



**CELTIC FRAME AGREEMENT (CFA)**

**EXTENSION OF CFA DURATION UNTIL DECEMBER 31, 2011**

This version of the Celtic Frame Agreement has been agreed by all Celtic Parties by a signed letter. The only modification affect article XI.2 DURATION. The duration of the CFA has been extended until December 31st, 2011 to comply with the extended project duration of the Celtic Cluster as agreed by the EUREKA HLG.

The list of CELTIC Parties has been updated by two new parties, Nokia Siemens Networks and Telenor ASA, who accessed the CFA by signed Declaration of Accession. All other articles and chapters remain UNCHANGED.

**CELTIC FRAME AGREEMENT**

Between

1. Compagnie Financière Alcatel-Lucent, 54, rue La Boétie, 75008 Paris, FRANCE
  - hereinafter referred to as - "Alcatel-Lucent", herein represented by Thierry Van Landegem
2. Ericsson AB, 16480 STOCKHOLM, Sweden
  - hereinafter referred to as - "Ericsson", herein represented by Magnus Madfors
3. Eurescom GmbH, Schloss-Wolfsbrunnenweg 35, 69118 HEIDELBERG, GERMANY
  - hereinafter referred to as - "Eurescom", herein represented by Claudio Carrelli
4. France Télécom, 38-40, rue du Général Leclerc, 92794 ISSY-LES-MOULINEAUX Cédex 9, FRANCE
  - hereinafter referred to as - "France Télécom", herein represented by Thierry Bonhomme
5. ITALTEL S.p.A., Via Reiss Romoli, 20019 CASTELLETTO SETTIMO MILANESE (MI), ITALY
  - hereinafter referred to as - "Italtel", herein represented by Riccardo Capone and Franco Serio
6. RAD Data Communications, 24 Raul Wallenberg St, 69719 TEL-AVIV, ISRAEL
  - hereinafter referred to as - "RAD", herein represented by Efraim Wachtel
7. Telefónica Investigación y Desarrollo, S.A.U., Emilio Vargas 6, 28040 MADRID, SPAIN
  - hereinafter referred to as - "Telefónica", herein represented by Diego Ruiz Quejido
8. THOMSON, 46 Quai A. Le Gallo, 92100 BOULOGNE BILLANCOURT, FRANCE
  - hereinafter referred to as - "Thomson", herein represented by Jean-Charles Hourcade

Joined in January 2006 by signed Declaration of Accession:

1. Deutsche Telekom AG Laboratories

- herein represented by Peter Möckel and Klaus-Jürgen Buß

Joined in September 2007 by signed Declaration of Accession:

2. Nokia Siemens Networks OY, P.O. Box 1, FI 02022, Helsinki, Finland

- herein represented by Tomi Lehtonen

Joined in October 2007 by signed Declaration of Accession:

3. Telenor ASA, R&I, Snarøyveien 30, 1331 FORNEBU, NORWAY

- herein represented by Hans Christian Haugli.

all hereinafter referred to as "Original CELTIC Party "

## **PREAMBLE**

**Whereas** the specification of a new programme on development of pre-competitive comprehensive Integrated Communication System Solutions, including platforms and test vehicles to be executed by a broad range of partners has become widely accepted. This lead to the conclusion, to perform a five years research and development programme on a telecommunications work programme as described in the CELTIC Purple Book Version 2 issued September 2003, hereinafter referred to as "Purple Book".

**Whereas** the Original CELTIC Parties, representing important European telecommunications industry and telecom operators, have applied for the EUREKA Label concerning the CELTIC implementation, endorsed by EUREKA under 3187.

**Whereas** CELTIC has found a broad interest within European telecommunications industrial companies, telecommunications operators, universities and research institutes in its aim to push toward improving the European telecommunications R&D and to accelerate Europe's transformation into an Information Society.

**Whereas** CELTIC participation shall be open for partners, which are able and willing to comply with the rules of CELTIC and contribute significantly to the CELTIC Programme by investing their skill and knowledge, capacity and the necessary costs into research and development projects to be performed in co-operation with other partners.

**Whereas** the national governments of Belgium, Finland, Hungary, Ireland, Israel, The Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, and United Kingdom have held out a prospect of subsidising the research and development work within CELTIC. In addition also the national governments of Austria, Denmark, France, Germany, Greece, Italy, Luxemburg, Poland, and Portugal have indicated their interest in supporting the CELTIC Programme.

**Whereas** the Original CELTIC Parties have decided to install with a minimum of cost and labour a flexible and effective organisation to ensure that CELTIC can be executed within the envisaged goals by interested co-operating partners in Europe.

Now, therefore, the Original CELTIC Parties have agreed as follows:

## **I DEFINITIONS**

For the purpose of this CELTIC Frame Agreement shall mean:

**I.1 CELTIC Frame Agreement** means the present agreement

**I.2 CELTIC Programme (hereinafter “the Programme” or “the CELTIC Programme”)**

The CELTIC Programme will concentrate on comprehensive system and services solution approach, which is a unique requirement of the telecommunications sector. The role and the added value of CELTIC can be identified in the development of pre-competitive comprehensive Integrated Communication System Solutions, including platforms and test vehicles. This concept will be the core of a CELTIC Pan-European Laboratory and will enable the trial and evaluation of service concepts, technologies and system solutions. This Programme will be executed in co-operation by CELTIC Participants in EUREKA countries under mutually agreed Projects in areas as described in the Purple Book, endorsed by EUREKA under number 3187.

In a dynamic and competitive environment the objectives of CELTIC are subject to permanent revision and updating, for example in respect of forthcoming new technologies, which must flow into the CELTIC Programme or new fields of application, which may arise out of market demands.

**I.3 CELTIC Work areas**

The main CELTIC work areas, as further described in the Purple Book, are as follows:

- Services & Applications
- Management of Services and Networks

- Multimedia
- CPE/N and Terminals
- Broadband Access Networks
- Mobile & Wireless Networks
- Broadband Transport Networks (Metropolitan and Core/Backbone)
- Components
- Security

#### **I.4 CELTIC Participants**

CELTIC Participants are the parties to this CELTIC Frame Agreement and companies or research institutes or universities, explicitly named in the Project outlines and Full Project Proposals of labelled CELTIC Projects, having acceded the CELTIC Frame Agreement by signing the Declaration of Accession according to Art. IV, or having accepted the CELTIC rules and regulations (which for the avoidance of doubt include the relevant provisions of this CELTIC Frame Agreement as well as any further provisions applicable thereto) by signing a Declaration of Acceptance according to Article VI.

#### **I.5 CELTIC Parties**

The CELTIC Parties are the Original CELTIC Parties and the parties having acceded to the CELTIC Frame Agreement in accordance with the provisions of Article IV.

#### **I.6 CELTIC Projects or Projects**

The CELTIC Programme is executed in form of various Projects within one (or more) of the CELTIC Work areas, the proposals of which are defined in the so-called CELTIC Project outlines and CELTIC Full Project Proposals, and labelled by the CELTIC Initiative which includes the bodies set-up in Article III hereinafter.

#### **I.7 Public Authorities (hereinafter "the PAs")**

The representatives of the governments of Belgium, Finland, Hungary, Ireland, Israel, The Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, and United Kingdom and/or of other countries which are part of the Eureka organisation and/or of the Commission of the European Union ("CEU") expressing their interest into a co-operation in telecommunications in Europe, willing to subsidise CELTIC Participants participating in CELTIC Projects and willing therefore to monitor and control the execution of the CELTIC Programme.

#### **I.8 Affiliated Company**

Any company or other legal entity, of which a CELTIC Participant now or hereafter owns or controls directly or indirectly 50 % or more of the voting shares or by which a CELTIC Participant now or hereafter is owned or controlled directly or indirectly by 50 % or more of the voting shares, but

any such company shall be deemed to be an affiliated company only so long as such ownership or control exists.

Affiliated Companies to a CELTIC Participant are also such companies or legal entities, which are in the same ownership or under the same control in the aforementioned sense as the respective CELTIC Participant.

Affiliated Companies to CELTIC Participants are also such companies or legal entities, which are commonly controlled in the aforementioned sense by these CELTIC Participants.

### **I.9 Non-European company**

In the context of this CELTIC Frame Agreement, any company or legal entity which is directly or indirectly controlled by a company not being resident in a country of Europe.

### **I.10 Project Change Request (PCR)**

Project Change Request means a formal process, which is necessary if the conditions under which the CELTIC Label was granted have changed. A PCR needs to be approved by the CELTIC Participants in the related CELTIC Project and by the CELTIC Office. In case of significant changes an approval by the CELTIC Core Group, upon recommendation by the CELTIC Support Group, may be necessary. On the basis of an approved PCR the CELTIC project related documents (e.g. Project Co-operation Agreement - PCA) and the CELTIC contribution fee will be adjusted.

### **I.11 CELTIC Core group**

is the group of representatives, constituted in accordance with Art. III.1.1. hereof and primarily composed of representatives of the Original CELTIC Parties.

### **I.12 CELTIC Organisation**

is the organisational structure of CELTIC, including all the bodies as described in Art. III of this CELTIC Frame Agreement.

### **I.13 Europe**

means all the countries belonging to the Eureka organisation.

### **I.14 Other definitions**

**Access Rights:** means licences and user rights to Knowledge or Pre-existing know-how.

**Knowledge:** means the results, including information, whether or not they can be protected, arising from a CELTIC Project, as well as copyrights or rights pertaining to such results following applications for, or the issue of patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

**Pre-existing know-how:** means the information which is held by the CELTIC Participants prior to the conclusion of the PCA, or acquired in parallel

with it, as well as copyrights or rights pertaining to such information following applications for, or the issue of, patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

**Use:** means the direct or indirect utilisation of Knowledge in research activities or for developing, creating and marketing a product or process or for creating and providing a service.

**Application Programming Interface or API:** means interface materials containing all data and information to allow skilled Software developers to create Software, which interfaces or interacts with other specified Software. Such API shall as minimum contain the data types and structures, constant and macro definitions, function and procedure definitions including their name, parameters, parameter count and parameter data type(s) and any data type or function results thereof, as set forth in header files, specifications and related documentation, all so as to enable Software to invoke some or all of the Software relevant to the API; together with the Software Documentation (if any) necessary for use of such API.

**Limited Source Code Access:** means (i) access to Object Code; or (ii) where normal use of such Object Code requires an API, access to Object Code and such API; or (iii) if neither (i) nor (ii) is available, Source Code Access.

**Object Code:** means Software in machine-readable, compiled and/or executable form (including, but not limited to, byte code form) and the Software necessary for use of such Object Code.

**Software:** means a software program being sequences of instructions to carry out a process in, or convertible into, a form executable by a computer or similar device or hardware in the form of applications, components and libraries, and fixed in any tangible medium of expression.

**Software Documentation:** means information being technical information relating to the design, development, comprehension, use or maintenance of any version of a Software program.

**Source Code:** means Software in human readable form such as is normally used to enable modifications to be made to it (including, but not limited to, comments and procedural code such as job control language and scripts to control compilation and installation) together with the Software Documentation necessary for use of such Source Code.

**Source Code Access:** means access to Source Code as necessary for a CELTIC Participant for execution of its part of the specific CELTIC Project or for such CELTIC Participant's Use.

## **II SCOPE**

### **II.1 CELTIC Organisation**

By signing this CELTIC Frame Agreement the Original CELTIC Parties agree to establish the CELTIC Organisation, which includes the bodies listed in Art. III for performing the CELTIC Programme.

### **II.2 Purpose of CELTIC Organisation**

Scope and purpose of the CELTIC Organisation is to stimulate, organise and co-ordinate research and development work within the goals of the CELTIC Programme executed by CELTIC Participants. The CELTIC Organisation is a non-profit making organisation.

### **II.3 Office of CELTIC Organisation**

The Office of the CELTIC Organisation may be incorporated as a legal entity in a form to be agreed upon by the CELTIC Parties, on the condition that the CELTIC Core Group, deciding with two third majority, has recommended to the CELTIC Parties the creation of a legal entity.

## **III EXECUTIVE BODIES**

Executive bodies of CELTIC Organisation are the CELTIC Core Group, the CELTIC Support Group, the CELTIC Ad Hoc Committees and the CELTIC Office.

### **III.1 CELTIC Core Group**

#### **III.1.1 Composition of the CELTIC Core Group**

The CELTIC Core Group will be established, in accordance with the following.

The composition of the CELTIC Core Group should reflect the participation in the CELTIC Programme and an appropriate mixture in respect to balance of participating countries, fields and levels of activities, while staying at a count level compatible with effective decision-making processes.

The CELTIC Core Group will consist of representatives of the following Original CELTIC Parties:

Alcatel, BT, Ericsson, France Télécom, Nokia, Italtel, Telefónica, Thomson, Eurescom and RAD as long as they remain a CELTIC Party.

Parties having acceded to this CELTIC Frame Agreement are entitled to designate a candidate to become a member of the CELTIC Core Group.

The CELTIC Core Group will be composed by up to fifteen members, being representatives of the Original CELTIC Parties as outlined hereinabove and



representatives of Parties having acceded to the CELTIC Frame Agreement, the latter being elected by the CELTIC Parties, deciding with a two third majority.

Each member of the CELTIC Core group has one vote. The Chairman and the Vice-Chairman are elected by the members of the CELTIC Core Group on an annual basis.

Any CELTIC Party may not have more than one representative as member in the CELTIC Core Group.

The designated representatives of the CELTIC Parties should attend the meetings of the CELTIC Core Group in person. Authorised proxy is allowed in exceptional cases only.

The CELTIC Core Group may decide to remove a CELTIC Party represented in the CELTIC Core Group, if such CELTIC Party becomes an Affiliated Company to another CELTIC Party having a representative in the CELTIC Core Group or to a company not being resident in a country of Europe, or if the criteria for the membership would no longer apply.

A CELTIC Party, who has appointed a representative into the CELTIC Core Group, can from time to time replace its representative.

### **III.1.2 Tasks and Responsibilities of the CELTIC Core Group**

The CELTIC Core Group is mainly responsible for:

- the Programme strategy and coherence;
- the representation of the Programme in front of Public Authorities;
- Interface and influence to the PAs for all issues related to the CELTIC Programme;
- the decision on tasks and guidelines for the CELTIC Support Group (e.g. for Project selection and CELTIC Participant search);
- the definition and updating of guidelines for the structure and organisation of the Programme; the admission and control of rules for Programme and Project management;
- the selection of Projects, assisted by the CELTIC Support Group's recommendations;
- the execution and overall management of the Programme;
- the decision on Projects in individual cases, such as potential conflict of interest between CELTIC Participants or participation in a Project of a non-European company. Such companies may be allowed to participate as CELTIC Participants with the same rights and duties as other European CELTIC Participants (except for participation in the executive bodies of the programme, see Art. III), if they have demonstrated:
  - the existence of substantial R&D activities in Europe,
  - the existence of decision power in Europe for the further implementation of research results into commercial products,
  - the added-value of their contribution to the Project consortium

- the approval of the budget for the CELTIC Organisation
- the financial audit of the CELTIC Organisation

### **III.1.3 CELTIC Core Group Meetings**

The CELTIC Core Group shall perform its work in regular meetings, at least three times a year.

### **III.1.4 Voting**

Each member in the CELTIC Core Group has one vote. Decisions require the majority of the votes of the members present or represented by proxy, except for the following: (i) the start-up budget according to Art. VII 1 requires unanimous vote; (ii) budget related issues except for the start-up budget, require a majority of two thirds of the votes of the members present or represented by proxy.

## **III.2 CELTIC Chairman**

The Chairman is representative and spokesman of the CELTIC Organisation. He shall arrange and preside the CELTIC Core Group meetings. The CELTIC Chairman is elected by the CELTIC Core group on an annual basis, the election date being at the end of the calendar year.

## **III.3 CELTIC Vice Chairman**

The Vice-Chairman is the representative and chairman of the CELTIC Support Group. The CELTIC Vice Chairman is elected by the CELTIC Core group on an annual basis, the election date being at the end of the calendar year.

## **III.4 CELTIC Director**

The CELTIC Core Group shall nominate a Director of the CELTIC Office. The CELTIC Director receives his task description from the CELTIC Core Group and reports to the Chairman of the CELTIC Core Group.

## **III.5 CELTIC Support Group**

### **III.5.1 Composition of the CELTIC Support Group**

The CELTIC Core Group may install a permanent CELTIC Support Group which has delegated responsibilities and which shall execute specific tasks and responsibilities. The CELTIC Core Group will decide upon the working rules for the CELTIC Support Group.

The number of members and the composition of the CELTIC Support Group are decided by the CELTIC Core Group.

The CELTIC Core Group may decide to replace a member in the CELTIC Support Group, if such member becomes an Affiliated Company to another CELTIC Participant having a representative in the CELTIC Support Group or to a company not being resident in a country of Europe, or if the criteria for his membership would no longer apply, or to have additional members appointed.

The CELTIC Core Group Vice-Chairman is chairman of the CELTIC Support Group.

### **III.5.2 Responsibilities of the CELTIC Support Group**

The CELTIC Support Group will have a delegated responsibility from the CELTIC Core Group for all decisions related to selection and monitoring of CELTIC Projects.

Unless otherwise decided by the CELTIC Core Group, the CELTIC Support Group will perform the following tasks:

- Making proposals for and taking care of updating and implementation of guidelines for technical Projects selection and ranking;
- Recommendation to give CELTIC Label to Projects, and funding outlook by PAs;
- Recommendations in case of major Project Change Requests;
- Advise to CELTIC Core Group on all relevant issues.

### **III.6 CELTIC Ad hoc Committees**

The CELTIC Core Group may install from time to time and for a limited duration CELTIC Ad Hoc Committees which have delegated responsibilities and which shall execute specific tasks and responsibilities. As an example, CELTIC Ad Hoc Committees may be created for the purpose of assisting the CELTIC Core Group or the CELTIC Support Group with monitoring the progress for the PAs. Also a CELTIC Ad Hoc Committee composed of scientific advisors may be created. Also a CELTIC Ad Hoc Committee composed of legal experts of the CELTIC Parties may be created.

The CELTIC Core Group will decide upon the working rules for the CELTIC Ad Hoc Committees.

Third parties participating in Ad Hoc Committees shall sign a non-disclosure agreement.

### **III.7 CELTIC Office**

The CELTIC Core Group shall install a permanent Office directed by a Director of the CELTIC Office. The Office will ensure the day-to-day administration and follow-up of the Programme, according to Art. III 4.

The CELTIC Office will consist of a team of experts on which the CELTIC Director will have managerial responsibility.

The CELTIC Office will have the following tasks and responsibilities:

- General administration of the Programme,
- Accounting and billing of participation fees in accordance with Article VII hereof,
- Payment of CELTIC Office costs, CELTIC Office personnel according to the budget plan,
- Admission and control of the rules for participation to the Programme,
- Interface for all CELTIC Participant, organisation of a Programme database,
- Monitoring of Projects, assisted by the CELTIC Support Group, under CELTIC Core Group responsibility,
- Organisation of reporting and reviewing activities at Project and Programme levels (Technical Reports, handling of Change Requests, Project Reviews, Programme Review, Fora,...),
- Information and communication to the CELTIC Participants,
- Communication to the outside and interface with the PAs on general funding issues, following instructions of the CELTIC Core Group,
- Support and assistance to all other executives bodies in the CELTIC Organisation.

#### **IV ACCESSION OF FURTHER PARTIES**

The accession of further parties to this CELTIC Frame Agreement is subject to the approval of the CELTIC Parties, deciding with a two third majority.

Any applicant, who is willing to become a party according to Annex A of this CELTIC Frame Agreement, must be considered under conditions of transparency and equal treatment.

All the CELTIC Parties have in principle the same rights and obligations. Parties having acceded to this CELTIC Frame Agreement assume the rights and obligations as from the date they accede to this CELTIC Frame Agreement by signing the so-called "Declaration of Accession". With regard to participation in the costs of the CELTIC Organisation, parties that have acceded to this CELTIC Frame Agreement shall contribute to the costs pro rata temporis from the time they have become a CELTIC Party.

## **V PROJECTS AND PROPOSALS IN CELTIC**

### **V.1**

The research and development work within the CELTIC Programme shall be executed by CELTIC Participants in individual Projects as part of the EUREKA Programme 3187.

### **V.2**

CELTIC Participants in CELTIC Projects shall execute their work under their own responsibility and at their own costs.

### **V.3**

Proposals for Projects will be considered in two stages:

- 1st stage: Initial selection based on a Project outline.
- 2nd stage: Final selection based on a Full Project Proposal (FPP).

### **V.4**

CELTIC Projects are necessarily accomplished in co-operation by CELTIC Participants according to Project Co-operation Agreements (PCA) agreed and concluded between the CELTIC Participants in the CELTIC Project case by case. The PCA for the individual CELTIC Projects should substantially be in line with the Model PCA for CELTIC Projects.

### **V.5**

The funding of CELTIC Projects is not the responsibility of the CELTIC Organisation, as it demands the decision of the respective PAs. However, the CELTIC Organisation will perform all reasonable and necessary actions to demonstrate to PAs the interest of the Projects and the usefulness of their co-ordinated funding.

## **VI PROPOSAL EVALUATION AND CELTIC LABEL**

### **VI.1**

Applicants in CELTIC Projects shall submit their proposals with the necessary information according to the CELTIC rules and regulations to the CELTIC Organisation. The CELTIC Organisation acting by the CELTIC Support Group if any, will evaluate the proposal with respect to its support of the general aims of the Programme and its being within the goals of the respective CELTIC work areas described in the Purple Book.

## **VI.2**

After evaluation by the CELTIC Support Group if any, the CELTIC Core Group will decide whether it will grant a label, hereinafter the “CELTIC Label” to the proposed Project. The CELTIC Label is the confirmation of the CELTIC Organisation that the proposed Project fits to the goals of CELTIC Programme and that the applying organisations may participate as CELTIC Participants in the CELTIC Programme. The CELTIC Label is the confirmation that the CELTIC Organisation recommends the Project for public funding. The Full Project Proposal is the basic technical document for the application for funding to the respective PAs. The decision of funding lies with the respective PA.

## **VI.3**

The CELTIC Label is subject to the condition that the CELTIC Participants in the Project comply with the CELTIC regulations and accept the rules laid down in the CELTIC Frame Agreement by having signed the so called “Declaration of Acceptance” (Annex B),

All CELTIC Participants have to declare to the CELTIC Organisation that a Project Co-operation Agreement has been already or will be signed within a maximum 6 months period following the label decision.

## **VII COST OF CELTIC ORGANISATION**

### **VII.1**

The anticipated costs of the CELTIC Organisation (as to be decided by the CELTIC Core Group) shall be listed in a yearly budget subject to the approval of the CELTIC Core Group.

The costs which are covered in the approved budget shall be borne by all CELTIC Participants, prorate either the planned manpower or the Project budget in their labelled CELTIC Projects concerning the respective year. The CELTIC Core Group shall determine and approve the standard annual CELTIC contribution fee to these costs and the CELTIC Office shall calculate and invoice the contribution to be paid by each CELTIC Participant. In exceptional cases CELTIC Participants may be exempted by the CELTIC Core Group deciding by simple majority from cost sharing in money and may contribute by making available manpower for the purpose of CELTIC Project evaluations or roadmap writing. For each six month period (1 January to 30 June and 1 July to 31 December), payments shall be decided by the CELTIC Core Group. Payments due for 30 June and 31 December respectively, shall be borne by the CELTIC Participants only, prorate either the planned manpower or the Project budget as indicated in the Full Project Proposal or the Project Change Request for their labelled CELTIC Projects concerning the respective year (reference dates: 30 June and 31 December respectively). In addition, payments for the start-up phase of CELTIC (the start-up phase of CELTIC being the period until the end of December 2004) shall unanimously

be decided by the CELTIC Core Group. They shall be borne by the CELTIC Parties (first invoicing date 1 September 2004 and any other date to be agreed upon by the CELTIC Core group). This start-up budget will be later consolidated with the year 2004 budget, and the general cost sharing rules will apply to the global 2003 (from 1 November 2003) and 2004 budgets, including corrections on total CELTIC Parties' payments. For the start-up phase, all CELTIC Parties shall be liable for the same equal share of the approved start-up budget. The CELTIC Parties will remain financially liable for the approved start-up budget even in the event that this CELTIC Frame Agreement is completely or partially terminated or is terminated with respect to the participation of a particular CELTIC Party. For the CELTIC Parties that are also Eurescom shareholders, Eurescom will assure their liabilities through their paid Eurescom shareholder fee. If the income of the CELTIC contribution fees exceeds the costs of the CELTIC Organisation, the CELTIC Parties will be compensated for payments made during the start-up phase for CELTIC. After the start-up phase of CELTIC, the CELTIC Parties will remain liable on an equal basis for the costs that cannot be covered by the CELTIC contribution fees of the CELTIC Participants.

CELTIC parties providing in kind contributions as agreed upon in the budget will be compensated for this.

## **VII.2**

Without prejudice to the provisions of Art. VII.1, last paragraph, each CELTIC Party shall bear its own costs resulting from the participation of persons or organisations in the CELTIC Programme.

## **VII.3**

Notwithstanding the foregoing, in case that a CELTIC Party withdraws its participation from the CELTIC Organisation after the start-up phase, it will be liable for its corresponding equal share in the approved budget for the year of the withdrawal in case that the payments of the contribution fees of the CELTIC Participants were not sufficient to cover the foreseen budget.

## **VIII CONFIDENTIALITY/RESTRICTION IN USE**

### **VIII.1**

It is understood and agreed by the CELTIC Parties, that all technical and business information received from other CELTIC Parties pursuant to or in connection with the performance of this CELTIC Frame Agreement shall be kept confidential towards third parties during and for 5 (five) years after the duration of the CELTIC Frame Agreement. The representatives in all executive bodies (Art. III), i.e. in the CELTIC Core Group, the CELTIC Support Group, the CELTIC Office, and in all ad-hoc set up fora or CELTIC Ad

hoc Committees, are obliged not to use the received information for any other purposes than performing the work within the CELTIC Organisation.

## **VIII.2**

This obligation as set forth in Art. VIII.1 hereabove shall not apply (i) to a specific receiving CELTIC Party for any information which can be proved to be already known or becomes known to such receiving CELTIC Party otherwise than by virtue of its participation under this CELTIC Frame Agreement, or is proved to be acquired/elaborated by such receiving CELTIC Party independently and without using a confidential information from a disclosing CELTIC Party or (ii) any information which is otherwise furnished lawfully or is within the public domain without breach of this CELTIC Frame Agreement.

## **VIII.3**

Third parties within the meaning of this Article are not the PAs subsidising the CELTIC Participants in the Projects, and the CELTIC Parties' Affiliated Companies, provided that these Affiliated Companies undertake to keep substantially the same obligation as stipulated under this Article.

## **VIII.4**

Publications concerning the results obtained under the execution of this CELTIC Frame Agreement from other CELTIC Parties are subject to their previous approval.

# **IX ACCESS RIGHTS**

## **IX.1 Introduction and general principles**

### **IX.1.1**

This Article IX covers the principles concerning Access Rights with regard to the co-operation of CELTIC Participants in the CELTIC Programme. For such co-operation and the relevant PCA pursuant to Article V, Paragraph 4 of this CELTIC Frame Agreement the following conditions shall apply.

### **IX.1.2**

Each CELTIC Participant in a CELTIC Project shall in accordance with the provisions of this Article IX, grant Access Rights to all other CELTIC Participants (and all their Affiliated Companies) in such CELTIC Project, provided all such Affiliated Companies grant Access Rights to all CELTIC Participants (and their Affiliated Companies) and without prejudice to the CELTIC Participants' obligations to contribute to the costs of the CELTIC



Organisation and to carry out the CELTIC Project and to provide Project Deliverables, fulfil all confidentiality and other obligations accepted by the CELTIC Participants under the PCA or this CELTIC Frame Agreement as if such Affiliated Companies were CELTIC Participants. Access Rights to Affiliated Companies are subject to the continuation of the Access Rights of the respective CELTIC Participant.

### **IX.1.3**

Without prejudice to the provisions of Article IX.5.4., any Access Rights to be granted shall not, unless the owner of the Knowledge expressly agrees, confer any right to sub-license (other than to Affiliated Companies) and may be subject to appropriate undertakings as to confidentiality and to the restrictions contained in the partly limited Access Rights granted under this Article IX, but shall otherwise be unrestricted.

### **IX.1.4**

The essential transfer cost for the granting of Access Rights shall be borne by the beneficiary CELTIC Participant.

### **IX.1.5**

Each CELTIC Participant may enter into a technical co-operation or licensing arrangement with a third party in respect of its own Knowledge even if there are minor amounts of Knowledge owned by another CELTIC Participant, or even of Pre-existing know-how (associated with that other CELTIC Participant's Knowledge), unavoidably incorporated into or amalgamated with such own Knowledge. In such circumstances and upon request of the CELTIC Participant entering the co-operation or arrangement, the other CELTIC Participant shall grant non-exclusive rights to permit such co-operation or arrangement against terms and conditions to be agreed, provided such grant does not adversely affect a commercial interest of the other CELTIC Participant.

## **IX.2 Ownership**

### **IX.2.1**

The Knowledge shall be owned by the CELTIC Participant generating it and such generating Celtic Participant has the free and unrestricted right to use the Knowledge, subject to Art. IX.

If, in the course of carrying out work on a specific CELTIC Project, a joint invention, design or work is made (more than one CELTIC Participants are contributors to it), and if the features of such joint invention design or work are such that it is not possible to separate them for the purpose of applying for, obtaining and/or maintaining the relevant patent protection or any other intellectual property right, the CELTIC Participants concerned agree that they may jointly apply to obtain and/or maintain the relevant right.

The CELTIC Participants concerned shall seek to agree between them and the other parties concerned arrangements for applying for, obtaining and/or maintaining such right on a case-by-case basis. Subject to any other agreement between the CELTIC Participants concerned, the CELTIC Participants concerned shall, so long as any such right is in force, be entitled to use and to license such right without any financial compensation to or the consent of the other CELTIC Participants concerned.

For the avoidance of doubt, joint ownership of an invention, design or work shall not affect the obligations arising under this CELTIC Frame Agreement.

### **IX.3 Access Rights needed for the execution of the CELTIC Project**

#### **IX.3.1**

With regard to Knowledge, each of the CELTIC Participants shall make available and shall grant non-exclusive, non-transferable rights and licenses to the other CELTIC Participants participating in the same specific CELTIC Project on a royalty free basis, where and to the extent that such Knowledge is necessary for the execution of their own research and development work under the said specific Project. These Access Rights to Knowledge shall be deemed granted to and by all CELTIC Participants in the same specific CELTIC Project, as of the effective date of the PCA for such CELTIC Project.

#### **IX.3.2**

With regard to Pre-existing Know-how it is understood that each of the CELTIC Participants has the required expertise, experience and background information to undertake its own work in the specific Project. However, there may be occasions on which it will be necessary for CELTIC Participants to give access to their Pre-existing Know-how to execute a specific Project.

In these cases, if a CELTIC Participant participating in a specific CELTIC Project has to solve a particular problem in order to achieve the Project's research and development objectives, that CELTIC Participant will be granted royalty-free Access Rights by the other CELTIC Participants in the same specific CELTIC Project to their appropriate Pre-existing Know-how to the extent necessary for this purpose - provided they are free to disclose and to license such Pre-existing Know-how.

### **IX.4 Access Rights for Use**

#### **IX.4.1**

With regard to Knowledge each of the CELTIC Participants shall make available and shall grant non-exclusive, non-transferable Access Rights to the other CELTIC Participants of the same specific CELTIC Project on a royalty-free basis, as far as the CELTIC Participants have agreed for certain CELTIC Participants in the CELTIC Project on a balanced situation (comparable levels of expertise and resources). These Access Rights to

Knowledge shall be deemed granted, as of the effective date of the PCA for such CELTIC Project. For all other cases of Use, each of the CELTIC Participants shall make available and shall grant non-exclusive, non-transferable Access Rights to the other CELTIC Participants of the same specific CELTIC Project on favourable conditions.

Access Rights to Pre-existing know-how for Use will be granted to the extent necessary to Use Knowledge on non discriminatory fair and reasonable conditions to and by all CELTIC Participants in the same CELTIC Project subject to a bilateral agreement between the CELTIC Participants concerned, and provided that the CELTIC Participant who grants the Access Rights is free to license said Pre-existing Know-how.

## **IX.5 Specific Provisions for Access Rights to Software**

### **IX.5.1 Access to Source Code for Software**

For the avoidance of doubt, the general provisions for Access Rights provided for in Articles IX.3 and IX.4 hereof are applicable also in case of Software.

Access Rights to Software does not comprise access to Source Code but only to Object Code, unless expressly otherwise provided for in this Article.

### **IX.5.2 Software as Pre-existing know-how**

For Software, which is Pre-existing know-how, with regard to all CELTIC Participants in the same specific CELTIC Project, any Access Rights granted shall be in the form of Limited Source Code Access whether for the execution of the Project and/or for Use.

### **IX.5.3 Software as Knowledge**

For Software, which is Knowledge, with regard to all CELTIC Participants in the same specific CELTIC Project, any Access Rights shall be in the form of Source Code Access.

### **IX.5.4 Software licence and sub-licensing rights**

1. Access Rights to Object Code and/or an API for Use shall comprise, at least, the world-wide right to
  - a) use in research, to create/market a product/process, and to create/provide a service;
  - b) make and have made an unlimited number of copies of such Object Code and/or API;
  - c) distribute, make available, market, sell and offer for sale; even by using services of a third party, such Object Code and/or API alone or in connection with products or services of the CELTIC Participant having the Access Rights; and

- d) grant in the normal course of the relevant trade to end-user customers buying/using the product/services a perpetual, irrevocable, world-wide licence to:
- (i) use such Object Code and/or API alone or in connection with or integrated into, products and services of the CELTIC Participant having the Access Rights and, as needed,
  - (ii) maintain such product/service, and
  - (iii) create for its own end-use interacting interoperable Software in accordance with the Council Directive of 14 May 1991 on the legal protection of computer programs (91/250/EEC).

2. Where a CELTIC Participant has Source Code Access to Knowledge for Use, Access Rights to such Source Code shall comprise, at least, a world-wide right to use, to make and have made copies, to modify and have modified, develop and have developed, to adapt and have adapted Source Code for research, to create /market a product/process, to create /provide a service and/ to sub-license such Source Code, but solely for purpose of adaptation, error correction, maintenance and/or support of the Software

3. Each sublicense granted according to the provisions of Article IX.5.4. hereof shall when practical be made by a traceable agreement specifying and protecting the proprietary rights of the CELTIC Participant or CELTIC Participants concerned.

## **IX.6 Have Made Rights**

### **OPTION 1**

Each of the CELTIC Participants agrees that, before any agreement concerning the application of the have manufactured rights is reached with a third party by a CELTIC Participant which is not itself or whose Affiliated companies are not incorporated or established principally to undertake manufacturing activities and, due to its size or nature, is itself unable to commercialise the Knowledge, the other CELTIC Participants shall themselves have a prior right to agree to undertake such manufacturing on fair and reasonable terms and conditions.

### **OPTION 2 (IN CASE OF ONE OR MORE TNOS)**

Each CELTIC Participant, agrees that, before it enters into any contract with a third party involving the application of the have-manufactured rights using mainly Knowledge from the Project, that CELTIC Participant shall give each of the other CELTIC Participants an opportunity to provide a quotation for the supply of products, software or other services for which it wishes to

exercise its have-manufactured rights. Such opportunity shall be (a) the same as that given by the CELTIC Participant to third parties and (b) on the same terms and conditions and subject to the same technical and other specifications as those offered to such CELTIC Participants.

Provided that a quotation from a CELTIC Participant is basically no less favourable to the purchasing CELTIC Participant, taking into account all of the provisions thereof including without limitation price, technical compliance, the need for second sourcing, delivery and other commercial matters, than any quotation submitted by a third party on an arm's length basis, the purchasing CELTIC Participant shall give preference to the quotation from the tendering CELTIC Participant unless the purchasing CELTIC Participant is unable to do so due to the existence of national, international or treaty laws or regulations which are binding upon the purchasing CELTIC Participant. In any case in which the purchasing CELTIC Participant is unable to give a preference as aforesaid, the reasons for its decision shall, subject to any obligations of confidentiality which are binding on the purchasing CELTIC Participant, be provided to the tendering CELTIC Participant.

The aforesaid obligations to give an opportunity to the other CELTIC Participants to provide a quotation and to give preference to such quotation shall not apply when a CELTIC Participant wants to have manufactured in its normal course of business components, parts or subassemblies for incorporation in and completion of larger units or systems manufactured by such CELTIC Participant.

### **OPTION 3**

Access Rights include have-manufacture rights without restriction.

## **X WARRANTY AND LIABILITY**

### **X.1**

In performance of this CELTIC Frame Agreement the CELTIC Participants shall use the diligence and care, which they usually employ in own business affairs.

### **X.2**

Each CELTIC Participant shall indemnify each of the other CELTIC Participants in respect of the acts or omissions of itself and of its employees, agents and subcontractors (if any) provided always that such indemnity shall not extend to claims for indirect or consequential loss or damages such as but not limited to loss of profit, revenue, contract or the like.

### **X.3**

No warranty condition or representation of any kind is made, given or to be implied as to the sufficiency, accuracy or fitness for purpose of such

information or materials delivered by any CELTIC Participant under a specific CELTIC Project, or the absence of any infringement of any proprietary rights of third parties by the use of such information and materials and the recipient CELTIC Participant shall in any case be entirely responsible for the use to which it puts such information and materials.

Each CELTIC Participant shall be solely liable for any loss, damage or injury to third parties resulting from its carrying out its parts of the specific CELTIC Project and from its Use of Knowledge and/or Pre-existing know-how.

## **XI DURATION**

### **XI.1**

This CELTIC Frame Agreement shall come into force after having been signed by the Original CELTIC Parties with effect as from 1st of January 2004.

### **XI.2**

This CELTIC Frame Agreement will continue to be in full force and effect until the extended date **December 31 2011**, unless terminated in common agreement on the date of September 30 2004, December 31 2004 and at the end of each subsequent calendar year.

### **XI.3**

Starting from January 1 2005 only each CELTIC Party has the right to withdraw from this CELTIC Frame Agreement by giving 6 months written notice to the Chairman of the Core Group.

If a CELTIC Party withdraws according to Art. XI Paragraph 3, the CELTIC Frame Agreement will be continued between the remaining CELTIC Parties.

## **XII MISCELLANEOUS**

### **XII.1**

It is understood that for each CELTIC Party the implementation of this CELTIC Frame Agreement shall not be contrary to the rules of the respective subsidising authorities which will apply to said CELTIC Party.

### **XII.2**

Modifications and supplements to this CELTIC Frame Agreement inclusive of this Paragraph 2 are subject to written form signed by a duly authorised representative of each CELTIC Party.

### **XII.3**

In case of inconsistency of the Purple Book with the wording of this CELTIC Frame Agreement the latter shall prevail.

### **XII.4**

The CELTIC Participants ensure that their employees also fulfil the obligations of this CELTIC Frame Agreement.

### **XII.5**

The rights and obligations arising from this CELTIC Frame Agreement shall not be assigned to third parties other than Affiliated Companies without prior written approval of the other CELTIC Parties.

### **XII.6**

Any dispute of whatever nature in respect of or arising out of this CELTIC Frame Agreement, even those which arise after its termination, shall be settled amicably. If such a settlement fails, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall be held in Brussels, Belgium.

### **XII.7**

The CELTIC Frame Agreement is governed by the laws of the country of Belgium, excluding its conflict of law rules.

### **XII.8**

This CELTIC Frame Agreement and the accessions thereto are concluded, respectively declared, in the English language. In any case of translation into other languages the English language shall prevail.

### **XII.9**

In the event that any provision of this CELTIC Frame Agreement by whatever reason is or will be found to be legally unenforceable or in any case of a loophole in the CELTIC Frame Agreement that needs to be filled in, the enforcement of the CELTIC Frame Agreement shall not be effected. The legally unenforceable provision/clause or the loophole to be filled in shall be substituted by a provision/clause which within the legal possibilities is nearest to that what the CELTIC Parties would have intended if they had known the unenforceability or if they had envisaged the missing point in question.

Agreed as Undersigned



ANNEX A – DECLARATION OF ACCESSION

**DECLARATION OF ACCESSION FOR CELTIC PARTIES**

Annex A to CELTIC Frame Agreement

Subject: Accession to CELTIC Frame Agreement

*[full name and legal form of new CELTIC Party], represented for the purpose hereof by [(name of legal representative) (function) or her/his/their authorised representative established in (full address : city/state/province/country)] acting as its legal authorised representative, hereby requests to become a CELTIC Party to the CELTIC Frame Agreement and accepts, in accordance with the provisions of the aforementioned CELTIC Frame Agreement, all the rights and obligations of a CELTIC Party starting the [date].*

EURESCOM, represented for the purpose hereof by [(name of legal representative) (function) or her/his/their authorised representative established in (full address : city/state/province/country)] acting as its legal authorised representative, hereby certifies as representative of all the existant CELTIC Parties that these CELTIC Parties accept the request of *[[full name of new CELTIC Party]* and agree to the accession of *[full name and legal form of new CELTIC Party]* to the aforementioned CELTIC Frame Agreement as CELTIC Party starting the *[date]*.

Done in two copies, of which one shall be kept by Eurescom and one by *[name of new CELTIC PARTY]*

*[full name and legal form of new CELTIC Party]* .....

.

.....

(name)

.....

(signature)

EURESCOM

.....  
(name)

.....  
  
(signature)

This letter has to be printed on company paper, duly signed by an authorised person, and sent via registered mail to:

*CELTIC Office  
c/o Eurescom  
Wieblinger Weg 19/4  
69123 Heidelberg/ Germany*

## ANNEX B Declaration of Acceptance

<b>DECLARATION OF ACCEPTANCE FOR CELTIC PROJECT PARTNERS</b>
--

Annex B to CELTIC Frame Agreement

(Applicant full address):

.....  
.....  
.....  
.....

Date: .....

Subject: Acceptance of CELTIC rules

The undersigned .....  
(company, institution)

is applicant for a CELTIC Label for a CELTIC Project or has already been awarded a CELTIC label.

In case of the award of a CELTIC Project with the CELTIC Label by the CELTIC Core Group the undersigned accepts and acknowledges the rules and regulations for the CELTIC Projects laid down in the CELTIC Frame Agreement as being applicable to all CELTIC Projects. It is understood, that the undersigned will receive the relevant general information related to the execution of the CELTIC Programme.

.....  
(name)

.....  
(signature)

This letter has to be printed on company paper, duly signed by an authorised person, and sent via postal mail to:

CELTIC Office  
c/o Eurescom  
Wieblinger Weg 19/4  
69123 Heidelberg/ Germany