



FixO3 – Deliverable 7.1 : ESONET-Vi Consortium Agreement

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Deliverable title	ESONET-Vi Consortium Agreement
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**Consortium Agreement
for the perennial integration of stakeholders of marine and
submarine measurement data series into one global
platform**

ESONET-Vi

V1.0	Jérôme Blandin (Ifremer) Sent to Jean-François Rolin (Ifremer), Ingrid Puillat (Ifremer), Élodie Jousset (Ifremer) and Bénédicte Ferré (UiT) for review	08/08/2014
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CONSORTIUM AGREEMENT

BETWEEN:

The Member Organisations

Belgium

- Université Libre de Bruxelles (ULB)

Bulgaria

- Institute of Oceanology - Bulgarian Academy of Sciences (IO-BAS)

Canada

- Ocean Networks Canada (ONC)

Cape Verde

- Instituto Nacional de Desenvolvimento das Pescas (INDP)

France

- Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER)
- Centre National de la Recherche Scientifique (CNRS)
- NKE Instrumentation SARL (NKEI)
- Alcatel-Lucent Submarine Networks SAS (ALCATEL)
- Atlantide-Altran Ouest (AAO)
- Institut de Physique du Globe de Paris (IPGP)
- Sercel S.A. (SERCEL)
- Brest AIM (OCEANOPOLIS)
- Ecole Nationale Supérieure de Techniques Avancées Bretagne (ENSTA Bretagne)
- Institut Supérieur de l'Électronique et du Numérique, Brest-Rennes (ISEN)
- Laboratoire des Sciences et Techniques de l'Information, de la Communication et de la Connaissance (Lab-STICC)

Germany

- Universität Bremen (UniHB)
- Alfred-Wegener-Institut Helmholtz-Zentrum für Polar- und Meeresforschung (AWI)
- Helmholtz-Zentrum für Ozeanforschung Kiel (GEOMAR)
- 52° North Initiative for Geospatial Open Source Software GmbH (52° North GmbH)
- Konsortium Deutsche Meeresforschung e.v. (KDM)
- Jacobs University Bremen (JUB)
- Max Planck Institute for Marine Microbiology (MPI)
- Norddeutsche Seekabelwerke GmbH (NSW)
- SEND Off-Shore Electronics GmbH (SEND)
- Beudth Hochschule für Technik Berlin (BHT)

Greece

- Hellenic Centre for Marine Research (HCMR)
- Foundation for Research and Technology Hellas (FORTH)

Ireland

- SLR Environmental Consulting (Ireland) Limited (SLR)
- Marine Institute (MI)

Italy

- Istituto Nazionale di Oceanografia e di Geofisica Sperimentale (OGS)
- Istituto Nazionale di Geofisica e Vulcanologia (INGV)
- Consiglio Nazionale delle Ricerche (CNR)
- Istituto Nazionale di Fisica Nucleare (INFN)
- Tecnomare SPA - Società per lo Sviluppo delle Tecnologie Marine (TECNOMARE)
- Teseo SRL (TESEO)

Japan

- Japan Agency for Marine-Earth Science and Technology (JAMSTEC)

Netherlands

- Stichting Koninklijk Nederlands Instituut voor Zeeonderzoek (NIOZ)
- Fugro Engineers BV (FUGRO)

Norway

- Universitetet i Bergen (UiB)
- Universitetet i Tromsø (UiT)
- Stiftelsen Norges Geotekniske Institutt (NGI)
- Stiftelsen Nansen Senter for Fjernmåling (NERSC)

Portugal

- Instituto do Mar (IMAR)
- Centro de Investigação Tecnológica do Algarve (CINTAL)
- Fundação da Faculdade de Ciências da Universidade de Lisboa (FFCUL)
- Universidade do Algarve (UALG)

Spain

- Consorcio para el Diseño, construcción, Equipamiento y Explotación de la Plataforma Oceanica de Canarias (PLOCAN)
- Universidad de Las Palmas de Gran Canaria (ULPGC)
- Instituto Español de Oceanografía (IEO)
- Universitat Politècnica de Catalunya (UPC)
- Consejo Superior de Investigaciones Científicas (CSIC)

Sweden

- Göteborgs Univesitet (UGOT)
- Stockholms Universitet (SU)

Turkey

- Bogazici Universitesi (B.U., KOERI)
- Dokuz Eylül Universiti (DEU-IMST)
- Istanbul Teknik Universitesi (ITU-EMCOL)

United Kingdom

- Natural Environment Research Council (NERC)
- The University of Exeter (UNEXE)
- Blue Lobster IT Limited (BLIT)
- The University Court of the University of Aberdeen (UNIABDN)
- The University Court of the University of St Andrews (USTAN)
- Texcel Technology PLC (TEXCEL)
- Guralp Systems Limited (GURALP)

Hereinafter, jointly or individually, referred to as "Members" or "Member"

Relating to the Network entitled

"ESONET the Vision"

Hereinafter referred to as "ESONET-Vi".

WHEREAS:

The members of the FP6 ESONET Network of Excellence represented during the VISO Workshop held in Marseille, 16th December 2010 on the occasion of the ESONET-NoE General Assembly week, agreed to build the "ESONET Virtual Institute", hereafter named "ESONET the Vision", as reported in ESONET-NoE Deliverable D69, page 207.

The intention to build ESONET-Vi was confirmed by the ESONET-NoE Steering Committee discussions with European Commission representatives, during a meeting held in Brussels 16th June 2011, as reported in the corresponding minutes, page 7.

Members from the FP6 CARBOOCEAN, FP7 JERICO and EuroSITES projects had since then a parallel reflection aiming at setting up a perennial organisation in order to pursue their goals beyond the end of their projects.

The currently running FP7 FixO3 project, that builds on the significant advances largely achieved through the above mentioned network and projects, includes among its goals the enhancement of international and European collaboration, mainly through ESONET-Vi and the integration of the EuroSITES and CARBOOCEAN communities.

Considering that the main challenge is to provide a sustainable platform to link small laboratories and larger institutes together and to voice their common concerns, the beneficiaries to the above mentioned network and projects have studied the best way to structure ESONET-Vi as a common network to this end. They have concluded that a combination of a consortium and a supporting not-for-profit legal entity would provide the flexibility needed to reconcile various members of different dimensions, weights and powers in a single organisation.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:**Section 1: Definitions****1.1 Definitions**

Words beginning with a capital letter shall have the meaning defined herein without the need to replicate said terms herein.

1.2 Additional Definitions

“Budget of ESONET-Vi” means the budget voted by the General Assembly, as defined in Article 7, that prescribes the use of the contributions and other resources of the ESONET-Vi Network.

“Consortium” means all the Members participating in the ESONET-Vi Network and which for this purpose signed this Consortium Agreement or the Accession document.

“Consortium Agreement” means this document and its four attachments.

“Consortium Body” refers to a consortium body defined in the organisational structure of the Consortium.

“Full Member”: full membership is provided to a Member which contributes financially to ESONET-Vi according to the rules and scale of contributions set forth in Attachment 1, which can be amended by the General Assembly. Full Membership may be provided collectively to a group of Parties that agree among themselves to jointly pay a single contribution and to have a joint representation and a single vote for the group in the General Assembly.

“Intellectual Property Rights” means all industrial and intellectual property of whatever nature anywhere in the world and all rights pertaining thereto, whether recorded or registered in any manner, or otherwise, including without prejudice to the foregoing generality, patents, trademarks, registered designs and applications for any of the same, copyright, design right, semi-conductor topography rights, database and software rights, mask works, trade secrets, know-how, business names, trade names, brand names and all other legal rights protecting intangible proprietary information.

“Invited Member”: invited membership is provided to a Member which is not eligible for full membership or is not able to provide the corresponding financial contribution, but which nevertheless adheres to ESONET-Vi objectives and intends to follow or participate in ESONET-Vi activities, and which consequently formalizes such adherence by signing this Consortium Agreement or the Accession Document.

“Legal Entity” means the non-profit organisation which shall be specifically created and mandated to support the functioning of ESONET-Vi and to provide administrative services. The Legal Entity shall sign this Consortium Agreement.

“Members” means Full Members and Invited Members that have signed this Consortium Agreement.

Section 2: Purpose

The purpose of ESONET-Vi is to become a long-lasting integrative network for the European and international marine research communities, **aiming at fostering the production of and the access to marine and submarine measurement data series and to encourage collaborations based on the exploitation of these data**, in relation to infrastructures, science-policy interfaces, industry players, training, education and expertise. The improvement of data quality and the reduction of their production and access costs are goals directly underlain by those primary aims.

The main levers used by ESONET-Vi to meet its goals are:

- To carry out lobbying and fundraising activities
- To lead the subject by
 - Organizing training sessions on instrumental and mooring techniques
 - Organizing technical workshops and seminars (exchange of best practices, time series analysis methods...)
 - Publishing the outcomes of the workshops
 - Establishing and promoting standards ensuring a high quality level, supporting their implementation by delivering labels already defined in ESONET NoE
 - Organising exchanges of personnel among Members, including scientists, engineers and students.
- To connect its members with European and international industrial players that could not be reached individually.

ESONET-Vi shall consist of :

- a. primarily, this Consortium, defining ESONET-Vi activities and acting as the governance body, and
- b. supplementarily, a Legal Entity, in the form of a not-for-profit organisation, supporting the functioning of ESONET-Vi and providing management and administrative services.

The purpose of this Consortium Agreement is to specify, with respect to the ESONET-Vi Network, the relationship among the Members and the overall principles that shall rule the supervision of the Legal Entity.

Section 3: Entry into force, duration and termination

3.1 Entry into force

An entity becomes a Member to this Consortium upon signature of this Consortium Agreement or the signature of the Accession Document by a duly authorised representative.

Upon and as from the date of signature by at least five Members, this Consortium Agreement shall enter into force for these Members.

Entities that would not have joined the Consortium as initial Members can subsequently join it after prior approval by the relevant Consortium Body, upon signature of the Accession Document provided as Attachment 2 by a duly authorised representative. This Accession Document shall be countersigned by the Coordinator that has received mandate from the other Members for doing so. Such accession shall have effect from the date identified in the Accession Document.

3.2 Duration and termination

The duration of this *Agreement* is five years from the entry into force, and can be extended by vote in General Assembly and signature by all Members.

However, this Consortium Agreement or the participation of one or more Members to it may be terminated in accordance with the terms of this Consortium Agreement.

3.3 Withdrawal of a Member

Any Full Member may request to terminate its participation in the Consortium by giving three (3) months written notice of termination to the other Members, through the Secretariat. Such notice shall explain the reasons for termination. It may be given first by e-mail but shall be confirmed by letter with acknowledgement of receipt sent to the Coordinator.

Invited Members may withdraw at any time.

3.4 Duties of the Members

Any Full Member is required to honour its financial commitments contracted prior to the effective date of its possible withdrawal until the end of the financial year, as well as any other commitment contracted before its possible withdrawal, until complete fulfilment of corresponding obligations.

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

Each Member undertakes to notify promptly, in accordance with the governance structure of the ESONET-Vi Network, any significant information, fact, problem or delay likely to affect the ESONET-Vi Network. Full Members shall have the right to participate and vote in the General Assembly.

Invited Members may be present and take the floor in all General Assembly meetings without voting rights.

3.5 Exclusion of a Member

The exclusion of a Member may be decided by the General Assembly in conformity with this Consortium Agreement.

The exclusion of a Member has the same consequences as a withdrawal.

3.6 Survival of rights and obligations

The provisions relating to Confidentiality, for the time period mentioned therein, as well as those relating to Applicable law and Settlement of disputes, shall survive the expiration or termination of this Consortium Agreement.

Exclusion or withdrawal shall not affect any rights or obligations of a Member leaving the Consortium incurred prior to the date of withdrawal or exclusion, unless otherwise agreed between the General Assembly and the leaving Party.

Section 4: Exchange of Personnel

The Members undertake to encourage the exchange of personnel and staff mobility for the purpose including, without limitation, of providing training, carrying out joint research, coordinating activities and/or implementing common research tools and platform.

The Members shall conclude separate agreements in those cases.

Section 5: Responsibilities of Members - Breach

In the event a responsible Consortium Body identifies a breach by a Member of its obligations under this Consortium Agreement, the Coordinator or the Member appointed by the General Assembly if the Coordinator is in breach of its obligations under this Consortium Agreement will give written notice to such Member requiring that such breach be remedied within 30 calendar days.

If such breach is substantial and is not remedied within that period or is not capable of remedy, the General Assembly may decide to declare the exclusion of the Member.

Section 6: Liability towards each other

6.1 No warranties

In respect of any information or materials supplied by one Member to another under the ESONET-Vi Network, no warranty or representation of any kind is made, given or implied as to the sufficiency or fitness for purpose nor as to the absence of any infringement of any proprietary rights of third parties.

Therefore, the recipient Member shall in all cases be entirely and solely liable for the use to which it puts such information and materials.

6.2 Limitations of contractual liability

No Member shall be responsible to any other Member for any indirect or consequential loss or similar damage such as, but not limited to, loss of profit, loss of revenue or loss of contracts, provided such damage was not caused by a wilful act.

A Member's aggregate liability towards the other Members collectively shall be limited to the amount of its annual contribution provided to ESONET-Vi, provided such damage was not

caused by a wilful act or gross negligence. For the avoidance of doubt, Invited Members shall have no liability whatsoever or howsoever arising toward the other Members, individually or collectively, provided such damage was not caused by a wilful act or gross negligence.

The terms of this Consortium Agreement shall not be construed to amend or limit any Member's statutory liability.

6.3 Damage caused to third parties

Each Member shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Member's obligations by it or on its behalf under this Consortium Agreement.

6.4 Force Majeure

No Member shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Member will notify the competent Consortium Bodies of any Force Majeure without undue delay. If the consequences of Force Majeure for the ESONET-Vi Network are not overcome within 6 weeks after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

Section 7: Governance and organisational structure

7.1 General structure

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

Governing Board as the ultimate decision-making body of the Consortium and chaired by the Consortium Chair.

General Assembly as the community of the actors amongst the Members acting as the forum for the ESONET-Vi community designed to provide input for the strategy approved by the Governing Board.

The Coordinator is the legal representative of the legal entity. The Coordinator is chosen by the Governing Board amongst the Full Members. The Coordinator is in charge of supervising of the relations between the Legal Entity Management Board and the Governing Board.

Three Thematic Councils: the Scientific Council (ScC); the ESONET-EMSO Label Council (2ELC); and the Data Management Council (DMC).

The Legal Entity Management Board acting as the implementing board for the decisions of the Governing Board.

7.2 General operational procedures for all Consortium Bodies

7.2.1 Representation in meetings

Any Member of a Consortium Body:

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

7.2.2 Preparation and organisation of meetings

7.2.2.1 Convening meetings:

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

<i>Consortium body</i>	<i>Ordinary meeting</i>	<i>Extraordinary meeting</i>
Governing Board	Once a year	At any time upon written request of the General Assembly or 1/3 of the Members of the Governing Board
General Assembly	Once a year	At any time upon written request of any Member of the Governing Board

7.2.2.2 Notice of a meeting:

The Coordinator shall give notice in writing of a meeting to each Member of that Consortium Body as soon as possible and no later than the minimum number of days preceding the meeting as indicated below.

<i>Consortium body</i>	<i>Ordinary meeting</i>	<i>Extraordinary meeting</i>
Governing Board	45 calendar days	15 calendar days
General Assembly	14 calendar days	7 calendar days

7.2.2.3 Sending the agenda:

The Coordinator shall prepare and send each Member of that Consortium Body a written (original) agenda no later than the minimum number of days preceding the meeting as indicated below.

<i>Consortium body</i>	<i>Ordinary meeting</i>	<i>Extraordinary meeting</i>
Governing Board	21 calendar days	10 calendar days
General Assembly	7 calendar days	7 calendar days

7.2.2.4 Adding agenda items:

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

Any Member of a Consortium Body may add an item to the original agenda by written notification to all of the other Members of that Consortium Body up to the minimum number of days preceding the meeting as indicated below.

<i>Consortium body</i>	<i>Ordinary meeting</i>	<i>Extraordinary meeting</i>
Governing Board	14 calendar days	7 calendar days
General Assembly	2 working days	2 working days

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

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

7.2.3 Voting rules and quorum

7.2.3.1 Voting rules and quorum for the Governing Board

The Governing Board shall not deliberate and decide validly unless two-thirds (2/3) of its Members are present or represented (quorum).

Each Full Member of the Governing Board present or represented in the meeting shall have the right to vote, except the Legal Entity which has no right to vote. Associated Members have no voting rights

7.2.3.2 Voting rules and quorum for other Consortium Body

Each other Consortium Body shall not deliberate and decide validly unless two-thirds (2/3) of its Members are present or represented (quorum).

Each Member of other Consortium Body present or represented in the meeting shall have one vote.

7.2.3.3 Common Rules

Decisions shall be taken by a simple majority of the votes.

Defaulting Members may not vote.

Any decision may also be taken without a meeting if the Coordinator circulates to all Members of the Consortium Body a written document which is then signed by the defined majority of all Members of the Consortium Body.

Decisions will only be binding once the relevant part of the Minutes has been accepted according to Article 7.2.5.

Each Consortium Body shall designate a person to chair the concerned body.

7.2.4 Veto rights

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

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

7.2.4.3 When a decision has been taken on a new item added to the agenda before or during the meeting, a Member may veto such decision during the meeting and within 15 days after the draft minutes of the meeting are sent.

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

7.2.4.5 A Member may not veto the annual decision relating to the distribution of the rights of vote for the Governing Board Members.

7.2.5 Minutes of meetings

7.2.5.1 The Coordinator shall produce written minutes of each meeting, which shall be the formal record of all decisions taken. He shall send the draft minutes to all Members within 15 calendar days of the meeting.

7.2.5.2 The minutes shall be considered as accepted if, within 15 calendar days from sending, no Member has objected in writing to the Coordinator with respect to the accuracy of the draft of the minutes.

7.2.5.3 The Coordinator shall send the accepted minutes to all the Members of the Consortium Body and shall safeguard them.
If requested the Coordinator shall provide authenticated duplicates to Members.

7.3 Specific operational procedures for the Consortium Bodies

7.3.1 Governing Board

In addition to the rules described in Article 7.2, the following rules apply:

7.3.1.1 Members

7.3.1.1.1 The Governing Board shall consist of one representative of each Full Member (hereinafter Governing Board Member).

7.3.1.1.2 Each Governing Board Member shall be deemed to be duly authorised to deliberate, negotiate and decide on all matters listed in Article 7.3.1.2. of this Consortium Agreement.

7.3.1.1.3 The representative of the Coordinator shall attend to all meetings of the Governing Board, unless decided otherwise in a meeting of the Governing Board.

7.3.1.1.4 The Members agree to abide by all decisions of the Governing Board. This does not prevent the Members to submit a dispute to resolution in accordance with the provisions of Settlement of disputes in Article 11.7.

7.3.1.2 Decisions

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

The following decisions shall be taken by the Governing Board :

Content, finances and intellectual property rights

- Approval of the strategic program of ESONET-Vi
- Approval of the budget of ESONET-Vi
- Control of the respect of its commitments by the Legal Entity
- Modifications of the Attachments of this Consortium Agreement
- Designation of the Consortium Chair
- Designation of the Coordinator

Evolution of the Consortium

- Entry of a new Member to the Consortium and approval of the settlement on the conditions of the accession of such a new Member
- Withdrawal of a Member from the Consortium and the approval of the settlement on the conditions of the withdrawal
- Approval or refusal of the activity report of ESONET-Vi
- Approval of the bylaws of the Legal Entity
- Selection of Members of the Councils and proposal of them to the General Assembly

7.3.2 General Assembly

In addition to the rules in Article 7.2, the following rules shall apply:

7.3.2.1 Members

The General Assembly shall consist of the community of the Members acting as the forum of ESONET-Vi community (hereinafter General Assembly Member(s)) designed to provide input for the ESONET-Vi strategy approved by the Governing Board.

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

7.3.2.2 Minutes of meetings

Minutes of General Assembly meetings, once accepted, shall be sent by the Coordinator to the Governing Board Members for information.

7.3.2.3 Tasks

7.3.2.3.1 The General Assembly is a platform of exchange for the Members to discuss about the strategy of ESONET-Vi to be approved by the Governing Board.

7.3.2.3.2 The General Assembly prepares and proposes the strategic program of ESONET-Vi to the Governing Board.

7.3.2.3.3 General Assembly Members prepare reports, notices and proposals about all subjects relating to ESONET-Vi.

7.3.2.3.4 It shall seek a consensus among the General Assembly Members.

7.4 The Consortium Chair

7.4.1 The Consortium Chair shall be the scientific representative of the Consortium. She/he is chosen by consensus by the Governing Board amongst its Members and shall rotate amongst them on a two (2) yearly basis, renewable one time.

The Consortium Chair at the Effective Date is chosen at the first Governing Board meeting.

She/he represents ESONET-Vi externally. She/he is not entitled to act or make legally binding declarations on behalf of the Network or any Member.

7.5 The Coordinator

The Coordinator shall be responsible for

- transmitting and enforcing decisions taken by the Governing Board to the Legal Entity,
- supervising the relations between the Legal Entity Management Board and the Governing Board and managing the Network.

The Coordinator shall represent the Legal Entity.

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

7.6 Thematic Councils

There are three Thematic Councils:

- The Scientific Council (ScC);
- The ESONET-EMSO Label Council (2ELC);
- The Data Management Council (DMC).

The members of the ScC, the 2ELC, and of the DMC, shall be appointed by decision of the Members' representatives in the General Assembly. The rules and agreements related to the appointment shall ensure a confidential appointment procedure. Members of the Councils shall sign a non-disclosure agreement.

The list of the ScC, 2ELC and DMC's members at the beginning of the Consortium are defined in Attachment 3.

7.6.1 Scientific Council (ScC)

The ScC consists of distinguished representatives of the various scientific disciplines who are key players in their respective fields both from within and without Europe. The ScC shall formulate recommendations to the General Assembly and Governing Board, on specific topics. To this end, the ScC shall in particular manage publication procedure and pre-review publications (cf. Article 9.1 of this Agreement).

7.6.2 The ESONET-EMSO Label Council (2ELC)

The 2ELC shall consist of the expert persons able to update the ESONET-EMSO Label, its extension to FixO3, JERICO and others, and to control its attribution.

7.6.3 The Data Management Council (DMC)

The DMC shall consist of the persons with expertise in Data management. Until the signature of EMSO ERIC agreement, the DMC shall coordinate and evaluate the data storage, data quality and data dissemination methods used throughout ESONET-Vi. It will be in charge of the compatibility with existing databases and promote the integration inside the project. It will ensure the relation with initiatives of systems (e.g. GEOSS). The role of the DMC will be redefined after the signature of the EMSO-ERIC agreement. This council could be the sustainable solution for the SeaDataNet Consortium.

The Thematic Council Members shall be allowed to participate in General Assembly of Scientists or Governing Board meetings upon invitation but do not have any voting rights.

7.7 Legal Entity

The Legal Entity is chaired by the Coordinator.

The composition of the LEMB, defined in article 7.7.1, and its modalities of functioning shall be detailed in the bylaws of the Legal Entity.

7.7.1 Legal Entity Management Board (LEMB)

The LEMB is the Consortium Body implementing the decisions of the Governing Board.

In particular, the LEMB shall be responsible for:

- Managing the ESONET-Vi annual budget
- Concluding contracts, acquiring and disposing of property, in accordance with the Governing Board
- Hiring staff, in accordance with the Governing Board

- Providing the management services: financial management, accountancy, staff management
- Facilitating interactions between users and providers
- Managing the communication and outreach with academics, founders
- Managing the access and training activities
- Signing and implementing appropriate agreements.

The LEMB provides annual reports on its activities to the Governing Board.

7.7.2 Legal Entity Secretariat

The Legal Entity Secretariat shall be responsible for:

- Preparing Consortium Bodies meetings (notice, agenda, minutes)
- Keeping the address list of the Members and other contact persons updated and available
- Transmitting documents and information connected with the Network to any other Members concerned
- Providing, upon request, the Members with official copies or originals of documents which are in the sole possession of the Coordinator when such copies or originals are necessary for the Members to present claims.

The Coordinator shall be supported in its managing tasks by the Legal entity. Both shall form an ESONET-Vi Secretariat to provide support to the Network. The ESONET-Vi Secretariat formulates and submits the ESONET-Vi annual budget to the Governing Board.

Section 8: Budget and Membership contributions

The approved budget of ESONET-Vi consists of the Members contributions in cash and in kind and potential external funds.

The scale of the Members contributions is approved by the Governing Board by consensus. For the avoidance of doubt, Invited Members are not obliged to provide any financial contribution to the consortium.

When appropriate, financial capacities of the Members shall be taken into account to decide on a lower level of contributions or on exceptional and temporary exemptions of the annual contribution and the according consequences of such exemption on the membership statute.

The scale of the Members contributions at the Effective Date is attached to this Consortium Agreement (Attachment 1).

Procedure and schedule for payments of the Members contributions shall be detailed in Attachment 1.

The Budget of ESONET-Vi shall be managed by the Legal Entity, once formed.

Section 9 Intellectual Property Rights

9.1 Ownership of background

9.1.1 The Members intend to cooperate at 'Integration of Networks' level with respect to the management of all matters relating to the protection and exploitation of all Knowledge arising from the ESONET-Vi Network and of the intellectual property rights pertaining to such Knowledge, with the view to promote innovation. The activities of the Legal Entity are limited to the provision of technical services and administration. As ESONET-Vi is a network framework and does not conduct research itself, it is not expected that Intellectual Property will be developed directly from its activities or operation, rather it is expected to promote the creation of Intellectual Property by researchers of its Members. However, in the event that an invention would result from the activities or the operation of ESONET-Vi consortium that may be protected and commercialized, the Members agree that such an invention shall be the property of the entity(ies) carrying out the work generating that invention. The Members shall then by mutual agreement decide on a case-by-case basis on the best course of action.

9.1.2. Each Party remains the sole owner of the results, know how, products and processes (patented or not) and subsequent intellectual property rights, held prior to this Consortium Agreement or developed, acquired or obtained in parallel with it. This Consortium Agreement shall not give any right over the aforementioned knowledge to the other Party.

9.2 Publication

9.2.1 The Members acknowledge their common interest in publishing the knowledge resulting from the activities of the ESONET-Vi Network to obtain recognition and to advance the state of knowledge in the field of the ESONET-Vi Network. The Members also recognize their common interest in obtaining valid intellectual property protection and in protecting business interests.

9.2.2 It is contemplated that results of the ESONET-Vi Network will be jointly published by the Members that have obtained it; in such case authorship on publications will be based on academic standards and custom.
The Members each separately have the right to publish their own knowledge.

9.2.3 All written or oral public disclosures concerning knowledge resulting directly from the activities of the ESONET-Vi Network will expressly reflect that it has been developed within the Consortium.

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

Section 10 Non-disclosure of information

10.1 All information in whatever form or mode of transmission, which is disclosed by a Member (the "Disclosing Member") to any other Member (the "Recipient") in connection with the ESONET-Vi Network during its implementation and which has been explicitly marked as "confidential", or when disclosed orally, has been identified as confidential at the time of

disclosure and has been confirmed and designated in writing within 15 days from oral disclosure at the latest as confidential information by the Disclosing Party, is “Confidential Information”.

10.2 The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure for a period of five years after the date of disclosure of the Confidential Information:

- not to use Confidential Information otherwise than for the purpose for which it was disclosed;
- not to disclose Confidential Information to any third party without the prior written consent by the Disclosing Member;
- to ensure that internal distribution of Confidential Information by a Recipient shall take place on a strict need-to-know basis; and
- to return to the Disclosing Party on demand all Confidential Information which has been supplied to or acquired by the Recipients including all copies thereof and to delete all information stored in a machine readable form. If needed for the recording of ongoing obligations, the Recipients may however request to keep a copy for archival purposes only.

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

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

- the Confidential Information becomes publicly available by means other than a breach of the Recipient’s confidentiality obligations;
- the Disclosing Member subsequently informs the Recipient that the Confidential Information is no longer confidential;
- the Confidential Information is communicated to the Recipient without any obligation of confidence by a third party who is in lawful possession thereof and under no obligation of confidence to the Disclosing Member;
- the Confidential Information, at any time, was developed by the Recipient completely independently of any such disclosure by the Disclosing Party; or
- the Confidential Information was already known to the Recipient prior to disclosure or
- the Recipient is required to disclose the Confidential Information in order to comply with applicable laws or regulations or with a court or administrative order, subject to the provision Article 10.7 hereunder.

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

10.6 Each Member shall promptly advise the other Member in writing of any unauthorized disclosure, misappropriation or misuse of Confidential Information after it becomes aware of such unauthorized disclosure, misappropriation or misuse.

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

- notify the Disclosing Member, and
- comply with the Disclosing Member's reasonable instructions
- to protect the confidentiality of the information

Section 11: Miscellaneous

11.1 Attachments, inconsistencies and severability

This Consortium Agreement consists of this core text and

Attachment 1 (Initial dispositions as concerns contributions, voting rights, procedures and schedule for payments)

Attachment 2 (Accession document)

Attachment 3 (List of Partners)

Attachment 4 (Deed of incorporation of the International Non-Profit Organization ESONET-Vi)

In case of conflicts between the attachments and the core text of this Consortium Agreement, the latter shall prevail.

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

11.2 No representation, partnership or agency

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

11.3 Notices and other communication

Any notice to be given under this Consortium Agreement shall be in writing to the addresses and recipients as listed in the most current address list kept by the Coordinator.

Formal notices:

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

Other communication:

Other communication between the Members may also be effected by other means such as e-mail with acknowledgement of receipt, which fulfils the conditions of written form.

Any change of persons or contact details shall be notified immediately by the respective Member to the Coordinator. The address list shall be accessible to all concerned.

11.4 Assignment and amendments

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

Amendments and modifications to the text of this Consortium Agreement require a separate agreement between all Members.

11.5 Mandatory national law

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

11.6 Language

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

11.7 Applicable law and settlement of disputes

This Consortium Agreement shall be governed by Belgian laws and regulations. Should the Members fail to settle amicably any dispute relating to validity, interpretation, performance or breach of this contract, within two months from notification of the dispute by one Member to the other by registered letter with recorded delivery, said disputes shall be definitively settled by the Courts of competent jurisdiction.

Section 12: Signatures

AS WITNESS:

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

[INSERT NAME OF MEMBER]

Signature(s)

Name(s)

Title(s)

Date

[INSERT NAME OF MEMBER]

Signature(s)

Name(s)

Title(s)

Date

[INSERT NAME OF MEMBER]

Signature(s)

Name(s)

Title(s)

Date

Attachment 1 : Initial dispositions as concerns contributions, voting rights, procedures and schedule for payments**Financial contributions and their usage**

The minimum annual contribution for Full Membership shall initially amount to two thousand five hundred (2,500) euros.

Voting rights

The voting rights for Full Members shall initially be distributed as follows as concerns the General Assembly:

- Contributions comprised between the minimum (2,500 euros) and 9,999 euros: one vote
- Contributions higher than or equal to ten thousand (10,000) euros: two votes.

Collect of the financial contributions

At the time of signature of the Consortium Agreement (or Accession Document), Members shall specify the category of membership they choose, and Full Members shall commit themselves on the level of their financial contribution for the first year.

Commitments for subsequent years shall be solicited by the Coordinator and made in writing through the signature of a form, at least three months prior to the beginning of the corresponding calendar year, in order to allow for a timely construction of the annual budget and its subsequent vote by the General Assembly during its annual meeting. Full Members can optionally (and are encouraged to) commit themselves on their contribution for multiple years, in order to favour a multi-year visibility on ESONET-Vi budget and on long-term planning.

The General Assembly might at any point recommend a general evolution towards such a multi-year commitment. Any modification of the contribution scheme shall be voted by the General Assembly.

The Legal Entity in charge of the management of the ESONET-Vi budget shall issue invoices corresponding to the announced contributions at the beginning of the year, as soon as the General Assembly will have approved the current list of Members, contributions and voting rights.

During the first year, since the Legal Entity will only be formed after the signature of the ESONET-Vi Consortium Agreement and with some delay, the Coordinator is authorized to manage the Budget of ESONET-Vi, with the same obligations and liability as the Legal Entity. In particular, the Coordinator shall report to the General Assembly and use separate accounts.

Attachment 2 : Accession document

ACCESSION

of a new Member to the ESONET-Vi Consortium Agreement of [date]

[INSERT FULL NAME OF MEMBER] ([INSERT ABBREVIATED NAME])
 Established in [INSERT COUNTRY] at [INSERT ADDRESS]
 represented by [INSERT NAME(s)], [INSERT TITLE(s)]
 [OPTIONALLY INSERT "acting on behalf of" LIST OF ENTITIES FOR WHICH THE MEMBER ACTS]

hereby consents to become a party to the Consortium Agreement identified above,

as [please check the chosen initial membership category]

- Full (paying) Member
 Invited (non-paying) Member

bringing to ESONET-Vi an in-cash contribution which for the first year shall amount to: [Full Members: please specify the amount of your initial in-cash contribution. The minimum contribution is set at 2,500 € (one voting right). Higher contributions are made on a voluntary basis and are encouraged in order to make possible the organisation of a significant set of self-funded scientific activities. Contributions of 10 k€ or higher provide a second voting right.]

(euros): _____

and accepts all the rights and obligations of a Member starting [INSERT DATE OF EFFECT].

[INSERT OFFICIAL NAME OF THE COORDINATOR]
 hereby certifies that the Consortium has accepted on [INSERT DATE OF GENERAL ASSEMBLY MEETING OR DECISION] the accession of [INSERT NAME OF NEW MEMBER] to the Consortium starting [INSERT DATE OF EFFECT].
 This Accession document has been established in 2 originals to be duly signed by the undersigned authorised representatives.

[Date and Place]

[INSERT NAME OF THE NEW PARTY]
 Signature(s):
 Name(s):
 Title(s):

[Date and Place]

[INSERT NAME OF COORDINATOR]
 Signature(s)
 Name(s)

Attachment 3 : List of Partners

**Attachment 4 : Deed of incorporation of the international Non-Profit Organization
ESONET-Vi**