right to terminate its functions as lead registrant under the cumulative conditions that
- it has been validly replaced in its functions within the concerned SIEF
- its assignee has accepted to be bound by the obligations of the Lead Registrant under this Agreement

12.7. The Secretariat has the right to terminate its functions at any time given a notice period of three (3) months.

12.8. At any time and without cause, this Agreement may be terminated by a Party subject to a six months written notice period. The Agreement shall remain in full force and effect for the remaining Parties. In any event, the terminating Party shall fulfill its financial obligations up to the date of termination, i.e. until the end of the applicable notice period, including all payments related to studies agreed on which have arisen during the time of his participation. The terminating Party shall have no further rights to any results arising out of this Agreement in respect of which he has not fulfilled his financial contribution or to any compensation from subsequent Parties. Any rights granted under this Agreement remain unaffected by the termination and the other Parties shall continue to be entitled to make use of the Information made available by the terminating Party on the conditions specified in this Agreement and provided that that Party has been duly compensated under the conditions defined in this Agreement

12.9. This Agreement may be terminated by the non-defaulting Party as to the other Parties~~y~~ which is in default of any material obligation set forth in this Agreement and which fails to remedy such default within 45 (forty-five) days after written notice thereof. Upon such termination the Party in default shall not be entitled to rights to use studies until such Party has discharged in full any obligations accrued or due hereunder prior to the date of such termination.

12.10. Upon termination of the Consortium and after payment of all obligations of any kind to or by the Members, the Steering Committee shall decide on the method of liquidation and the distribution of the Consortium's fund in accordance with Article 13 of the Association's Bylaws. Before dissolution or termination of the Consortium all remaining joint and severable rights and obligations of the Members resulting from this Agreement shall be settled.

ARTICLE 13. AMENDMENTS - INVALIDITY

Amendments to this Agreement must be in written form to be effective.

If at any time any provision of this Agreement is or becomes invalid or illegal in any respect, this shall have no effect on the validity of the remaining contractual provisions. The invalid provisions are to be replaced, backdated to the time of their becoming ineffective, by provisions which come closest to achieving their objective.

This Agreement constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the Members with respect to the subject matter hereof.

ARTICLE 14. DISPUTE RESOLUTION AND APPLICABLE LAW

14.1. The Members shall first attempt to settle amicably any dispute arising out of this Agreement.

14.2. If differences remain, each Member shall have the right to submit its observations in writing to the Steering Committee, which shall have to reply in writing stating the reasons for the decision within two (2) months. An attempt to arrive at a settlement shall be deemed to have failed as soon as one of the Parties so notifies the other Party in writing.

14.3. Should such amicable settlement fail, the dispute shall be resolved by arbitration, ousting jurisdiction by ordinary courts, by a panel of three arbitrators. Each party to the dispute will nominate one arbitrator. These two arbitrators will then designate a third arbitrator who will also act as chairman. The arbitration decision shall be binding on the parties. The Rules of Conciliation and Arbitration of the International Chamber of Commerce shall be applicable. The place of any hearing shall be The Hague, Netherlands, and the language of the arbitration shall be English
The arbitration shall take place in The Hague, The Netherlands and shall be conducted in the English language.
The award of the arbitrators shall be final and binding on both Members.
The Members bind themselves to carry out the awards of the arbitrators.
Nothing in this Agreement shall limit the Parties right to seek injunctive relief or to enforce an arbitration award in any applicable competent court of law.

14.4. This Agreement shall be governed by Dutch law.

ARTICLE 15. SIGNATURE AND COUNTERPARTS

Each person signing below and each Party on whose behalf such person executes this Agreement warrants that he, she or it, as the case may be, has the authority to enter into this Agreement and perform the obligations herein.
This Consortium Agreement shall be executed in a number of counterparts with the Agreement and Signature pages of the Consortium Members, which shall together constitute a single document, held by the Secretariat, as custodian of the Agreement.
The Secretariat shall circulate one complete copy to all Party.

COMPOSITION OF THE PRESENT DOCUMENT

31 Pages of Agreement
+ Pages of signatures
+2 Appendices

LIST OF APPENDICES:

1. Names, addresses, representatives of the Parties and tonnage bands of Members
2. Substances covered by the Fusel Oil Consortium Agreement

PAGES OF SIGNATURES TO FOLLOW

FUSEL OIL CONSORTIUM AGREEMENT

Signature page of a Consortium Party

IN WITNESS WHEREOF, the undersigned executes this Consortium Agreement by the signature of its duly authorised representative(s), as of the date first mentioned above this signature.

_____

hereby confirms that it will fulfil its role as
□ Regular Consortium Member
□ Associate Consortium Member
□ Other party to Consortium

Signature

For and on behalf of _____

Signature:_____
Name:
Title:
Date:

The Fusel Oil Consortium Agreement is endorsed by the Secretariat as far as its involvement is concerned.

_____
LEJEUNE ASSOCIATION MANAGEMENT
Secretariat
Name: _____
Title: _____
Date: _____

ONE FORM PER PARTY WILL BE SIGNED AND SENT TO THE SECRETARIAT WHICH SHALL ADD THE SIGNATURES OF ALL PARTIES

FUSEL OIL CONSORTIUM AGREEMENT

Appointment of the Secretariat

IN WITNESS WHEREOF, the undersigned counter-signs this Consortium Agreement by the signature of its duly authorised representative(s), as of the date first mentioned above this signature, to execute the Mission of Secretariat.

LEJEUNE ASSOCIATION MANAGEMENT hereby confirms that it will fulfil its role as Secretariat.

For and on behalf of the Secretariat

Signature:_____
Name: :_____
Title: :_____
Date: :_____

This Agreement is endorsed by the Association on behalf of all the Consortium Parties and the Association hereby confirms that LEJEUNE ASSOCIATION MANAGEMENT will fulfil its role as Secretariat.

For and on behalf of ETOH REACH ASSOCIATION

Signature:_____
Name:_____
Title:_____
Date:_____

ONE FORM PER PARTY WILL BE SIGNED AND SENT TO THE SECRETARIAT WHICH SHALL ADD IT TO THE SIGNATURES OF ALL PARTIES

Appendix 1 to the Fusel Oil Consortium agreement:
List of Consortium members

[…]

Legal entity	Associate (AM) or Regular Member (RM)	Name of the Representative	Address		Country	If regular Consortium member, Category according to the art. 3.3.3

Appendix 2 to the Fusel Oil Consortium agreement:
List of the substances covered by the Fusel Oil Consortium agreement

In accordance with Article 2, the Substances listed below, are those covered by the Fusel Oil Consortium.
The Substances may be categorised in Sub-groups. Members may choose to participate in one or more Sub-groups. Participation in a specific Sub-group implies the right to use for itself for Registration purpose, the corresponding Information prepared, and acceptance of the duty to share Consortium costs on the cost-sharing mechanisms set out in Article 10 and in detailed Cost Sharing Policy to be agreed by the Steering Committee.
Substances may be added or deleted from a Sub-group by decision of the Steering Committee, based on proposal from the Technical Committees.
The Sub-group(s) shall be determined by the Steering Committee.

Appendix 2 A:
List of the substances pre-registered by the Members of the Fusel Oil Consortium

	CAS	EINECS

Appendix 2 B:
List of the substances registered by the Members of the Fusel Oil Consortium

Appendix 3 to the Fusel Oil Consortium agreement: sub-groups

Appendix 3A: list of the sub-groups and members

Appendix 3B: Internal rules of the sub-groups

The X (X) sub groups (SG) are active for the Joint Registration of the X (X) identified Substances in the appendix 2B.

1. Composition of the sub-groups (SG)

Each sub-group shall consist of:

- The Representatives of Regular Consortium Members concerned by the identified Substance (including the Lead Registrant)
- The Secretariat

Such Representative shall have authority to commit the Regular Consortium Members he/she represents in SG decisions.

Each Representative is entitled to one (1) vote, in the SG meetings.

The Secretariat is allowed to participate in the meetings without any voting rights.

A Representative may be appointed and may represent more than one Member.

Substitutes for representatives may also be appointed. Replacements of Representatives, proxies or substitutes shall be possible and shall be communicated in writing or electronically to the Secretariat who shall promptly advise the other Parties of the change.

The Representatives may be accompanied by internal or external experts/consultants in meetings of the Steering Committee.

The Secretariat or the Lead Registrant Representative shall be the Chairman of the SG.

2. Meetings of the sub-groups (SG)

Meetings of the SG shall be convened by the Secretariat as frequent as necessary at the request of the majority of the concerned Members in order to review, on the basis of the technical and financial progress reports of the Secretariat and the progress relative to the work schedule and the budget.

Minutes of SG meetings, to include all decisions made, shall be written by the Secretariat which shall issue them promptly, for comments and/or approval, to the SG. Comments and/or approval shall be returned to the Secretariat within fourteen (14) calendar days. The absence of response will be noted, but will be recorded as a positive vote or approval of the minutes.

3. Tasks of the sub-groups (SG)

The SG shall take necessary decisions related to the Substance it registers (hereinafter the "concerned Substance") and the corresponding Joint Registration Dossier, its objectives and activities. It shall have all powers and make all decisions necessary to ensure that the Purpose is achieved. The Secretariat shall inform the members of the Steering Committee about the decisions adopted by the Sub-Group.

The tasks of the SG may include inter alia the following:
- the establishment, terms of reference and composition of the Sub-group, and, if relevant, establishment and approval of the costs incurred by the Sub-group;
- decisions on funding, scope and matters of policy relating to the concerned Substance or the Sub-Group;
- decisions on coordination of and guidance for data collection relating to the concerned Substance;
- decisions to carry out testing relating to the concerned Substance;
- decisions about the Core Data relating to the concerned substance and Joint Registration Dossier (to be) submitted jointly to the Agency; as well as determination of the Information which shall be subject to a request for confidentiality according to Article 119 of the REACH Regulation;
- decisions about the right(s) to use new Information jointly owned by Consortium Members (possible granting of Letters of Access);
- decisions about the Coordination of, and guidance for, Information collection and sharing concerning the concerned Substance;
- compilation of Core Data relating to the concerned substance;
- analysis of tests results relating to the concerned Substance;
- decisions about possible protection of intellectual property rights ("IPR") for new Information jointly owned by Consortium Members (possible granting of Letters of Access);
- response to request(s) for further information by the Agency;
- internal and external communication concerning the concerned Substance;
- proposals to the Steering Committee for adaptation of the Agreement in light of legislative and technical adaptation of the REACH requirements.

In addition, in order to fulfill the Purpose, the SG shall be empowered to set up task forces or consultancy (including appointment of external consultants), the composition, mandate, duration and rules of which shall be determined by the SG in accordance with the rules specified hereunder.

4. Decisions Protocols in the sub-groups (SG)

Decisions can be taken by the SG if at least half of the concerned Representatives are present or represented.

Decisions of the SG *concerning the following aspects shall always be adopted on the basis of a* 2/3 majority of the voting Representatives present or represented unless otherwise provided for in this Agreement.
- Designation of the Lead Registrants;
- Decisions to carry out and on proposals for testing;
- Approval of the Core Data and Joint Registration Dossiers to be submitted to the Agency;

Other Decisions of the SG *shall be adopted on the basis of a* majority of the voting Representatives present or represented.
Blank votes, incorrect or incomplete votes or abstentions are not valid.

A Representative shall be excluded from voting in the event of a vote on the exclusion of that Member of the SG or on matters in which he has no vested interest, including a vote on testing proposals which he is not required to provide for the purpose of registration and in which he does not intend to participate, in particular in accordance with the establishment of Sub-group for the Substance, if applicable.

All contracts with further external service providers, including laboratories, to perform technical and scientific tasks, shall, upon prior approval of the SG and the Steering Committee, be concluded by the Secretariat, in its own name and on account of all concerned Members.