

DESCA Version 1.2, February 2016 – Summary of main changes

A consultation of stakeholders took place in 2015, with some 34 organisations providing much appreciated comments and suggestions.

In view of the overall purpose to keep the DESCA text as stable as possible, most of the comments received have led to additional or modified explanations in the elucidations rather than changes in the legal text. There are, however, some modifications to the legal text, and below you'll find a short summary of the relevant ones. For transparency, a full text version showing all changes made is available on the DESCA website.

Article	Modification	Comment
1.2.	New: “Consortium Body”: Consortium Body means any management body described in the Governance Structure section of this Consortium Agreement.	Definition inserted for clarity
1.2.	“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 technically or legally impossible, significantly delayed, or require significant additional financial or human resources. For Exploitation of own Results: Access Rights are Needed if, without the grant of such Access Rights, the Exploitation of own Results would be technically or legally impossible.	Alignment of requirements to increase consistency.
4.2	Breach In the event that a responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement (e.g. improper implementation of the project), the Coordinator or, if the Coordinator is in breach of its obligations, the Party appointed by the General Assembly, will give formal notice to such Party requiring that such breach will be remedied within 30 calendar days from the date of receipt of the written notice by the Party.	For legal certainty.
5.2	2 nd paragraph: For any remaining liability , a Party's aggregate liability towards the other Parties collectively shall be limited to insert: once or twice the Party's share of the total costs of the Project as identified in Annex 2 of the Grant Agreement provided such damage was not caused by a wilful act or gross negligence.	Clarification

New 6.2.2.8	Decisions taken without a meeting shall be considered as accepted if, within the period set out in article 6.2.4.4, no Member has sent an objection in writing to the chairperson. They will be binding after the chairperson sends to all Members of the Consortium Body and to the Coordinator a written notification of this acceptance.	Further detail on how decisions without a meeting acquire binding value
New 6.2.4.4	When a decision has been taken without a meeting a Member may veto such decision within 15 calendar days after written notification of the outcome of the vote cast by the chairperson.	Further detail to allow the veto of decisions without a meeting
6.2.4.6 (former 6.2.4.5)	A Party may not neither veto decisions relating to its identification to be in breach of its obligations nor to its 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.	Addition necessary for functioning of process
6.6	... The Coordinator is authorised to execute with each member of the EEAB will ensure that a non-disclosure agreement is executed between all Parties and each EEAB member. Its which terms shall be not less stringent than those stipulated in this Consortium Agreement and it shall be concluded no later than 30 calendar days after their nomination or before any confidential information will be exchanged, whichever date is earlier. ...	Modification in line with the general rule that the Coordinator may not act on behalf of other parties, and because it has to be ensured that the NDA is for the benefit of all parties, not just the Coordinator.
New 7.1.4	7.1.4 Return of excess payments; receipts 7.1.4.1 In any case of a Party having received excess payments, the Party has to return the relevant amount to the Coordinator without undue delay. 7.1.4.2 In case a Party earns any receipt that is deductible from the total funding as set out in the Consortium Plan, the deduction is only directed toward the Party earning such income. The other Parties' financial share of the budget shall not be affected by one Party's receipt. In case the relevant receipt is more than the allocated share of the Party as set out in the Consortium Plan, the Party shall reimburse the funding reduction suffered by other Parties.	- making the obligation to return excess payments explicit by introducing a single clause - implementing a clause on the special case of receipts
New 8.4.1	For the avoidance of doubt, nothing in Art.8.4 has impact on the confidentiality obligations set out in Section 10.	Clarification that the confidentiality obligations are not superseded by the rules on dissemination.

8.4. (option exclusiv e licenses)	deleted	Deletion in order to avoid potential conflicts with the Grant Agreement provision.
9.1.2	9.1.2 Any Party can propose may add further own Background may add further own Background to Attachment 1 during the Project by written notice to the other Parties. However, approval of the General Assembly is needed should a Party wish to modify or withdraw its Background in Attachment 1.	Further detail to allow easier adding of Background.
10.2	(last bullet point) - to return to the Disclosing Party, or destroy on demand request all Confidential Information which that has been supplied to or acquired by disclosed to the Recipients including all copies thereof and to delete all information stored in a machine readable form to the extent practically possible . The Recipients may keep a copy to the extent it is required to keep, archive or store such Confidential Information because of compliance with applicable laws and regulations or for the proof of on-going obligations provided that the Recipient comply with the confidentiality obligations herein contained with respect to such copy for as long as the copy is retained.	Modification to adapt to the reality of mostly electronic communication.
11.8	deletion of one of the options	Deletion to avoid confusion.
Module GOV SP		General wording alignment towards the GOV LP (main section 6). No legal change.