



**Grant Agreement no. 226967**  
**Seismic Hazard Harmonization in Europe**  
**Project Acronym: SHARE**

**SP 1-Cooperation**

**Collaborative project: Small or medium-scale focused research project**

**THEME 6: Environment**

**Call: ENV.2008.1.3.1.1 Development of a common methodology and tools to evaluate earthquake hazard in Europe**

**D1.2 - SHARE Consortium Agreement**

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**Swiss Seismological Service, Eidgenössische Technische Hochschule (SED-ETHZ)**

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<b>Dissemination Level</b>		
<b>PU</b>	Public	x
<b>PP</b>	Restricted to other programme participants (including the Commission Services)	
<b>RE</b>	Restricted to a group specified by the consortium (including the Commission Services)	
<b>CO</b>	Confidential, only for members of the consortium (including the Commission Services)	

# Consortium Agreement

for a Collaborative Project  
under the  
**European Community Seventh Framework Programme**



**Project full title:**

Seismic Hazard Harmonization in Europe

**Project acronym:**

SHARE

**Project number:**

226967

**Project coordinator:**

Eidgenössische Technische Hochschule Zürich

**THIS CONSORTIUM AGREEMENT is based upon:**

REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013) hereinafter referred to as Rules for Participation and the EC Grant Agreement, adopted on 10 April 2007 hereinafter referred to as the Grant Agreement and Annex II adopted on 10 April 2007 hereinafter referred to as Annex II of the Grant Agreement and is made on [xx x xxxx], hereinafter referred to as “Effective Date”

**BETWEEN:**

Eidgenössische Technische Hochschule Zürich (SED-ETHZ, Switzerland) (The Coordinator);

GeoForschungsZentrum Potsdam (GFZ, Germany);

Istituto Nazionale di Geofisica e Vulcanologia (INGV, Italy);

Université Joseph Fourier Grenoble 1(LGIT-UJF, France);

Università degli Studi di Pavia (UPAV, Italy);

Aristotle University of Thessaloniki (AUTH, Greece);

Bureau de Recherches Géologiques et Minières (BRGM, France);

Centre de Recherche en Astronomie, Astrophysique et Géophysique (CRAAG, Algeria);

Instituto Superior Técnico (IST, Portugal);

Bogazici University (KOERI, Turkey);

Laboratório Nacional de Engenharia Civil (LNEC, Portugal);

Middle East Technical University (METU, Turkey);

Montenegro Seismological Observatory (MSO, Montenegro);

Natural Environment Research Council-British Geological Survey (NERC-BGS, United Kingdom);

National Institute for Earth Physics (NIEP, Romania);

Seismological Laboratory, University of Athens (NKUA, Greece);

NORSAR/International Centre for Geohazards (NORSAR-ICG, Norway);

Observatoire Royal de Belgique (ROB, Belgium);

hereinafter, jointly or individually, referred to as ”Parties” or ”Party” or “Partners”

relating to the Project entitled “Seismic Hazard Assessment in Europe” in short “**SHARE**” hereinafter referred to as “Project”

**WHEREAS:**

The Parties, having considerable experience in the field concerned, have submitted a Proposal for the Project to the European Commission as part of the Seventh Framework Programme of the European Community for Research, Technological Development and Demonstration Activities under the funding scheme of “Collaborative Project”.

The Parties wish to specify or supplement binding commitments among themselves in addition to the provisions of the Grant Agreement.

**NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**

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## Article 1: Definitions

### 1.1 Definitions

Words beginning with a capital letter shall have the meaning defined either herein or in the Rules for Participation or in the Grant Agreement including its Annexes without the need to replicate said terms herein.

### 1.2 Additional Definitions

#### “Affiliate”

An Affiliate of a Party means an Affiliated Entity of that Party as defined in Annex II.1., together with:

(a) any legal entity directly or indirectly Controlling, Controlled by, or under common Control with that Party, for so long as such Control lasts; and

(b) any other legal entity that is listed in Attachment 3 to this Consortium Agreement as being an Affiliate of that Party, where such legal entity is:

- one in which that Party (or a legal entity qualifying as an Affiliate of that Party under (a) above) has a 50% equity share or is the single largest equity shareholder; or
- under common Control with that Party, or a legal entity qualifying as an Affiliate of a Party under (a) above through government.

For the above purposes, "**Control**" of any entity shall exist through the direct or indirect:

- ownership of more than 50% of the nominal value of the issued share capital of the entity or of more than 50% of the issued share capital entitling the holders to vote for the election of directors or persons performing similar functions, or
- right by any other means to elect or appoint directors of the entity (or persons performing similar functions) who have a majority vote.

Common Control through government does not, in itself, create Affiliate status and any legal entity under common government Control must be specified in accordance with (b) above in order to qualify as an Affiliate.

#### "Background"

Background means information which is held by Parties prior to their accession to this Consortium Agreement, or that has been created outside this Project, as well as copyrights or other intellectual property rights pertaining to such information, the application for which has been filed before their accession to this agreement, and which is needed for carrying out the project or for using foreground.

#### “Consortium Plan”

Consortium Plan means the description of the work as defined in Annex I of the Grant Agreement and the related agreed Consortium Budget, including the payment schedule, as updated and approved by the General Assembly.

#### “Consortium Budget”

Consortium Budget means the allocation of all the resources in cash or in kind for the activities as defined in Annex I of the Grant Agreement and in the Consortium Plan thereafter.

“Defaulting Party”

Defaulting Party means a Party which the General Assembly has identified to be in breach of this Consortium Agreement and/or the Grant Agreement as specified in Article 4.2 of this Consortium Agreement.

“Force Majeure”

Force Majeure means any one or more events beyond the control of the relevant Party which occur after the date of signing of this Consortium Agreement, were not reasonably foreseeable at the time of signing of this Consortium Agreement, and the effects of which are not capable of being overcome without unreasonable expense and/or unreasonable loss of time to the Party concerned. Events of Force Majeure shall include (without limitation) war, civil unrest, acts of government, natural disasters, exceptional weather conditions, breakdown or general unavailability of transport facilities, accidents, fire, explosions, and general shortages of energy.

“Needed”

Needed means for the implementation of the Project:

Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient Party would be impossible, significantly delayed, or require significant additional financial or human resources.

Needed means for *use of own foreground*:

Access Rights are Needed if, without the grant of such Access Rights, the *use of own foreground* would be technically or legally impossible.

“Software”

Software means sequences of instructions to carry out a process in, or convertible into, a form executable by a computer and fixed in any tangible medium of expression.

## **Article 2: Purpose**

The purpose of this Consortium Agreement is to specify with respect to the Project the relationship among the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution.

## **Article 3: Entry into force, duration and termination**

### **3.1 Entry into force**

An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by a duly authorised representative.

This Consortium Agreement shall have effect from the Effective Date identified at the beginning of this Consortium Agreement and provided that the EC Grant Agreement enters into force.

A new Party enters the Consortium upon signature of the Accession document Attachment 5 by the new Party and the Coordinator. Such accession shall have effect from the date identified in the Accession document.

### **3.2 Duration and termination**

This Consortium Agreement shall continue in full force and effect until complete fulfilment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement.

However, this Consortium Agreement may be terminated in accordance with the terms of this Consortium Agreement and Annex II of the Grant Agreement (Grant Agreement Article II.37. and II.38.).

### **3.3 Survival of rights and obligations**

The provisions relating to Access Rights, Confidentiality, Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Consortium Agreement as agreed in the respective articles.

Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the General Assembly and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

## Article 4: Responsibilities of Parties

### 4.1 General principles

Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Belgian law.

Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.

Each Party shall provide promptly all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks.

Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

In addition to the obligations pursuant to the Grant Agreement, each Party shall, to the fullest extent it can lawfully do so, ensure that it can fulfil the obligations under the Grant Agreement and this Consortium Agreement, including Access Rights and ownership of *foreground*, notwithstanding any rights of its faculty, employees, post-docs or students or any person it assigns or engages to perform its own work package for the Project in the *foreground* they create.

### 4.2 Breach

In the event the responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement, the Coordinator will give written notice requiring that such breach be remedied within 30 calendar days. In the case that the Coordinator is the Defaulting Party, the remaining members of the General Assembly will give written notice requiring that such breach be remedied within 30 calendar days. If this does not occur, the General Assembly may decide to declare the Party to be a Defaulting Party and to terminate this Consortium Agreement with respect to the Defaulting Party concerned, upon not less than 14 days' written notice to such Defaulting Party. Without prejudice to the provisions of Article 9.7.2, such termination shall become effective with respect to such Defaulting Party as of the date of expiration of such notice period or the termination of the Defaulting Party of the Grant Agreement, whichever occurs last.

If any Party's participation in the Grant Agreement is terminated by the Commission pursuant to the provisions of the Grant Agreement, or if any Party withdraws from the Project, then, without prejudice to any other rights of the other Parties, the provisions of Article 10 shall apply correspondingly.

### 4.3 Involvement of third parties

A Party that enters into a subcontract or otherwise involves third parties (including but not limited to Affiliated Entities) in the Project remains solely responsible for carrying out its relevant part of the Project and for such third party's compliance with the provisions of this Consortium Agreement and of the Grant Agreement. It has to ensure that the *use* of third parties does not affect the rights and obligations of the other Parties regarding *background* and *foreground*.

## **Article 5: Liability towards each other**

### **5.1 No warranties**

In respect of any information or materials supplied by one Party to another under the Project, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor, subject to the obligations expressly stated in the Grant Agreement and/or in this Consortium Agreement, as to the absence of any infringement of any proprietary rights of third parties.

The recipient Party shall in all cases be entirely and solely liable for the *use* to which it puts such information and materials.

### **5.2 Limitations of contractual liability**

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

A Party's aggregate liability towards the other Parties collectively shall be limited to once the Party's share of the total costs of the Project.

The exclusions and limitations of liability stated above shall not apply in the case of damage caused by a proven willful act or gross negligence.

The terms of this Consortium Agreement shall not be construed to amend or limit any non-contractual liability.

### **5.3 Damage caused to third parties**

Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party's obligations under this Consortium Agreement or from its *use* of *foreground* or *background*.

### **5.4 Force Majeure**

No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify in writing the competent Consortium Bodies of any Force Majeure as soon as possible. If the consequences of Force Majeure for the Project are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies. All parties shall use their reasonable endeavours to minimise the effects of any Force Majeure.

## Article 6: Governance structure

### 6.1 General structure

The organisational structure of the Consortium shall comprise the following Consortium Bodies:

- **General Assembly** as the ultimate decision-making body of the Consortium
- **Management Committee** as the supervisory body for the execution of the Project which shall report to and be accountable to the General Assembly

The Coordinator is the legal entity acting as the intermediary between the Parties and the European Commission. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Grant Agreement and this Consortium Agreement.

The Project Manager ensures accomplishment with the technical objectives of the project and supervises the project's technical part.

The Project Office assists the Coordinator and the Project Manager.

### 6.2 General operational procedures for all Consortium Bodies

#### 6.2.1 Representation in meetings

Any member of a Consortium Body:

- should be present or represented at any meeting of such Consortium Body;
- may appoint a substitute or a proxy to attend and vote at any meeting by written notification;
- and shall participate in a cooperative manner in the meetings.

#### 6.2.2 Preparation and organisation of meetings

The chairperson of a Consortium Body shall convene meetings of that Consortium Body.

	Ordinary meeting	Extraordinary meeting
General Assembly	Every 12 month	At any time upon written request of the Executive Board or 2/5 of the Members of the General Assembly.
Management Committee	Every 6 month in person Every 3 month via teleconference	At any time upon written request of any member of the Management Committee.

The Scientific Advisory Board joins the General Assembly meetings.

Notice of a meeting:

The chairperson of a Consortium Body shall give notice in writing of a meeting to each member of that Consortium Body as soon as possible and within the minimum number of days preceding the meeting.

	Ordinary meeting	Extraordinary meeting
General Assembly	45 calendar days	15 calendar days
Management Committee	14 calendar days	7 calendar days

The Scientific Advisory Board is notified according to the members of the General Assembly.

Sending the agenda:

The chairperson of a Consortium Body shall prepare and send each member of that Consortium Body a written (original) agenda within the minimum number of days preceding the meeting.

General Assembly	21 calendar days, 10 calendar days for an extraordinary meeting
Management Committee	7 calendar days

The Scientific Advisory Board is notified about the agenda according to the members of the General Assembly.

Adding agenda items:

Any agenda item requiring a decision by the members of a Consortium Body must be identified as such on the agenda.

Any member of a Consortium Body may add an item to the original agenda by written notification to all of the other members of that Consortium Body within the minimum number of days preceding the meeting.

General Assembly	14 calendar days, 7 calendar days for an extraordinary meeting
Management committee	2 working days

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

Any decision may also be taken without a meeting by circulating to all members of the Consortium Body a written document which is then signed by the defined majority (see Article 6.2.3.) of all members of the Consortium Body.

Meetings of each Consortium Body can also be held by teleconference or other telecommunication means.

Decisions may only be executed once the relevant part of the Minutes is accepted according to Article 6.2.5.

### 6.2.3 Voting rules and quorum

Each Consortium Body shall not deliberate and decide validly unless a **quorum of two-thirds (2/3) of its members are present or represented**. If the quorum is not reached the chairperson of



the Consortium Body shall convene an extraordinary meeting within 21 calendar days having first given notice of the meeting to its members within the prescribed timescales detailed in Article 6.2.2 of the Consortium Agreement, which shall be entitled to vote even if less than two-thirds (2/3) of the members are present or represented.

**Each member** of a Consortium Body present or represented in the meeting shall have **one vote**.

Defaulting Party members may not vote.

Decisions shall be taken by a simple majority of the votes by members present or represented. In the event of a tie the chairperson shall cast a deciding vote.

#### **6.2.4 Veto rights**

A member who can show that its own work, time for performance, costs, liabilities, intellectual property rights or other legitimate interests would be severely affected by a decision of a Consortium Body may exercise a veto with respect to the corresponding decision or relevant part of the decision. Such veto shall be duly justified by the vetoing member.

When the decision is foreseen on the original agenda, a member may veto such a decision during the meeting only.

When a decision has been taken on a new item added to the agenda before or during the meeting, a member may veto such decision during the meeting and within 14 days after the Minutes of the meeting are sent.

In case of exercise of veto, the members of the related Consortium Body shall make every effort to resolve the matter which occasioned the veto to the general satisfaction of all its members.

A Party may not veto decisions relating to its identification as a Defaulting Party. The Defaulting Party may not veto decisions relating to its participation and termination in the Consortium or the consequences of them.

A Party requesting to leave the Consortium may not veto decisions relating thereto.

#### **6.2.5 Minutes of meetings**

The chairperson of a Consortium Body shall produce written Minutes of each meeting which shall be the formal record of all decisions taken. He shall send the draft to all of its members within **10 calendar days** of the meeting.

The Minutes shall be considered as accepted if, within **15 calendar** days from sending, no member has objected in writing to the chairperson with respect to the accuracy of the draft of the Minutes.

The accepted Minutes shall be sent to all of the members of the Consortium Body and the Coordinator, who shall safeguard them. If requested the Coordinator shall provide authenticated duplicates to Parties.

### **6.3 Specific operational procedures for the Consortium Bodies**

#### **6.3.1 General Assembly**

In addition to the rules described in Article 6.2, the following rules apply:

### 6.3.1.1 Members

The General Assembly shall consist of one representative of each Party (hereinafter General Assembly Member).

Each General Assembly Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Article 6.3.1.2 of this Consortium Agreement.

The Coordinator shall chair all meetings of the General Assembly, unless decided otherwise in a meeting of the General Assembly.

The Parties agree to abide by all decisions of the General Assembly.

This does not prevent the Parties to submit a dispute to resolution in accordance with the provisions of Settlement of disputes in Article 11.8.

### 6.3.1.2 Decisions

The General Assembly shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein. In addition, all proposals made by the Management Committee shall also be considered and decided upon by the General Assembly.

The following decisions shall be taken by the General Assembly:

content, finances and intellectual property rights

proposals to the Parties for changes to Annex I of the Grant Agreement to be agreed by the European Commission

proposal to the Parties related to changes to the Consortium Plan (including the Consortium Budget)

additions to Attachment 2 (*background* excluded)

withdrawals and Additions to Attachment 3 (Listed Affiliated Entities)

withdrawals and Additions to Attachment 4 (List of Third Parties)

Evolution of the Consortium

entry of a new Party to the Consortium and approval of the settlement on the modalities and conditions of the accession of such a new Party

withdrawal of a Party from the Consortium and the approval of the settlement on the modalities and conditions of the withdrawal

declaration of a Party to be a Defaulting Party

corrective measures to be required from a Defaulting Party

termination of a Defaulting Party's participation in the Consortium and measures relating thereto

proposal to the European Commission for a change of the Coordinator

suspension of all or part of the Project

termination of the Project and/or the Consortium Agreement

Appointments (on the basis of Annex I, the appointment if necessary of Work Package Leaders)

### **6.3.2 Management Committee**

In addition to the rules in Article 6.2, the following rules shall apply:

#### **6.3.2.1 Members**

The Management Committee shall consist of the Coordinator, all Work Package Leaders and the Project Manager.

The Project Manager shall chair all meetings of the Management Committee, unless decided otherwise.

#### **6.3.2.2 Minutes of meetings**

Minutes of Management Committee meetings, once accepted, shall be sent by the Project Manager to the Coordinator and the General Assembly Members for information.

#### **6.3.2.3 Tasks**

The Management Committee shall prepare the meetings, propose decisions and prepare the agenda of the General Assembly according to Article 6.3.1.2.

It shall seek a consensus among the Parties.

The Management Committee shall be responsible for the proper execution and implementation of the decisions of the General Assembly.

The Management Committee shall monitor the effective and efficient implementation of the Project.

In addition, the Management Committee shall collect information **at least every 6 months** on the progress of the Project, examine that information to assess the compliance of the Project with the Consortium Plan and, if necessary, propose modifications of the Consortium Plan to the General Assembly.

The Management Committee shall:

initiate, coordinate and have organised the Work Packages

agree on the members of the Project Office, upon a proposal by the Coordinator

support the Coordinator in preparing meetings with the European Commission and in preparing related data and deliverables

prepare the content and timing of press releases and joint publications by the Consortium or proposed by the European Commission in respect of the procedures of the Grant Agreement Article II 30.3.

In the case of abolished tasks as a result of a decision of the General Assembly, the Management Committee shall advise the General Assembly on ways to rearrange tasks and budgets of the Parties concerned. Such rearrangement shall take into consideration the legitimate commitments taken prior to the decisions, which cannot be cancelled.

### **6.3.2.4 Work Package Leader**

The Work Package Leader of each Work Package is appointed by the General Assembly.

The Work Package Leader shall have the following functions:

communicate any plans, deliverables, documents and information connected with the Work Package between its members and, if relevant, to the Management Committee

submit the implementation plan of the Work Package to the Management Committee for review and proposing an update of the Consortium Plan.

coordinate on a day-to-day basis the progress of the technical work under the Work Package

follow up decisions made by Consortium Bodies insofar as they affect the Work Package

assess the quality of deliverables and verify their compliance with the Work Plan before submission to the project office

provide a report on the work package activities in the first week of months 12, 18, 24 and 36 forming the basis for the two 18 month scientific reports

organize and present the progress of the work package at the General Assembly meetings

organize Work Package meetings with with the majority of the researchers involved every 12 month and during the meetings of the General Assembly

advise the Project Manager and the Coordinator of any discrepancy with the Consortium Plan, including any delay in delivery.

## **6.4 Coordinator**

The Coordinator shall be the intermediary between the Parties and the European Commission and shall perform all tasks assigned to it as described in the Grant Agreement and in this Consortium Agreement.

In particular, the Coordinator shall be responsible for:

monitoring compliance by the Parties with their obligations

keeping the address list of members and other contact persons updated and available

collecting, reviewing to verify consistency and submitting reports and other deliverables (including financial statements and related certifications) to the European Commission

transmitting documents and information connected with the Project, including copies of Accession documents and changes of contact information to and between Work Package Leaders, as appropriate, and any other Parties concerned

administering the Community financial contribution and fulfilling the financial tasks described in Article 7.3

providing, upon request, the Parties with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the Parties to present claims.

If the Coordinator fails in its coordination tasks, the General Assembly may propose to the European Commission to change the Coordinator. In turn, the Coordinator may propose to dismiss Work Package leaders in case of major deviations from the agreed work plan, provided an alternative person can be suggested and approved by a simple majority of the members of the General Assembly.

The Coordinator shall not be entitled to act or to make legally binding declarations on behalf of any other Party.

The Coordinator shall not enlarge its role beyond the tasks specified in this Consortium Agreement and in the Grant Agreement.

## 6.5 Project Manager

The Project Manager ensures accomplishment with the technical objectives of the project, supervises the project's technical part and promotes, in accordance with the Coordinator, the project's visibility in the international fora.

In particular, the Project Manager shall be responsible for the:

day to day management of the project, supported by the Project Office

representation, together with the Coordinator, of the project in relations with the European Commission

coordination of the technical activities of the project and the convention and leading of technical meetings, including meetings of the Management Committee

reporting to the General Assembly on the technical progress of the project and the coordination of the production of technical deliverables.

The Project Manager may be dismissed by the General Assembly, provided a substitute person is suggested and approved by a simple majority of its members.

## 6.6 Project Office

The Project Office shall be appointed by the Coordinator, with the goal of assisting the Project Manager and the Coordinator in executing the decisions of the General Assembly as well as in the day-to-day management of the Project..

## 6.7 Scientific Advisory Board (SAB)

The Scientific Advisory Board (SAB) complements the Consortium Bodies and will consist of international experts in the fields of seismology and earthquake engineering:

- **Prof. Dr. J. Zschau**, Director of the Department Physics of the Earth at the Helmholtz Centre Potsdam GFZ, President of the European Seismological Commission (ESC)
- **Dr. M. Koller**, President of the European Association for Earthquake Engineering (EAEE)
- **Prof. Dr. A. Pinto**, Head of the Earthquake Engineering Section of the European Laboratory for Structural Assessment (ELSA) of the Joint Research Centre in Ispra, Italy

- **Prof. Dr. P. E. Pinto**, Professor of Civil Engineering at the University of Rome “La Sapienza”, Chair of Earthquake Engineering, Department of Structural and Geotechnical Engineering

The Scientific Advisory Board (SAB) monitors the progress of the project and advises the Management Committee and the Consortium on all issues of general scientific policy. It represents the interests of the wider scientific and engineering community and of key stakeholders in different sectors of the society, not covered by the Consortium. The SAB will meet annually with the Management Committee and the General Assembly to review project plans, progress, and results. Members of the SAB may be invited by the Coordinator on a case-by-case basis to attend meetings of the Management Committee or General Assembly. They will be bound by confidentiality obligations by signing a non-disclosure agreement, with obligations not less stringent than in this Consortium Agreement.

## **Article 7: Financial provisions**

### **7.1 General Principles**

#### **7.1.1 Distribution of the Financial Contribution**

The financial contribution of the European Commission to the Project shall be distributed by the Coordinator according to:

the Consortium Budget as included in the Consortium Plan and in accordance with the Grant Agreement

the approval of reports by the European Commission, and

the provisions of payment in Article 7.3.

A Party shall be funded only for its tasks carried out in accordance with the Consortium Plan.

#### **7.1.2 Justifying Costs**

In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for justifying its costs with respect to the Project towards the European Commission. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the European Commission.

#### **7.1.3 Funding Principles**

A Party, which spends less than its allocated share of the Consortium Budget will be funded in accordance with its actual duly, justified eligible costs only.

A Party will be funded only in respect of duly justified eligible costs up to its allocated share of the Consortium Budget. Funding may be increased provided that appropriate adjustments can be made to that share, by a decision of the General Assembly, if at the same time, another or some other Parties has (have) spent less than its (their) allocated shares of the Consortium Budget.

#### **7.1.4 Financial Consequences for a leaving Party**

A Party leaving the Consortium shall refund all advances paid to it except the amount of expended eligible costs accepted by the European Commission.

Furthermore a Defaulting Party shall, within the limits specified in Article 5.2 of this Consortium Agreement, bear any additional reasonable costs occurring to the other Parties in order to perform its and their tasks.

### **7.2 Budgeting**

All resources made available for the Project shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties and shall be budgeted.

#### **7.2.1 Budgeted costs eligible for 100% reimbursement**

These costs shall be budgeted in the Consortium Budget in the following order of priority:

- banking and transaction costs related to the handling of any financial resources made available for the Project by the Coordinator
- a reasonable costs of Parties related to:
  - the delivery of certification of financial statements according to the Grant Agreement
  - the delivery of the certificate on the methodology, if any, unless the cost of such certification has already been paid to the beneficiary under a previous EC-GA and the methodology has not changed (EC-GA Article II.4.4 and II.14.1)
  - costs related to calls for new Beneficiaries
  - costs related to updating this Consortium Agreement
  - management costs of the Coordinator and the Project Office
  - costs related to the tasks of the Management Committee
  - intellectual property protection costs
  - costs for publications
  - costs for the tasks of chairpersons
  - any other costs eligible for 100% reimbursement

### **7.2.2 Budgeting of coordination costs**

Costs of coordination of research which are not allowed as management cost according to Annex II of the Grant Agreement (Grant Agreement Article II.16.5) have to be budgeted separately.

### **7.3 Payments**

Payments to Parties are the exclusive tasks of the Coordinator.

In particular, the Coordinator shall:

- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references
- perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts
- undertake to keep the Community contribution to the Project separated from its normal business accounts, its own assets and property, except if the Coordinator is a Public Body or is not entitled to do so due to statutory legislation.

All payments shall be made without undue delay by the Coordinator after receipt of funds from the European Commission in accordance with the Grant Agreement and the accepted decisions of the General Assembly on the Consortium Budget, which includes the payment schedule.

Payments to Parties will be handled according to the following two kinds of modalities:



- payments for past performance approved by the European Commission will be compared with the advance payment given to a Party for such past performance; the difference will be balanced directly with the Party concerned
- financing in respect of future work included in the Consortium Plan, which may be forwarded to Parties in separate instalments in conformity with the Grant Agreement and the decisions of the General Assembly and any related decisions of e.g. the Management Committee.

The Coordinator is entitled to withhold any advances either due to a Defaulting Party or to a Beneficiary not being a Party.

The Coordinator is entitled to recover any advances already paid to a Defaulting Party.

## Article 8: *Foreground*

Regarding *foreground*, Grant Agreement Article II.26. - Article II.29. shall apply with the following additions:

### 8.1 Joint ownership

For the avoidance of doubt, unless otherwise agreed in writing between the Contributors (as defined below), this Article 8.1 shall detail and complete the default provisions of Article II.26.2 of the Grant Agreement and shall apply as an established agreement between the Contributors as mentioned in the same Article II.26.2 of the Grant Agreement. However, the Contributors shall in all cases be at liberty to agree in writing something different to this Article 8.1, so long as such different agreement does not prejudice the Access Rights or other rights of the other Parties.

Subject to any different agreement between the Contributors, the following shall apply:

- (a) If in the course of carrying out work on the Project, *foreground* is generated and two or more Parties (the "Contributors") (or their Affiliates or other persons working on their behalf) contributed to it, and if the contributions to or features of such *foreground* form an indivisible part thereof, such that under applicable law it is not possible to separate them for the purpose of applying for, obtaining and/or maintaining and/or owning the relevant patent protection or any other IPR protecting or available to protect such *foreground*, the Contributors agree that all patents and other registered IPRs issued thereon, and any other IPRs protecting such *foreground*, shall be jointly owned by the Contributors.
- (b) Each Contributor shall have the perpetual and irrevocable right, without territorial or other restriction, to *use* the joint *foreground* and resulting patents, patent applications and other IPRs protecting such *foreground*, and to grant non-exclusive licenses to third parties under the jointly owned *foreground* and under any IPRs protecting such *foreground*, without requesting the authorization of the other Contributor(s).

However, in the latter case, at least 45 days prior notice must be given to the other Contributor(s) and fair and reasonable compensation must be provided to the other Contributor(s), the amount of which shall take into account their respective contribution to the invention or other IPRs at issue.

- (c) Within a reasonable period following creation of any jointly owned *foreground*, the Contributors shall enter into good faith discussions in order to agree on an appropriate course of action for filing applications for patent protection or other protection, including the decision as to which Contributor is to be entrusted with the preparation, filing and prosecution of such applications and in which countries or territories such applications are to be filed. The filing of any applications for patents or other IPRs on joint *foreground* shall require mutual agreement between the Contributors (but excluding any Contributors who choose pursuant to paragraph (d) below not to contribute to the cost of such application). All external costs related to applications for patent protection or other protection resulting from such applications and the fees for maintaining such protection shall be shared equally between the Contributors, subject to paragraph (d) below.
- (d) If and when a Contributor decides not to contribute, or not to continue its contribution, as the case may be, to the costs of application for or maintenance of patent or other IPR protection for the jointly owned *foreground*, for one or more countries or territories, it shall be entitled not to contribute, or to discontinue its contribution, provided however that:

- (i) it shall promptly notify the other Contributor(s) in writing of its decision;
  - (ii) it shall forthwith relinquish all its title to and interest in such jointly owned patents, patent applications or other registered IPRs protecting such *foreground* for the countries or territories concerned to the other owner(s) who contribute or continue their contribution, as the case may be, to such costs in accordance with paragraph (c) above; and
  - (iii) it shall lose its rights under paragraph (b) above with respect to such jointly owned patents, patent applications or other registered IPRs for the countries or territories concerned as of the moment of notification, However, such Contributor shall at least enjoy access rights as any other Party not having contributed to the joint invention concerned and, where such Contributor is an academic institution not able to commercially exploit such IPRs itself, it shall be entitled to a fair compensation from the other joint owner(s), the amount of which shall take into account their respective contribution to the invention or other IPRs at issue.
- (e) Each joint owner of patents or patent applications or other IPRs protecting such jointly owned *foreground* shall have the right to bring an action for infringement of any such jointly owned IPRs only with the consent of the other owner(s). Such consent may only be withheld by another joint owner who demonstrates that the proposed infringement action would be prejudicial to its commercial interests.

## 8.2 Transfer of *foreground*

Each Party may transfer ownership of its own *foreground* following the procedures of the Grant Agreement Article II 27.

It may identify specific third parties it intends to transfer its own *foreground* to in Attachment (4) to this Consortium Agreement. The other Parties hereby waive their right to object to a transfer to listed third parties according to the Grant Agreement Article II.27.3.

The transferring Party shall, however, notify the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer.

Any addition to Attachment (4) after signature of this Agreement requires a decision of the General Assembly.

The Parties recognize that in the framework of a merger or an acquisition of an important part of its assets, a Party may be subject to confidentiality obligations which prevent it from giving the full 45 days prior notice foreseen in Grant Agreement Article II 27.2.

## 8.3 Dissemination

### 8.3.1 Publication

Dissemination activities including but not restricted to publications and presentations shall be governed by Article II.30 of the Grant Agreement.

The Party objecting a publication has to show that (i) its legitimate interests will suffer disproportionately great harm and/or (ii) its Confidential Information is included in the intended publication and shall include a request for necessary modifications.

In the event that an objection is raised in due time as prescribed in Article II.30 of the Grant Agreement, the Party proposing the publication and the Party objecting, should seek in good faith to agree a solution on a timely basis.

If a dispute regarding a publication cannot be settled amicably within two (2) calendar months following the notification of the proposed publication, the General Assembly may propose a solution. However, as long as confidentiality terms are respected, none of the Parties concerned may withhold its consent to publication upon the expiry of a period of four (4) calendar months (subject to the application of relevant mandatory rules) following the first submission of the proposed publication.

### **8.3.2 Publication of another Party's *foreground* or *background***

For the avoidance of doubt, a Party may not publish *foreground* or *background* of another Party, even if such *foreground* or *background* is amalgamated with the Party's *foreground*, without the other Party's prior written approval.

### **8.3.3 Cooperation obligations**

Where a person carrying out work on the Project on behalf of a Party needs to include *background* or *foreground* of another Party in a publication to qualify for a degree, dissertation or thesis, approval for such *use* shall be obtained from the appropriate Party owning such rights or affected by such *use* in accordance with the provisions of Article 8.3.1 above. Such approval may not be unreasonably withheld.

The Parties agree to cooperate to allow the timely submission, examination, publication and defence of any dissertation or thesis for a degree, which includes their *foreground* and/or *background*. However, confidentiality and dissemination clauses have to be respected.

### **8.3.4 Use of names, logos or trademarks**

Nothing in this Consortium Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the Parties or any of their logos or trademarks without their prior written approval.

## Article 9: Access Rights

### 9.1 *Background* covered

In accordance with and subject to the provisions of the Grant Agreement, any Party may enter in Attachment 2 any specific *background* excluded from the obligation to grant Access Rights in accordance with the provisions of this Consortium Agreement. All other *background* except that listed in Attachment 2 shall be available for the granting of Access Rights in accordance with the provisions of the Grant Agreement and of this Consortium Agreement provided that the concerned Party is entitled to grant such Access Rights.

The owning Party may withdraw any of its *background* from Attachment 2 during the Project by written notice.

However, only the General Assembly can permit a Party to add *background* to Attachment 2.

### 9.2 General Principles

Each Party shall implement its tasks in accordance with the Grant Agreement and the Consortium Plan and shall bear sole responsibility for ensuring that its acts within the Project do not knowingly infringe third party property rights.

As provided in the Grant Agreement Article II.32.3. Parties shall inform the Consortium as soon as possible of any limitation to the granting of Access Rights to *background* or of any other restriction which might substantially affect the granting of Access Rights (e.g. the use of open source code software in the Project).

If the General Assembly considers that the restrictions have such impact, which is not foreseen in the Consortium Plan, it may decide to update the Consortium Plan accordingly.

Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise.

Access Rights shall be free of any administrative transfer costs.

Access Rights are granted on a non-exclusive basis, if not otherwise agreed in writing by all the Parties according to the Grant Agreement Article II.32.7.

*Foreground* and *background* shall only be *used* for the purposes for which Access Rights to it have been granted.

Unless stated otherwise further below, all Access Rights shall be granted upon written request. The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be *used* only for the intended purpose and that appropriate confidentiality obligations are in place.

The requesting Party must show that the Access Rights are Needed.

### 9.3 Access Rights for implementation

Access Rights to *foreground* and *background* Needed for the execution of the own work of a Party under the Project shall be granted on a royalty-free basis.

## 9.4 Access Rights for *use*

Access Rights to *foreground* if Needed for *use* of a Party's own *foreground* including for third-party research shall be granted on fair and reasonable conditions. A Party who wishes to be granted such Access Rights shall make a request in writing within one (1) year after the end of the Project.

Access Rights to *foreground* for internal research activities shall be granted on a royalty-free basis.

Access Rights to *background* if Needed for *use* of a Party's own *foreground* shall be granted on fair and reasonable conditions. A Party who wishes to be granted such Access Rights shall make a request in writing within one (1) year after the end of the Project.

A third party shall not be granted direct Access to *foreground* or *background* of other Parties unless those Parties explicitly agree to it in writing.

## 9.5 Access Rights for Affiliates

Affiliated Entities as listed in Attachment 3 have Access Rights under the conditions of the Grant Agreement Article II.34.3.

Affiliates which obtain Access Rights pursuant to this Article 9.5 in return grant Access Rights to all Parties and, with the exception of the carrying out of work under the Project, fulfil all confidentiality and other obligations accepted by the Parties under the Grant Agreement or this Consortium Agreement as if such Affiliates were Parties.

Access Rights may be refused to Affiliate Entities if such granting is contrary to the legitimate interests of the Party which owns the *background* or the *foreground*.

Access Rights granted to any Affiliates are subject to the continuation of the Access Rights of the Party to which it is affiliated, and shall automatically terminate upon termination of the Access Rights granted to such Party.

Upon cessation of the status as an Affiliate, any Access Rights granted to such former Affiliates shall lapse, provided however that the provisions of paragraphs (A) and (B) below will apply with respect to:

- (i) any *foreground* or *background* to which such entity has been granted Access Rights pursuant to the Grant Agreement and this Consortium Agreement and
- (ii) any Party's Confidential Information that has been *used* by such entity in accordance with the provisions of the Grant Agreement and this Consortium Agreement,

and that, at the time of cessation of such entity's Affiliate status, has been:

- incorporated into the products, processes or services of such entity ("Products, Processes and Services") or
- amalgamated with such entity's own information.

(A) With respect to such Confidential Information: such entity may continue to *use* the Confidential Information in its Products, Processes and Services in a manner in which the Confidential Information was being *used* prior to the time of cessation of such entity's Affiliate status.

(B) With respect to such *background* and *foreground* other than Confidential Information: at the request of such entity, the Parties shall grant non-exclusive licences to such entity under such *background* and *foreground* for use in such entity's Products, Processes and Services on terms and conditions to be agreed, provided that no commercial interest of such Parties opposes the grant of such licences.

Upon any legal entity ceasing to be an Affiliate of a Party, the licences or user rights previously granted by such entity to any Party or its Affiliates under or in respect of *background* or *foreground* shall continue in full force and effect.

Further arrangements with Affiliates may be negotiated in separate agreements.

## **9.6 Additional Access Rights**

For the avoidance of doubt any grant of Access Rights not covered by this Consortium Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

## **9.7 Access Rights for Parties entering or leaving the Consortium**

### **9.7.1 New Parties entering the Consortium**

All *foreground* developed before the accession date of the new Party fixed in the respective Accession Document according to Attachment 5, shall be considered to be *background* with regard to said new Party.

### **9.7.2 Parties leaving the Consortium**

#### **9.7.2.1 Access Rights granted to a leaving Party**

##### **9.7.2.1.1 Defaulting Party**

Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the General Assembly to terminate its participation in the Consortium.

##### **9.7.2.1.2 Non-defaulting Party**

A Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the *foreground* developed until the date of the termination of its participation. The time limit for its right to request these Access Rights shall be one (1) year from the date of termination of its participation.

#### **9.7.2.2 Access Rights to be granted by any leaving Party**

Any Party leaving the Project shall continue to grant Access Rights pursuant to the Grant Agreement and this Consortium Agreement as if it had remained a Party for the whole duration of the Project.

## **9.8 Specific Provisions for Access Rights to Software**

### **9.8.1 Definitions relating to Software**

“Application Programming Interface”

Application Programming Interface means application programming interface materials and related documentation containing all data and information to allow skilled Software developers to create Software interfaces that interface or interact with other specified Software.

#### “Controlled License Terms”

Controlled License Terms means terms in any license that require that the use, copying, modification and/or distribution of Software or another work (“Work”) and/or of any work that is a modified version of or is a derivative work of such Work (in each case, “Derivative Work”) be subject, in whole or in part, to one or more of the following:

(where the Work or Derivative Work is Software) that the Source Code or other formats preferred for modification be made available as of right to any third party on request, whether royalty-free or not;

that permission to create modified versions or derivative works of the Work or Derivative Work be granted to any third party;

that a royalty-free license relating to the Work or Derivative Work be granted to any third party.

For the avoidance of doubt, any Software license that merely permits (but does not require any of) the things mentioned in a) to c) is not a Controlled License (and so is an Uncontrolled License).

#### “Object Code”

Object Code means software in machine-readable, compiled and/or executable form including, but not limited to, byte code form and in form of machine-readable libraries used for linking procedures and functions to other software.

#### “Software Documentation”

Software Documentation means software information, being that information deemed necessary and sufficient by a skilled software developer as the technical information to be used or, useful in, or relating to the design, development, maintenance of any version of a software programme.

#### “Source Code”

Source Code means software in human readable form normally used to make modifications to it including, but not limited to, comments and procedural code such as job control language and scripts to control compilation and installation.

### **9.8.2 Access to Software**

For the avoidance of doubt, the general provisions for Access Rights provided for in this Article 9 are applicable also to Software.

Parties’ Access Rights to Software do not include any right to receive Source Code or Object Code ported to a certain hardware platform or any right to receive Source Code, Object Code or respective Software documentation in any particular form or detail, but only as available from the Party granting the Access Rights.

The intended introduction of Intellectual Property (including, but not limited to Software) under Controlled License Terms in the Project requires the approval of the General Assembly to implement such introduction into the Consortium Plan.



## Article 10: Non-disclosure of information

All information in whatever form or mode of transmission, which is disclosed by a Party (the “Disclosing Party”) to any other Party (the “Recipient”) in connection with the Project during its implementation and which has been explicitly marked as “confidential”, or when disclosed orally, has been identified as confidential at the time of disclosure and has been confirmed and designated in writing within 15 days at the latest as confidential information by the Disclosing Party, is “Confidential Information”.

The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the Grant Agreement, for a period of 5 years after the Effective Date:

not to *use* Confidential Information otherwise than for the purpose for which it was disclosed;

not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Party;

to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and

to return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations or to fulfil legal obligations, the Recipients may however request to keep a copy for archival purposes only.

The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees and shall ensure that their employees remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of employment.

Notwithstanding the foregoing, the Recipient shall be entitled to disclose the Confidential Information to any of its Affiliates, if and to the extent Needed for *use* of its own *foreground*, on a need to know basis, and subject to confidentiality obligations which are similar to the obligations of non-disclosure set forth herein.

The above shall not apply for disclosure or *use* of Confidential Information, if and in so far as the Recipient can show that:

the Confidential Information becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;

the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;

the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Party;

the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;

the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or

the Confidential Information was already known to the Recipient prior to disclosure and was not previously acquired from the Disclosing Party under any obligation of confidentiality;

the Party is required to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order including in the case of the United Kingdom the Freedom of Information Act 2000.

The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care.

Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse by any person of Confidential Information as soon as practicable after it becomes aware of such unauthorised disclosure, misappropriation or misuse.

If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, it shall, to the extent it is lawfully able to do so, prior to any such disclosure:

notify the Disclosing Party, and

when its legally possible comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information.

The confidentiality obligations under this Consortium Agreement and the Grant Agreement shall not prevent the communication of Confidential Information to the European Commission or third parties, in case necessary for the proper implementation of the Project provided that all such person to whom Confidential Information is so disclosed are informed of the confidentiality provisions in this Consortium Agreement and enter into legally binding confidentiality agreements on equivalent terms to this Consortium Agreement.

## **Article 11: Miscellaneous**

### **11.1 Attachments, inconsistencies and severability**

This Consortium Agreement consists of this body text and:

Attachment 1 (*Background* included)

Attachment 2 (*Background* excluded)

Attachment 3 (Listed Affiliates)

Attachment 4 (List of Third Parties to which transfer of *foreground* is possible without prior notice to other Parties)

Attachment 5 (Accession document)

Attachment 6 (Agreement for the Transfer of Material)

Attachment 7 (initial list of members and other contact persons)

In case this Consortium Agreement is in conflict with the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the appendices and the body text of this Consortium Agreement, the latter shall prevail.

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

### **11.2 No representation, partnership or agency**

The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Party. Nothing in this Consortium Agreement shall be deemed to constitute a joint venture, agency, partnership, interest grouping or any other kind of formal business grouping or entity between the Parties.

### **11.3 Notices and other communication**

Any notice to be given under this Consortium Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Coordinator based on the initial list of members and other contact persons in Attachment 7.

Formal notices:

If it is required in this Consortium Agreement (Article. 9.7.2.1.1 and 11.4) that a formal notice, consent or approval shall be given, such notice shall be signed by an authorised representative of a Party and shall either be served personally or sent by mail with recorded delivery.

Other communication:

Other communication between the Parties may also be effected by other means such as e-mail with acknowledgement of receipt (e.g. Minutes).

Any change of persons or contact details shall be notified immediately by the respective Party to the Coordinator. The address list shall be accessible to all concerned. An update of Attachment 7 to be issued by the Coordinator is not regarded as an amendment to this Consortium Agreement.

#### **11.4 Assignment and amendments**

No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval.

Amendments and modifications to the text of this Consortium Agreement not explicitly listed in Article 6.3.1.2 require a separate agreement between all Parties.

#### **11.5 Mandatory statutory law**

Nothing in this Consortium Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.

#### **11.6 Language**

This Consortium Agreement is drawn up in English, which language shall govern all documents, notices, meetings and processes relative thereto.

#### **11.7 Applicable law**

This Consortium Agreement and all clauses in the Grant Agreement affecting the rights and obligations between the Parties shall be construed in accordance with and governed by the laws of Belgium.

When acting under this Consortium Agreement, each Party will comply with all applicable laws and regulations, including (without limitation) the export laws and regulations of the European Union and other relevant States.

#### **11.8 Settlement of disputes**

All disputes arising out of or in connection with this Consortium Agreement (other than disputes relating to the infringement and/or validity of intellectual property rights), which cannot be solved amicably, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

The place of arbitration shall be Brussels if not otherwise agreed by the conflicting Parties.

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

Nothing in this Consortium Agreement shall limit the Parties' right to (A) seek injunctive relief or any other temporary measures before any applicable competent court or tribunal, wherever located, in order to seek to prevent or restrain any (i) infringement of its or their intellectual property rights and/or (ii) unauthorised disclosure of Confidential Information; and/or (B) to enforce an arbitration award in any applicable competent court of law.

## **Article 12: Signatures**

AS WITNESS:

The Parties have caused this Consortium Agreement to be duly signed by the undersigned authorised representatives in the day and year first above written.

Each Party signs a separate signature page as many times as there are parties. The coordinator gathers all originals and then delivers the whole package consisting of all signatures to all parties.

Eidgenössische Technische Hochschule Zürich

Signature(s)



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Name(s)

Peter Chen / Dr. Roman Boutellier

---

Title(s)

Professor / Professor

---

Date

20/05/2009

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Stamp



GeoForschungsZentrum Potsdam

Signature(s)



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Name(s)

R. Hüttl / Bernhard Raiser

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Title(s)

Professor / Dr., Executive Board

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Date

29. MAI. 2009

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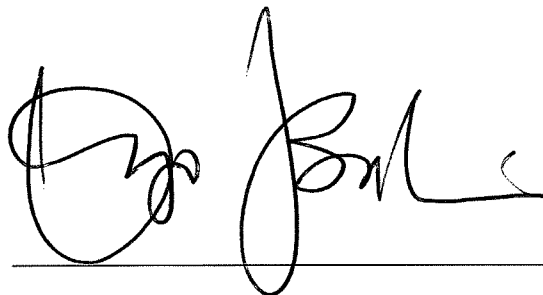
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HELMHOLTZ-ZENTRUM POTSDAM  
DEUTSCHES  
GEOFORSCHUNGSZENTRUM  
Telegrafenberg  
14473 Potsdam

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Istituto Nazionale di Geofisica e Vulcanologia

Signature(s)



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Name(s)

Enzo Boschi

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Title(s)

Professor

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Date

**20 MAG. 2009**

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Stamp

IST. NAZ. DI GEOFISICA E VULCANOLOGIA  
Via di Vigna Murata, 605  
I - 00143 Roma - Italia

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**Université Joseph Fourier Grenoble 1**

Signature(s)

\_\_\_\_\_

Name(s)

Farid Ouabdesselam

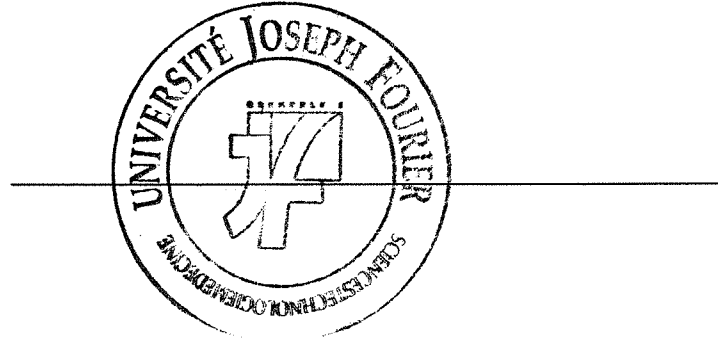
Title(s)

Dr. / President

Date

25/05/09

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**Università degli Studi di Pavia**

Signature(s)



Name(s)

Angiolino Stella / Ferdinando Auricchio

Title(s)

Professor / Professor

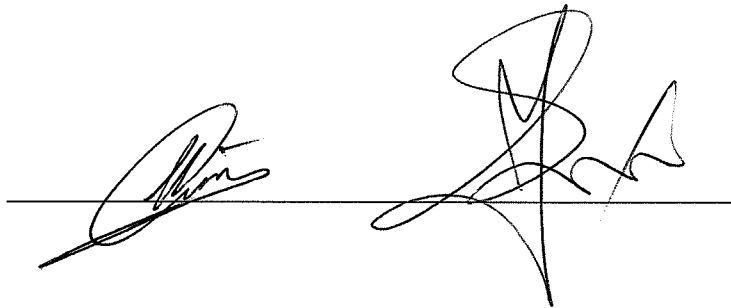
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**28 MAG. 2009**

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**Aristotle University of Thessaloniki**

Signature(s)



Name(s)

Stavros Panas / Ioannis Sachalos

Title(s)

Professor / Professor

Date

Stamp



ΓΡΑΦΕΙΟ ΝΟΜΙΚΗΣ  
ΥΠΟΣΤΗΡΙΞΗΣ  
ΠΑΝΑΓΙΩΤΗΣ ΑΝΑΝΙΑΔΗΣ  
ΔΙΚΗΓΟΡΟΣ

**Bureau de Recherches Géologiques et Minières**

Signature(s)

*Fouillac*

Name(s)

**Christian FOUILLAC**  
Directeur de la Recherche

François Démarcq / Christian Fouillac

Title(s)

Dr. / Dr.

Date

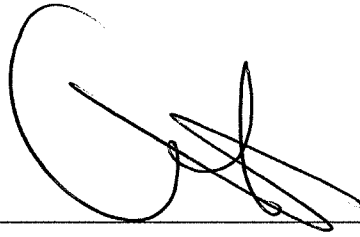
*20/05/2009*

Stamp

**BRGM**  
Direction de la Recherche  
3, avenue Claude Guillemin  
B.P. 6009  
45060 ORLEANS Cedex 2 - France

**Centre de Recherche en Astronomie, Astrophysique et Géophysique**

Signature(s)



Name(s)

Abdel Karim Yelles

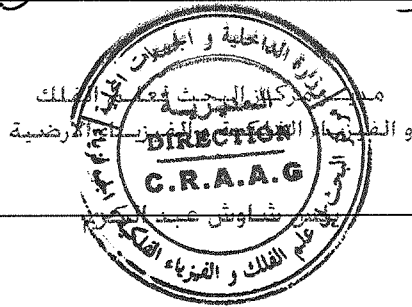
Title(s)

Professor

Date

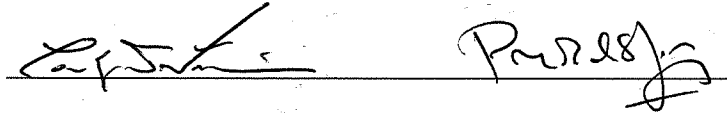
12.06.2009

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**Instituto Superior Técnico**

Signature(s)



Name(s)

Carlos Matos Ferreira / Pedro Da Silva Girao

Title(s)

Professor / Professor

Date

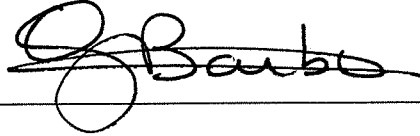
25/05/09

Stamp

\_\_\_\_\_

**Bogazici University**

Signature(s)



Name(s)

Gulay Barbarosoglu

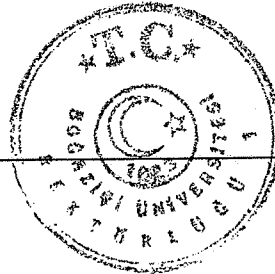
Title(s)

Professor

Date


May 29, 2009

Stamp



**Laboratório Nacional de Engenharia Civil**

Signature(s)

\_\_\_\_\_

Name(s)

Carlos Mattias Ramos / Carlos Alberto Brito Pina

Title(s)

Professor / Professor

Date

29/05/09

Stamp

\_\_\_\_\_



**Middle East Technical University**

Signature(s)



Name(s)

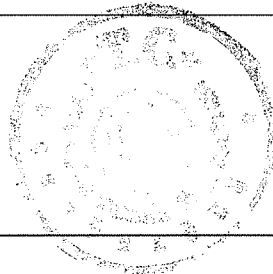
M. Tuncay Birand

Title(s)

Professor

Date

Stamp



**Montenegro Seismological Observatory**

Signature(s)

*Branislav Glavatic*

Name(s)

Branislav Glavatic

Title(s)

Professor

Date

*05/25/2009*

Stamp



**Natural Environment Research Council-British Geological Survey**

Signature(s)



Name(s)

Lynne Riley

Title(s)

Head, Contracts Section

Date

20 May 2009

Stamp

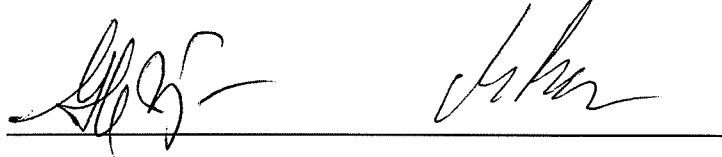


**British  
Geological Survey**

**NATURAL ENVIRONMENT RESEARCH COUNCIL**

**National Institute for Earth Physics**

Signature(s)



Name(s)

Dr. Gheorghe Marmureanu / Dr. Mircea Radulian

Title(s)

Professor / Dr.

Date

May 25, 2009

Stamp



**National and Kapodistiran University of Athens**

Signature(s)





Name(s)

Dimosthenis N. Asimakopoulos

Title(s)

Professor

Date

Stamp



**STIFTELSEN NORSAR/International Centre for Geohazards**

Signature(s)



Name(s)

Anders Dahle

Title(s)

Dr.

Date

27/5 - 09

Stamp

**NORSAR**  
Post Box 53  
NO-2027 Kjeller

**Observatoire Royal de Belgique**

Signature(s)

  
\_\_\_\_\_

Name(s)

Ronald van der Linden  
\_\_\_\_\_

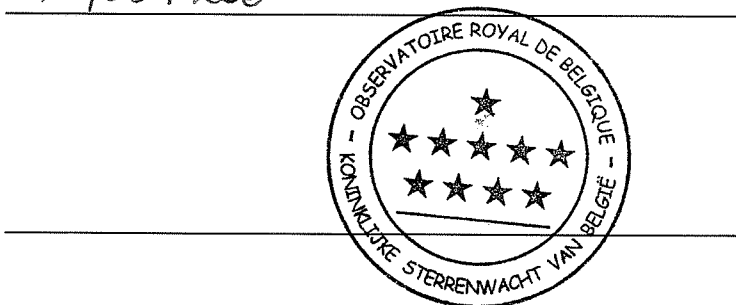
Title(s)

Dr.  
\_\_\_\_\_

Date

20/05/2009  
\_\_\_\_\_

Stamp



**Attachment 1: *Background* included**

Access Rights to *background* made available to the Parties:

The Background owned by or acquired by the research team of Prof. F. Cotton and Prof. P. Y. Bard, directly involved in carrying out the SHARE Project, except for any Background which is already subject to any third party agreement, to the extent such Background is needed for the implementation of the Project or for use of Foreground.

This represents the status at the time of signature of this Consortium Agreement.



## **Attachment 2: *Background* excluded**

*Background* excluded from Access Rights:

Eidgenössische Technische Hochschule Zürich

Eidgenössische Technische Hochschule Zürich (ETH Zurich) hereby excludes all *background* generated by ETH Zurich other than that generated by the members of the research group of Prof. Domenico Giardini, who is directly involved in carrying out the Project. ETH Zurich also excludes all *background* generated by such members which is unrelated to the work plan, aims and objectives of the SHARE Project. Furthermore, ETH Zurich excludes all *background* that ETH Zurich is not free to grant access due to obligations towards third parties.

**GeoForschungsZentrum Potsdam (GFZ Potsdam)** hereby excludes all *background* generated by GFZ Potsdam other than that generated by the members of the research groups of Prof. G. Grünthal, who is directly involved in carrying out the Project. Further, GFZ Potsdam excludes all *background* that GFZ Potsdam is not free to grant access due to obligations towards third parties.

**Istituto Nazionale di Geofisica e Vulcanologia (INGV)** hereby excludes all *background* generated by INGV other than that generated by the members of the research groups of Dr. G. Valinsise, who is directly involved in carrying out the Project. Further, INGV excludes all *background* that INGV is not free to grant access due to obligations towards third parties

**Université Joseph Fourier Grenoble 1(LGIT-UJF)** hereby excludes all *background* generated by LGIT-UJF other than that generated by the members of the research groups of Prof. F. Cotton and Prof. P. Y. Bard, who is directly involved in carrying out the Project. Further, LGIT-UJF excludes all *background* that LGIT-UJF is not free to grant access due to obligations towards third parties.

**Università degli Studi di Pavia (UPAV)** hereby excludes all *background* generated by UPAV other than that generated by the members of the research groups of Prof. Michele Calvi and Prof. Rui Pinho, who is directly involved in carrying out the Project. Further, UPAV excludes all *background* that UPAV is not free to grant access due to obligations towards third parties.

**Aristotle University of Thessaloniki (AUTH)** hereby excludes all *background* generated by AUTH other than that generated by the members of the research groups of Prof. Kyriazis Ptilakis and Prof. Spyros Pavlides, who is directly involved in carrying out the Project. Further, AUTH excludes all *background* that AUTH is not free to grant access due to obligations towards third parties.

**Bureau de Recherches Géologiques et Minières (BRGM)** hereby excludes all *background* generated by BRGM other than that generated by the members of the research groups of Dr. John Douglas, who is directly involved in carrying out the Project. Further, BRGM excludes all *background* that BRGM is not free to grant access due to obligations towards third parties.

**Centre de Recherche en Astronomie, Astrophysique et Géophysique (CRAAG)** hereby excludes all *background* generated by CRAAG other than that generated by the members of the research groups of Dr. Abdelkarim Yelles, who is directly involved in carrying out the Project. Further, CRAAG excludes all *background* that CRAAG is not free to grant access due to obligations towards third parties.

**Instituto Superior Técnico (IST)** hereby excludes all *background* generated by IST other than that generated by the members of the research groups of Prof. Joao Fonseca, who is directly

involved in carrying out the Project. Further, IST excludes all *background* that IST is not free to grant access due to obligations towards third parties.

**Bogazici University (KOERI)** hereby excludes all *background* generated by KOERI other than that generated by the members of the research groups of Prof. Mustafa Erdik, who is directly involved in carrying out the Project. Further, KOERI excludes all *background* that KOERI is not free to grant access due to obligations towards third parties.

**Laboratório Nacional de Engenharia Civil (LNEC)** hereby excludes all *background* generated by LNEC other than that generated by the members of the research groups of Prof. Ema Coelho and Prof. A. Campos-Costa, who is directly involved in carrying out the Project. Further, LNEC excludes all *background* that LNEC is not free to grant access due to obligations towards third parties.

**Middle East Technical University (METU)** hereby excludes all *background* generated by METU other than that generated by the members of the research groups of Prof. Sinan Akkar and Prof. Polat Gülkan, who is directly involved in carrying out the Project. Further, METU excludes all *background* that METU is not free to grant access due to obligations towards third parties.

**Montenegro Seismological Observatory (MSO)** hereby excludes all *background* generated by MSO other than that generated by the members of the research groups of Prof. Branislav Glavotovic, who is directly involved in carrying out the Project. Further, MSO excludes all *background* that MSO is not free to grant access due to obligations towards third parties.

**Natural Environment Research Council-British Geological Survey (NERC-BGS)** hereby excludes all *background* generated by NERC-BGS other than that generated by the members of the research groups of Dr. Roger Musson, who is directly involved in carrying out the Project. Further, NERC-BGS excludes all *background* that NERC-BGS is not free to grant access due to obligations towards third parties.

**National Institute for Earth Physics (NIEP)** hereby excludes all *background* generated by NIEP other than that generated by the members of the research groups of Prof. Gheorghe Marmureanu and Dr. Mircea Radulian, who is directly involved in carrying out the Project. Further, NIEP excludes all *background* that NIEP is not free to grant access due to obligations towards third parties.

**Seismological Laboratory, University of Athens (NKUA)** hereby excludes all *background* generated by NKUA other than that generated by the members of the research groups of Prof. Konstantinos C. Makropoulos, who is directly involved in carrying out the Project. Further, NKUA excludes all *background* that NKUA is not free to grant access due to obligations towards third parties.

**NORSAR/International Centre for Geohazards (NORSAR-ICG)** hereby excludes all *background* generated by NORSAR-ICG other than that generated by the members of the research groups of Dr. Conrad Lindholm, who is directly involved in carrying out the Project. Further, NORSAR-ICG excludes all *background* that NORSAR-ICG is not free to grant access due to obligations towards third parties.

**Observatoire Royal de Belgique (ROB)** hereby excludes all *background* generated by ROB other than that generated by the members of the research groups of Dr. Thierry Camelbeeck, who is directly involved in carrying out the Project. Further, ROB excludes all *background* that ROB is not free to grant access due to obligations towards third parties.

This represents the status at the time of signature of this Consortium Agreement.

## **Attachment 3: Listed Affiliated Entities**

This represents the status at the time of signature of this Consortium Agreement.

## **Attachment 4: List of Third Parties**

List of Third Parties to which transfer of *foreground* is possible without prior notice to the other Parties.

Université Joseph Fourier Grenoble 1 may transfer its Foreground to the Centre National de la Recherche Scientifique (CNRS), Université de Savoie Chambéry, Laboratoire Central Ponts et Chaussées (LCPC), Institut de Recherche pour le Développement (IRD).

This represents the status at the time of signature of this Consortium Agreement.

## Attachment 5: Accession document

### ACCESSION

of a new Party to

SHARE Consortium Agreement, version [..., YYYY-MM-DD]

[OFFICIAL NAME OF THE NEW PARTY AS IDENTIFIED IN THE GRANT AGREEMENT]

hereby consents to become a Party to the Consortium Agreement identified above and accepts all the rights and obligations of a Party starting [date].

[OFFICIAL NAME OF THE COORDINATOR AS IDENTIFIED IN THE GRANT AGREEMENT]

hereby certifies that the Consortium has accepted in the meeting held on [date] the accession of [the name of the new Party] to the Consortium starting [date].

This Accession document has been done in 2 originals to be duly signed by the undersigned authorised representatives.

[Date and Place]

[INSERT NAME OF THE NEW PARTY]

Signature(s)  
Name(s)  
Title(s)

[Date and Place]

[INSERT NAME OF THE COORDINATOR]

Signature(s)  
Name(s)  
Title(s)

## **Attachment 6: Agreement for the Transfer of Material**

### **Simple Letter Agreement for the Transfer of Materials**

In response to the RECIPIENT's request for the MATERIAL [insert description] . . .The PROVIDER asks that the RECIPIENT and the RECIPIENT SCIENTIST agree to the following before the RECIPIENT receives the MATERIAL:

The above MATERIAL is the property of the PROVIDER and is made available in the frame of the [name of the Project] project.

**THIS MATERIAL IS NOT FOR USE IN HUMAN SUBJECTS.**

The MATERIAL will be used for not-for-profit research purposes only.

The MATERIAL will not be further distributed to others without the PROVIDER's written consent. The RECIPIENT shall refer any request for the MATERIAL to the PROVIDER. To the extent supplies are available, the PROVIDER or the PROVIDER SCIENTIST agree to make the MATERIAL available, under a separate Simple Letter Agreement to other scientists for teaching or not-for-profit research purposes only.

The RECIPIENT agrees to acknowledge the source of the MATERIAL in any publications reporting use of it.

Any MATERIAL delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. THE PROVIDER MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE MATERIAL WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. Unless prohibited by law, RECIPIENT assumes all liability for claims for damage against it by third parties which may arise from the use, storage or disposal of the MATERIAL except that, to the extent permitted by law, the PROVIDER shall be liable to the RECIPIENT when the damage is caused by the gross negligence or wilful misconduct of the PROVIDER.

The RECIPIENT agrees to use the MATERIAL in compliance with all applicable statutes and regulations.

The MATERIAL is provided at no cost.

The PROVIDER, RECIPIENT and RECIPIENT SCIENTIST must sign both copies of this letter and return one signed copy

to the PROVIDER. The PROVIDER will then send the MATERIAL.

PROVIDER INFORMATION and AUTHORISED SIGNATURE

Provider Scientist:.....

Provider Organisation:.....

Address:.....

Name of Authorised Official:.....

Title of Authorised Official:.....

Certification of Authorised Official: This Simple Letter Agreement \_\_has / \_\_has not [check one] been modified. If modified, the modifications are attached.

Signature of Authorised Official ..... and Date .....

RECIPIENT INFORMATION and AUTHORISED SIGNATURE

Recipient Scientist:.....

Recipient Organisation:.....

Address:.....

Name of Authorised Official:.....

Title of Authorised Official:.....

Signature of Authorised Official:.....

Date:.....

Certification of Recipient Scientist: I have read and understood the conditions outlined in this Agreement and I agree to abide

by them in the receipt and use of the MATERIAL.

Signature of Recipient Scientist ..... and Date .....



## **Attachment 7: Initial list of members and other contact persons**

Eidgenössische Technische Hochschule Zürich

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. D. Giardini

GeoForschungsZentrum Potsdam

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. G. Grünthal

Istituto Nazionale di Geofisica e Vulcanologia

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Dr. Gianluca Valensise

Université Joseph Fourier

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

Ms. Leslie Hollet

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Ms. Leslie Hollet

Member of the General Assembly and scientific contact person: Prof. Fabrice Cotton

Università degli Studi di Pavia

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. Gian Michele Calvi

Aristotle University of Thessaloniki

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. Kyriazis Pitilakis

Bureau de Recherches Géologiques et Minières

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Dr. John Douglas

Centre de Recherche en Astronomie, Astrophysique et Géophysique

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. Abdel Karim Yelles

Instituto Superior Técnico

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement: **Ms. Teresa Malhoa**

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:  
Ms. Teresa Malhoa

Member of the General Assembly and scientific contact person: Dr. Joao Fonseca

Bogazici University

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. Mustafa Erdik

Laboratório Nacional de Engenharia Civil

**Recipients for Legal Notices in Accordance with Article 11 of this Consortium Agreement:  
Dr. José Antonio Costa**

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:  
Dr. José Antonio Costa

Member of the General Assembly and scientific contact person: Dr. Alfredo Campos Costa

Middle East Technical University

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. Dede Sinan Akkar

Montenegro Seismological Observatory

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. Branislav Glavatovic

Natural Environment Research Council-British Geological Survey

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Dr. Roger M. W. Musson

National Institute for Earth Physics

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Dr. Mircea Radulian

Seismological Laboratory, University of Athens

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Prof. Konstantinos Makropoulos

Stifelsen NORSAR/International Centre for Geohazards

**Recipients for Legal Notices** in Accordance with Article 11 of this Consortium Agreement:

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:

Member of the General Assembly and scientific contact person: Dr. Conrad Lindholm

Observatoire Royal de Belgique

**Recipients for Legal Notices in Accordance with Article 11 of this Consortium Agreement:**  
**Dr. R. van der Linden**

**Recipients for all other Notices** in Accordance with Article 11 of this Consortium Agreement:  
Dr. R. van der Linden

Member of the General Assembly and scientific contact person: Dr. Thierry Camelbeek