
REACH CONSORTIUM

COST SHARING AGREEMENT

Dated November 29, 2004

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Attachment 5

THIS REACH CONSORTIUM COST SHARING AGREEMENT dated as of November 29, 2004 (the "Consortium Agreement" or the "Agreement") is among the individual companies set forth as Attachment 1 hereto, as the same may be amended from time to time (individually, a "Consortium Member" and, collectively, "Consortium Members"), the International Aluminum Institute ("IAI"), and the European Aluminum Association ("EAA").

WHEREAS, the Consortium Members seek to fulfill their obligations under the Regulation of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restrictions of Chemicals, establishing a European Chemicals Agency and amending Directive 1999/45/EC and Regulation (EC) {on Persistent Organic Pollutants}, as currently set forth in the Proposal for a Regulation of the European Parliament and of the Council concerning the Regulation, Evaluation, Authorisation and Restrictions of Chemicals, establishing a European Chemicals Agency and amending Directive 1999/45/EC and Regulation (EC) {on Persistent Organic Pollutants} ("REACH"), which will require manufacturers and importers of chemical substances to register those substances by means of a registration (the "Registration") submitted to the newly formed European Chemicals Agency (the "Agency") which will be forwarded to the competent member state authority (the "Member State Authority");

WHEREAS, Article 10 of REACH authorizes the formation of consortia for the purpose of preparing Registrations, and the Consortium Members wish to form such a Consortium (the "Consortium"); and

WHEREAS, the Consortium Members recognize that some of the information that will be necessary for the Registration has already been collected in studies underwritten by the IAI, the EAA, and their respective members, and that additional research is required to comply with the comprehensive requirements of REACH;

NOW, THEREFORE, the parties hereto hereby agree as follows:

Section 1. Definitions

"§" shall mean the lawful currency of the United States of America.

"Agency" shall have the meaning assigned thereto in the first Recital.

"Agreement" shall have the meaning assigned thereto in the Caption.

"Annex" shall refer to an annex of REACH.

"Article" shall refer to an article of REACH.

"Breaching Member" shall have the meaning assigned thereto in Section 13(d).

"Budget(s)" shall have the meaning assigned thereto in Section 4(d).

"business day" shall mean any day that is not a Saturday, not a Sunday, or not any other day on which banks are required or authorized by law to be closed in Brussels.

"Chair" shall have the meaning assigned thereto in Section 4(a).

"Community" shall have the meaning assigned thereto in Section 3(e).

"Consortium" shall have the meaning assigned thereto in the second Recital.

"Consortium Agreement" shall have the meaning assigned thereto in the Caption.

"Consortium Committee" shall have the meaning assigned thereto in Section 4(a).

"Consortium Member(s)" shall have the meaning assigned thereto in the Caption. For the avoidance of doubt, the Lead Registrant is also a Consortium Member.

"Committee Representative(s)" shall have the meaning assigned thereto in Section 4(a).

"EAA" shall have the meaning assigned thereto in the Caption.

"IAI" shall have the meaning assigned thereto in the Caption.

"Joint Registration" shall have the meaning assigned thereto in Section 2(c).

"Lead Registrant" shall mean the manufacturer or importer acting on behalf of the Consortium Members from time to time as contemplated by Article 10.

"liabilities" shall mean any debts, liabilities, obligations, claims, encumbrances, commitments, demands, or expenses of any nature or kind, whether known or unknown, asserted or unasserted, accrued or unaccrued, absolute, contingent or otherwise and whether due or to become due.

"Material" shall have the meaning assigned thereto in the REACH Consortium Non-Disclosure and Non-Use Agreement, attached hereto as Attachment 4.

"Member State Authority" shall have the meaning assigned thereto in the first recital.

9(a). “Non-Disclosure Agreement” shall have the meaning assigned thereto in Section

6(a). “Non-IAI/EAA Member(s)” shall have the meaning assigned thereto in Section

“Pro Rata Share” shall have the meaning assigned thereto in Section 6(a).

“REACH” shall have the meaning assigned thereto in the first Recital.

“REACH Compliance” shall have the meaning assigned thereto in Section 2(f).

“Registration” shall have the meaning assigned thereto in the first Recital.

“Remedy Period” shall have the meaning assigned thereto in Section 13(d).

“Secretariat” shall have the meaning assigned thereto in Section 4(d).

“Steering Committee” shall have the meaning assigned thereto in Section 4(h).

Section 2. Lead Registrant

(a) Alcan Inc. shall be the Lead Registrant. The Lead Registrant may be terminated upon a vote of at least two-thirds of the Consortium Committee. A vote of at least two thirds of the Consortium Committee shall be necessary for the appointment of a new Lead Registrant.

(b) The Consortium Members hereby authorize and direct full and timely compliance by the Lead Registrant, and the Lead Registrant hereby agrees it shall fully and timely comply, on behalf of the Consortium Members, with all the provisions of REACH pursuant to which the Lead Registrant is entitled to act on behalf of the Consortium Members with respect to aluminum metal (including aluminum powder), aluminum oxide, and aluminum hydroxide (which are substances as defined in REACH), and on its own behalf, as a Consortium Member, with the duties of Consortium Members as set forth in Section 3.

(c) The Lead Registrant, with the assistance of the Secretariat, shall prepare and submit to the Agency, on behalf of the Consortium Members and in the format specified by the Agency, the information required pursuant to Article 9(a)(iv), (v), (vi), (vii), and (ix) in accordance with Article 11(1)(d) and the chemical safety report required pursuant to Article 9(b) by the last business day of the thirty-fourth month after the entry into force of REACH (the “Joint Registration”) on the basis of a tonnage band exceeding 1,000 tons per year.

(d) To the greatest extent possible under the laws of the relevant jurisdiction, the Lead Registrant shall not be liable for and the Consortium Members shall pay for insurance

to cover or shall indemnify the Lead Registrant against, and hold the Lead Registrant harmless from, all liabilities and claims (including reasonable attorneys fees and expenses in defending against such liabilities and claims) against the Lead Registrant arising in connection with the performance by the Lead Registrant of its obligations as Lead Registrant pursuant to this Agreement other than liabilities attributable to the gross negligence or willful misconduct of the Lead Registrant.

(e) The Lead Registrant shall forward within five (5) business days any communications received from the Agency or the Member State Authority to the Consortium Secretariat by facsimile, registered post or electronic mail.

(f) The Lead Registrant shall use its best efforts to make any appeals under REACH in the case of any rejection, objection, or request by the Agency or the Member State Authority relating to the Consortium's compliance with the requirements of REACH ("REACH Compliance"), unless at least a majority of the Consortium Members in the Consortium Committee vote against such action.

Section 3. Consortium Members

(a) Each Consortium Member shall comply or shall cause its representative appointed pursuant to Article 6a to comply in a full and timely manner with all provisions of REACH that are required of it.

(b) Each Consortium Member shall prepare and submit to the Agency or shall cause its representative appointed pursuant to Article 6a to prepare and submit to the Agency in the format specified by the Agency, the information required pursuant to Article 26(1) in accordance with Article 26(2)(a) by the last business day of the eighteenth month after the entry into force of REACH.

(c) Each Consortium Member shall prepare and submit to the Agency or shall cause its representative appointed pursuant to Article 6a to prepare and submit to the Agency, in the format specified by the Agency, the information required pursuant to Article 9(a)(i), (ii), (iii), and (viii) by the last business day of the thirty-fourth month after the entry into force of REACH.

(d) Consortium Members shall be liable to one another for liabilities arising in connection with the matters contemplated by this Agreement only for their gross negligence or willful misconduct.

(e) Consortium Members established outside the Community who manufacture any of the substances identified in Section 2(b) that are imported into the Community shall appoint a representative as required by Article 6a. For the purposes of this section "Community" shall have the same meaning herein as in REACH.

Section 4. Governance of the Consortium

(a) The activities of the Consortium shall be directed by a Consortium committee (the "Consortium Committee") consisting of the official representatives thereto of each of the Consortium Members designated pursuant to Section 5 hereof (each a "Committee Representative"). The Consortium Committee shall have a chair, who shall be the Committee Representative from the Lead Registrant (the "Chair"). The activities and decisions of the Consortium, including those of the Chair, the Consortium Committee, the Steering Committee, and the Secretariat, shall be confined to matters relating to REACH Compliance.

(b) The activities of the Consortium shall be conducted on a not-for-profit basis, and no income shall be earned as result thereof.

(c) Except as otherwise provided in this Agreement, decisions of the Consortium Committee shall be by majority vote of all the Consortium Members. Votes shall be cast by each Committee Representative, each such Committee Representative having one vote. The Chair shall not have an extra or casting vote. Votes shall be cast in person, by proxy, duly designated and authorized in writing by such Committee Representative, or by facsimile sent to the Secretariat. For the avoidance of doubt, references to the minimum percentage vote of the Consortium Committee required shall be to the entire Consortium Committee and not only to Consortium Members present and voting at a meeting.

(d) The activities of the Consortium shall be organized by a Consortium Secretariat (the "Secretariat"), which Secretariat shall, inter alia, coordinate the day-to-day affairs of the Consortium Committee and supervise the administrative, legal, and financial matters relating to REACH Compliance in consultation with the Steering Committee and the Chair. The Secretariat shall prepare the Joint Registration and ancillary documents, timely submit drafts of the Joint Registration and ancillary documents to each Consortium Member for its review and comments, prepare a work plan outlining the research and other activities to be accomplished for REACH Compliance for the coming calendar year as well as a three (3) year rolling work plan, prepare and maintain the budgets for each calendar year (each a "Budget") as well as an estimated total expenditure for the estimated duration of the Consortium, maintain appropriate bank accounts, send notices and reminders relating to deadlines under REACH or relating to membership in the Consortium, provide agendas for the meetings of the Consortium Committee, attend and record the minutes of all meetings of the Consortium Committee and the Steering Committee, and comply with all applicable regulations.

(e) The Secretariat shall initially be the EAA, which organization may be replaced by at least two-thirds majority vote of the Consortium Committee, and may consult with and receive help from the IAI and its representatives and employees. The Secretariat and the Consortium Committee may request assistance from attorneys, accountants, consultants, and other special advisors and agents from time to time as it may in its reasonable opinion consider appropriate.

(f) Any agreements duly authorized by the Consortium Committee in accordance with the terms of this Agreement or expressly by this Agreement may be executed on behalf of the Consortium by the Secretariat. All reasonable expenses, costs, and liabilities of the Secretariat to the degree such expenses, costs, and liabilities are reasonably incurred in connection with REACH Compliance and in connection with the performance of its responsibilities under this Agreement in accordance with its terms, shall whenever possible, be paid and/or reimbursed by the Consortium and shall whenever possible, be included in the Budget for each calendar year.

(g) Meetings of the Consortium Committee shall be held at appropriate intervals or at the call of the Chair or of any ten (10) Consortium Members, and shall have at least one meeting per calendar year. Notice of all meetings shall be given to each Committee Representative not less than ten (10) business days prior to each meeting, unless at least four fifths of all Consortium Members agree to lesser notice. Meetings shall be open to each Committee Representative, its designated proxy, and up to one (1) additional person from each Consortium Member. Meetings may be held in person, by teleconference, or by videoconference. Each notice of meeting shall (i) specify a reasonably detailed agenda, (ii) be accompanied by any relevant papers and (iii) be sent by a courier, by facsimile transmission or by electronic mail. Minutes of the meetings of the Consortium Committee shall be sent to Consortium Members no later than twenty (20) business days following a Consortium Committee meeting.

(h) A steering committee (the "Steering Committee") of the Consortium Committee shall be established consisting of the Chair, and seven (7) Committee Representatives who shall be approved by at least a majority vote of the Consortium Committee. Steering Committee members may be replaced by at least two-thirds majority vote of the Consortium Committee. The Secretariat shall also serve as secretary of the Steering Committee.

(i) The Steering Committee shall formulate and prepare proposals related to REACH Compliance for consideration by the Consortium Committee. Except as expressly provided in this Agreement or as expressly directed in writing by the Consortium Committee, the Steering Committee shall have no authority to act on behalf of the Consortium Committee. The Steering Committee shall prepare the meetings of the Consortium Committee and shall see to a proper formulation and timely distribution of the proposals to be considered by the Consortium Committee in accordance with Section 4(g). The Steering Committee may set up expert groups, including expert groups on human health and the environment, according to need. Meetings of the Steering Committee shall be held at appropriate intervals or at the call of the Chair. Notice of all meetings shall be given to all members of the Steering Committee not less than ten (10) business days prior to each meeting, unless all such members shall agree to lesser notice. Meetings may be attended in person, by teleconference, or by videoconference. Each notice of meeting shall (i) specify a reasonably detailed agenda, (ii) be accompanied by any relevant papers and (iii) be sent by courier, by facsimile transmission, or by electronic mail. Minutes of

the meetings of the Steering Committee shall be sent to the Consortium Members no later than twenty (20) business days following a Steering Committee meeting.

(j) Committee Representatives serving on the Consortium Committee or its Steering Committee shall serve in their respective positions for no compensation or remuneration whatsoever. Any attorneys, accountants, special advisors, consultants, or agents engaged by the Consortium Committee, the Steering Committee, or the Secretariat shall be entitled to receive reasonable compensation from the Consortium for their services.

(k) The decision to submit the Joint Registration shall require a vote in favor of at least two-thirds of the Consortium Committee.

Section 5. Consortium Member Representatives

Each company that is a party to this Agreement has designated a corporate official as its duly authorized representative to the Consortium Committee. The names and other relevant information of each Committee Representative are set forth in Attachment 1 hereto. A Committee Representative may be changed from time to time by written notice thereof from the officer or director of such Committee Representative's company to the Secretariat, who shall promptly advise other Consortium Members in writing of the change. Each Committee Representative or its designated proxy shall participate in Consortium Committee meetings in person, by teleconference, or by videoconference. All parties hereto shall be entitled to rely upon action taken by such Committee Representative as constituting action by the Consortium Member that such Committee Representative represents.

Section 6. Payments by Consortium Members

(a) For the purposes of this Agreement, a Consortium Member's "Pro Rata Share" shall mean the aggregate amount of the total expenses and liabilities of the Consortium in a fiscal year, whether incurred at any time before or after such Consortium Member became a party to this Agreement, as set forth in the Budget less the multiple of the number of Consortium Members that are not, or whose affiliates are not, members of the IAI or the EAA (each a "Non-IAI/EAA Member") and \$18,000, divided by the total number of Consortium Members.

(b) Each calendar year, if a Budget has been prepared by the Secretariat with respect to that calendar year, each Consortium Member that is also a Non-IAI/EAA Member is hereby irrevocably obligated, notwithstanding termination of this Agreement, or the withdrawal or expulsion of such Non-IAI/EAA Member from the Consortium, to pay an amount equal to the Consortium Member's Pro Rata Share (as determined by reference to the budget for such calendar year) plus \$18,000.

(c) Each calendar year, if a Budget has been prepared by the Secretariat with respect to that calendar year, each Consortium Member that is also an IAI/EAA Member is hereby irrevocably obligated, notwithstanding termination of this Agreement, or the withdrawal

or expulsion of such IAI/EAA Member from the Consortium, to pay an amount equal to its Pro Rata Share (as determined by the Budget for such calendar year).

(d) The Consortium Members hereby adopt the Budgets for the calendar year 2004 and the calendar year 2005, set forth as Attachments 2 and 3 hereto.

(e) The Consortium Committee shall be entitled to authorize expenditures in excess of those identified in a Budget in which case such expenditures shall become part of the Budget for the year to which the expenses relate for the purposes of determining a Consortium Member's Pro Rata Share.

(f) In the event that any company becomes a Consortium Member subsequent to payments having been made by then Consortium Members in respect of the liabilities and expenses of the Consortium, appropriate adjustments and rebate payments shall be made and reflected in the cost sharing accounts of the Consortium Members so that at all times the paid-in Pro Rata Share of each Consortium Member shall be equal.

(g) The Secretariat shall be authorized from time to time to demand payment from each Consortium Member of an amount that, when aggregated with other amounts similarly demanded and paid by such Consortium Member with respect to REACH Compliance, will not exceed the Consortium Member's Pro Rata Share (or, in the case of a Non-IAI/EAA Member, such Consortium Member's Pro Rata Share plus \$18,000) for that calendar year, whereupon each Consortium Member shall advance such funds within fifteen (15) calendar days of the date of the demand in accordance with the Steering Committee's instructions. A Consortium Member that has not, within ninety (90) calendar days of the date of the demand, advanced in full the amount demanded shall be deemed to have withdrawn from the Consortium.

(h) Each Consortium Member joining in 2004 shall make a one-time advance payment of \$3,000, which amount shall reduce each Consortium Member's Pro Rata Share in such amount for the 2004 calendar year.

(i) Notwithstanding any other payments required by this Agreement, each Consortium Member shall pay to the Agency one-third of the fee for the Registration as required pursuant to Article 16.

(j) The liability of each Consortium Member for the expenses and liabilities of the Consortium shall be several and not joint.

(k) Appropriate accounts shall be established and maintained by the Secretariat reflecting the respective obligations of and payments made by each Consortium Member.

(l) Importers or traders may join the Consortium as affiliate members against payment of a onetime compensation to the consortium. The affiliated members will receive a

letter of access to the aluminium, aluminium oxide and aluminium hydrate files (as required - for the purpose of registering these substances) and to the related SDS, but will not be members of the Consortium Committee or any other part of the Consortium organization. They will have no voting rights and no access or ownership to any of the research reports or data generated – directly or indirectly - during the course of the Consortium’s work. This option is not available to EU or non-EU manufacturers.

The one time compensation to be paid to the consortium will be decided by the Committee.¹

Section 7. Unanimous Approval

Notwithstanding the provisions of Section 4 hereof, it shall not be permitted to amend this Agreement or conduct any act in material contravention hereof, nor shall it be permitted that any company join or reenter the Consortium pursuant to Section 13(c) hereof without the approval of all of the Consortium Members.

Section 8. Accounting and Financial Controls

The Consortium Committee shall cause the Consortium to conduct its activities at all times in accordance with high standards of business ethics. The Secretariat shall maintain the Consortium’s accounts in accordance with generally accepted accounting principles consistently applied and shall:

- (a) maintain full and accurate books, records, and accounts that shall, in reasonable detail, accurately and fairly reflect the cost sharing accounts of the Consortium Members and all transactions of the Consortium;
- (b) retain such books, records, and accounts for such period of time as may be required by law and thereafter for such period of time as may be reasonable;
- (c) permit Consortium Members reasonable access to such books, records, and accounts for the purpose of providing such information therefrom as any such Consortium Member may reasonably request;
- (d) devise and maintain a system of internal controls sufficient to provide reasonable assurances that transactions of the Consortium are executed in accordance with required authorizations;

¹ Added to agreement per 1 December 2008 after approval by Consortium Committee.

(e) present regular operating and development plans and budgets to the Consortium Committee for approval;

(f) prior to April 1 of each calendar year, provide to the Consortium Committee regular annual audited financial statements by EAA auditors, which financial statements shall include such appropriate financial information reasonably requested by the Consortium Committee; and

(g) cause to be prepared all periodic or special reports or other filings required by any relevant authority, which reports and filings shall be approved by the Consortium Committee prior to filing.

Section 9. Non-Disclosure of Information

(a) Each Consortium Member agrees to be bound by the provisions of the REACH Consortium Non-Disclosure and Non-Use Agreement of even date herewith (“Non-Disclosure Agreement”), a copy of which is attached hereto as Attachment 4.

(b) Each Consortium Member agrees that, if it has any information that it wishes to provide to the Consortium and that information constitutes Material, as defined under the Non-Disclosure Agreement, it will provide such Material directly to the Secretariat and not to any Consortium Member (including the Lead Registrant), pursuant to the terms of the Non-Disclosure Agreement. The Secretariat, the IAI, the EAA, and the Consortium Members each agree that, to the extent Material is used in any way for REACH Compliance or similar regulatory compliance in the European Community or elsewhere or is made public pursuant to Section 10(a) of this Consortium Agreement, the Consortium Members shall not seek to enjoin, seek damages for, or otherwise object to, such use of the Material by the Secretariat, the IAI, or the EAA, including such use after the termination of the Consortium under Section 12(a) hereof.

(c) Each Consortium Member agrees not to disclose to any other Consortium Member any Material that relates in any way to production capacities, production volumes, sales volumes, imported volumes, market shares, pricing information, or future business plans.

Section 10. Public Disclosure

(a) The Consortium Members, the IAI, and the EAA each agree that they will hold confidential within the Consortium any Material, as defined in the Non-Disclosure Agreement, held by it in accordance with the terms of the Non-Disclosure Agreement; provided that once the Consortium Committee has decided to submit the Joint Registration pursuant to Section 4(k) hereof and the Joint Registration has been submitted, each shall be entitled to use Material disclosed in the Joint Registration free of any charges and at its own responsibility.

(b) Notwithstanding the foregoing, the Consortium Committee may decide to file applications for intellectual property rights with respect to any of the Material or other information rather than place such rights in the public domain, with a view to making such rights widely available to other entities seeking to comply with REACH or otherwise through licensing on such basis as the Consortium Committee may determine.

(c) Each Consortium Member shall be free to disclose publicly any Material that the Consortium Committee decides to disclose, subject to this Consortium Agreement, the Non-Disclosure Agreement, and any further directions of the Consortium Committee with respect to the extent, timing, and manner in which such Material shall be publicly disclosed.

Section 11. Governing Law and Disputes

This Agreement is governed by, and all disputes arising under or in connection with this Agreement shall be resolved in accordance with, the laws of Belgium.

Section 12. Termination

(a) This Agreement shall terminate upon a vote of at least two-thirds of the Consortium Members or shall terminate within sixty (60) days of the Member State Authority and the Agency having considered the Registration to be complete and having concluded to take no further action.

(b) Upon termination of this Agreement and the Consortium under Section 12(a) hereof, and after payment of all expenses and liabilities related to REACH Compliance as authorized by the Consortium Committee in accordance with the terms of this Agreement, any balance remaining of amounts paid by the Consortium Members shall be returned to the Consortium Members in such equitable manner (based upon their Pro Rata Share) as may be directed by the Consortium Committee.

(c) The provisions of Sections 9 and 10 hereof and the Non-Disclosure Agreement shall survive the termination of this Agreement and the withdrawal or expulsion from the Consortium of any Consortium Member.

Section 13. Changes in Consortium Membership

(a) No Consortium Member may sell, assign, transfer, pledge, hypothecate, or otherwise encumber its rights or obligations hereunder or with respect to the REACH Compliance, other than on the same terms and conditions as this Agreement to a company in which the Consortium Member holds, directly or indirectly, more than 50% of the voting shares.

(b) A Consortium Member may withdraw from the Consortium at any time by giving not less than thirty (30) days prior written notice of such withdrawal to the Secretariat. Upon the effectiveness of such withdrawal, such Consortium Member shall not thereafter have

any rights or obligations under this Agreement, except such rights and obligations as shall have accrued to such Consortium Member up to the date of its withdrawal; provided, however, that each Consortium Member hereby expressly acknowledges and agrees that such withdrawal shall not relieve it of any funding obligation to which it is committed pursuant to Section 2(d) or Section 6 hereof up to the date of its withdrawal and that no such withdrawal shall entitle any Consortium Member to any refund of any monies at any time paid by it to the Consortium and provided further that each Consortium Member hereby expressly acknowledges and agrees that such withdrawal shall not relieve it of its obligation of non-disclosure under Section 9 hereof until public release thereof has been approved pursuant to Section 10(a) hereof and thereafter elected.

(c) In the event that any company wishes to join the Consortium (including any company that was previously a Consortium Member and wishes to rejoin), it shall be admitted to the Consortium upon (i) the unanimous approval of the Consortium Committee, (ii) agreement by the company in writing to be bound by the provisions of this Agreement, and (iii) payment by the company to the Consortium of an amount equal to (x) its Pro Rata Share with respect to the calendar year in which it joins plus (y) 110% of its Pro Rata Share for all previous years that the Consortium has been in existence. The Pro Rata Share for any calendar year is determined by reference to the Budget for such calendar year and is recalculated by giving effect to the entry of such company. If the company which wishes to join is not a member of the IAI or the EAA, such company's Pro Rata Share will be increased by \$18,000 for the calendar year owing to the date of entry and by \$18,000 for each previous calendar year that the Consortium has been in existence. Appropriate adjustments and rebate payments as a result of the entry of such Consortium Member shall be made, including retroactive payments from previous calendar years, and reflected in the cost sharing accounts of all Consortium Members maintained hereunder.

(d) If a majority of the Consortium Committee reasonably believes a Consortium Member is in breach of the terms of the Agreement (the "Breaching Member"), then upon a vote in favor of at least a majority of the Consortium Committee, the Consortium Committee shall direct the Secretariat to give the Breaching Member notice that the Breaching Member is believed to be in breach of the Agreement and that it has 10 business days (the "Remedy Period") in which to remedy the breach. If, upon expiration of the Remedy Period, a majority of the Consortium Committee reasonably believes that the Breaching Member remains in breach, then upon a vote in favor of at least a majority of the Consortium Committee, the Breaching Member shall be expelled from the Consortium. Expulsion of the Breaching Member shall not relieve the Breaching Member of any funding obligation to which it is committed pursuant to Section 2(d) or Section 6 hereof up to the date of its expulsion and the Breaching Member shall not be entitled to any refund of monies at any time paid by it to the Consortium, except the amount of its Pro Rata Share under Section 6(a) hereof, pro rated for the days remaining in the calendar year in which it is expelled. Additionally, upon a vote in favor of at least four fifths of the Consortium Committee, a Consortium Member may be expelled from the Consortium. Such Consortium Member shall be entitled to a refund of monies paid by it to the

Consortium, provided it is not a Breaching Member. Each Consortium Member hereby expressly acknowledges and agrees that expulsion (whether as a Breaching Member or otherwise) shall not relieve it of its obligation of non-disclosure under Section 9 hereof.

Section 14. Counterparts

This Agreement may be executed in one counterpart that it is held by the Secretariat, the custodian of this Agreement.

Section 15. Notices

All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or sent by recognized international air courier service or by facsimile, or by electronic mail to each Consortium Member's Committee Representative established hereunder at its address specified on Attachment 1 hereto or such other address as may subsequently be duly notified pursuant to Section 5 hereof.

Section 16. Severability

If any term or provision of this Agreement or the application thereof to any circumstance shall, in any jurisdiction and to any extent, be invalid or unenforceable, such term or provision shall be ineffective as to such jurisdiction to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable any remaining terms and provisions hereof or the application of such term(s) or provision(s) to circumstances other than those as to which it is held invalid or unenforceable. To the extent permitted by applicable law, the parties hereto hereby waive any provision of law that renders any term or provision hereof invalid or unenforceable in any respect.

Section 17. No Partnership

It is not the intention of the Consortium Members to create, nor shall this Agreement be construed to create, a commercial or other partnership. No Consortium Member shall be deemed an employee, agent, partner, or joint venturer of any other. Except as authorized by this Agreement, no Consortium Member shall make any commitment, by contract or otherwise, binding upon any other Consortium Member nor represent that it has any authority to do so. Except as expressly authorized by this Agreement, neither the Consortium, nor any Consortium Member, whether acting through the Consortium Committee or otherwise, shall have the authority to act for or to assume any obligation or responsibility on behalf of any other Consortium Member.

Section 18. Final Regulation

A copy of REACH is set forth as Attachment 5 hereto. All references to REACH in this Agreement shall refer, if not to the same Article or Annex and the same language in the

final regulation, to such comparable Article or Annex and language as may exist in the final regulation, if and to the extent that it is reasonably comparable and without, or to the minimum extent, invalidating or rendering unenforceable any terms or provisions of this Agreement or the application of such term(s) or provision(s).

IN WITNESS WHEREOF, the undersigned hereby execute this Agreement as of the date first above mentioned by the signatures of their respective duly authorized officers or agents.

