

FEDERAL SCIENCE POLICY

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| *RESEARCH PROGRAMME FOR EARTH OBSERVATION*  *STEREO III* |

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| CONTRACT NR SR/XX/XX |

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| **ACRONYM**  **Project title** |

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| ANNEX II – GENERAL TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT |

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| ARTICLE 1 : MANAGEMENT  1.1: The President of the SERVICE appoints a member of the SERVICE hereinafter known as « the PROGRAMME ADMINISTRATOR », who is responsible for ensuring correct execution of the PROGRAMME and of the contract.  1.2: The recommendations and remarks of the SERVICE bind the NETWORK, which must respect them strictly. | |
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| ARTICLE 2 : SUPERVISION AND EVALUATION  2.1: Without prejudice to the controls provided for by legislation concerning the State’s accounting, the NETWORK accepts the administrative, technical and scientific controls of the SERVICE, along with their supervision in order to verify correct execution of the PROJECT and use of the financial resources allocated thereto. | |
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| 2.2: The NETWORK is bound to present, whenever requested to do so, a statement of work in progress and of expenditure incurred or envisaged. It must also be able to present the accounting extracts concerning any operation in connection with the PROJECT, along with a statement of measures taken for the correct execution of the PROJECT. | |
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| 2.3: The PROGRAMME ADMINISTRATOR or his representative has access to the premises on which the work is being carried out. They may check the deployment of the personnel allocated to execution of the PROJECT, the nature of the tasks of these personnel, the progress of the work and the use of equipment acquired chargeable to the PROJECT. | |
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| 2.4: The SERVICE may organise an audit in order to verify the accounts relating to the PROJECT, presented by the NETWORK in support of any request for reimbursement of expenses relating to execution of the PROJECT. | |
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| 2.5: The SERVICE reserves the right to organise a scientific evaluation of the results of the PROJECT in relation to the objectives and tasks fixed in Annex I. To this end, the SERVICE is authorised to be assisted by experts of its choice. | |
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| ARTICLE 3 : FINANCING ARRANGEMENTS  3.1: The financing fixed in Article 3.2 of the basic contract does not constitute either a right or an automatic allocation of credit, but fixes the maximum amount available for the commitment of costs inherent in realisation of the PROJECT. | |
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| 3.2: The available budget is distributed by INSTITUTION and by PROMOTER, by category of expenses, in accordance with Article 3 of the contract and Article 5 of Annex I. | |
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| 3.3: The various categories of expenses are fixed as follows:  - Personnel  - Operations  - Specific operations  - Overheads  - Equipment  - Subcontracting  - International collaboration | |

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| ARTICLE 4 : PERSONNEL  4.1: Each INSTITUTION undertakes to recruit, within the limits of the financial resources envisaged for this purpose and defined in Article 5.1 of Annex I, the personnel listed in Article 6.1 of the Annex I. | |
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| 4.2: The personnel mentioned in Article 4.1 above are allocated exclusively and entirely to execution of the PROJECT during the period for which they are paid by the STATE. | |
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| 4.3: On the basis of a duly motivated written request from the PROMOTER, the President of the SERVICE may, exceptionally, agree to the recruitment of scholarship students. | |
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| 4.4: Only the INSTITUTION has employer status with regard to the members of personnel in charge of the project. They are liable to the regulations in force with the INSTITUTION. | |
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| 4.5: Personnel costs include costs relating to salaried personnel (indexed gross pay, social security contributions, employer contributions and legal insurance, or any other indemnity or allocation legally due, accessory to pay, relating to the hiring of the personnel) and to non-salaried personnel (flat rate reimbursement by man/month provided within the framework of the PROJECT), for which the specific provisions for each of the INSTITUTIONS are listed in Article 6.1 of the Annex I. | |
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| 4.6 No salary cost owing for services or notice periods after the date envisaged for the OPERATIONAL TERM is reimbursed by the STATE. It is the responsibility of the INSTITUTION to ensure that notice is issued in due course, taking into consideration the envisaged date of the OPERATIONAL TERM. | |
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| 4.7: For each person hired chargeable to the PROJECT, the INSTITUTION furnishes the SERVICE with an administrative record concerning the said person. Any change concerning this work force is notified to the PROGRAMME ADMINISTRATOR in the annual activity reports. | |

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| ARTICLE 5 : Operations  5.1: Operations: This includes all expenditure not included in the category "Specific Operations". The overall total of these operations expenses is fixed as a flat rate, on the basis of a percentage of the personnel cost. The percentage is limited to 15% for the coordinator and 10% for the other partners. | |
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| 5.2 Specific Operations: This includes all specific operations costs linked to the execution of the project and listed in the article 6.2 of the Annex I. | |
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| ARTICLE 6 : OVERHEADS  Amount covering, on a flat rate basis, the administration, telephone, post, maintenance, heating, lighting, electricity, rent, equipment depreciation or insurance costs. The total of this entry may not exceed 5% of the total of accepted personnel and functioning costs. | |

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| ARTICLE 7 : EQUIPMENT  7.1: Any acquisition chargeable to the financing granted to the PROJECT must be realised in accordance with the legal and regulatory provisions on public contracts. | | |
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| 7.2: Equipment must be acquired in principle during the first half of the duration of the PROJECT. | | |
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| 7.3: Use of equipment which the INSTITUTION acquires chargeable to the equipment loan is reserved, as a priority, for execution of the PROJECT up until the OPERATIONAL TERM. | | |
| After the OPERATIONAL TERM, the equipment purchased remains available to the INSTITUTION which has purchased it. | | |
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| 7.4: Equipment costs cover the acquisition and installation of scientific and technical apparatuses and instruments, including IT and office equipment, a list of which features in Article 6.3 of the Annex I. | | |

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| ARTICLE 8 : SUBCONTRACTING  8.1: Subcontracting is authorised by way of the agreement of the PROGRAMME ADMINISTRATOR. All rules governing subcontracting work are those in force for the PROJECT. It is the responsibility of the INSTITUTION to make sure that these are compatible with the rules and practices in force with the subcontractor and in particular, as regards the ownership and development of the results of the research, publications and communications. | |
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| 8.2: Nevertheless, the INSTITUTION assumes full responsibility for the outcome of the subcontracting work. No form of delay or failure in execution of this work will be recognised by the STATE as a valid reason, in so far as it has a negative impact on the correct execution of the PROJECT. | |
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| 8.3: In no event may the budget reserved for financing subcontracting exceed 25% of the amount allocated to the PROMOTER concerned. | |
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| 8.4: Subcontracting costs represent the costs incurred by a third party for execution of tasks or the provision of services calling for specific scientific or technical skills outside the normal framework of the activities of the NETWORK. The tasks or services connected with subcontracting are described in Article 6.4 of the Annex I. | |

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| ARTICLE 9: INTERNATIONAL COLLABORATION  9.1: The following is considered as international collaboration: collaboration between a Belgian scientific institution and a scientific institution from a foreign Member State, hereinafter known as the INTERNATIONAL PARTNER, and this, with a view to reinforcing international scientific cooperation and Belgian expertise. | |
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| 9.2: The Belgian INSTITUTION is the intermediary between the EUROPEAN/INTERNATIONAL PARTNER and the NETWORK. It monitors the tasks realised by the EUROPEAN/INTERNATIONAL PARTNER and informs the NETWORK of the progress of the tasks of the EUROPEAN/INTERNATIONAL PARTNER.  It also passes on all information relating to the PROJECT and necessary to correct execution of the tasks, as described in Article 2 of Annex I to the EUROPEAN/INTERNATIONAL PARTNER. | |
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| 9.3: Collaboration with the INTERNATIONAL PARTNER is realised on the basis of co-financing. A maximum of 50% of the budget envisaged for these tasks is borne by the SERVICE and this total may not exceed 20% of the overall budget for the PROJECT. The remaining balance is borne by the INTERNATIONAL PARTNER.  The budget allocated by the service is managed by the INSTITUTION and is subject to compliance with the conditions set out in the contract of cooperation.  The share borne by the SERVICE covers exclusively the personnel and functioning costs of the INTERNATIONAL PARTNER. Neither overheads, or equipment or subcontracting are considered as expenses. | |

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| ARTICLE 10 : REIMBURSEMENT MODALITIES  10.1: Within the limits of the PROJECT budget, the STATE reimburses, six-monthly, to the INSTITUTIONS, the costs incurred for execution of the PROJECT so far as they relate to the costs featuring in Articles 4 to 9 of this Annex. | |
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| 10.2: Every INSTITUTION must send the President of the SERVICE an expenditure summary report from the previous six months at the end of every half year at the latest. The INSTITUTION must attach the following documentation to the expenditure summary report: invoices, wages and salaries report, etc. All documentation regarding expenditure must predate the OPERATIONAL LIMIT. Except for fixed day-to-day running costs and overheads, agreed expenditure and services provided will only be reimbursed upon presentation of the relevant documentation. | |
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| 10.3: Any form of reimbursement by the STATE of costs incurred by the INSTITUTION within the framework of realisation of the PROJECT is subject to compliance with the provisions of the contract and dependent on the approval notified by the PROGRAMME ADMINISTRATOR of the reports due for the period corresponding to the reimbursement request. | |
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| 10.4: By way of derogation from Article 10.1 above, every INSTITUTION may obtain a first tranche of funding as soon as the contract has been signed. This advance is equal to 30 % of the budget for each PROJECT MANAGER. | |
| The INSTITUTION may request a second advance for the same amount after providing justification for the complete expenditure of the first advance. | |
| For the payment of every advance, a copy of the claims declaration must be sent to the President of the SERVICE. | |
| The sum of the advances and the amounts reimbursed on the basis of the expenditure summary reports as provided for in Article 10.2 above must not exceed 80 % of the budget allocated to every PROJECT MANAGER before approval of the final report. | |
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| 10.5: The reimbursement of final expenses exceeding the 80 % of the budget allocated to every PROJECT MANAGER is subject to the final report’s approval notified by the PROGRAMME MANAGER. | |
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| 10.6: The amount of any undocumented expenditure and undue payment reverts to the Treasury. | |

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| ARTICLE 11 : OWNERSHIP, EXPLOITATION AND PUBLICATION OF RESULTS  11.1: In order to implement Articles 11 and 12, the following definitions are applicable:  Definitions:   * “access rights”: licences and user rights concerning new knowledge and pre-existing knowledge; * “pre-existing knowledge”: information held by the INSTITUTIONS prior to their adherence to the present agreement, as well as copyrights or other intellectual property rights associated with this information that were the subject of a protection request registered before the INSTITUTIONS’ adherence to the agreement, and which are necessary for the execution of the project or the development of new knowledge; * “distribution”: the disclosure of new knowledge by any appropriate means except for the completion of the formalities required for its protection, including the publication of new knowledge on any type of medium; * “fair and reasonable conditions”: appropriate conditions, including possible financial terms, taking into account the particular circumstances of the access request, for instance, the real or potential value of the new knowledge or the pre-existing knowledge for which access is requested and/or the reach, duration or other characteristics of the envisaged development; * “new knowledge”: the results, including information, that are likely to require protection or not, resulting from the project. These results include copyrights, design rights, patents, plant variety rights, or other similar forms of protection; * "knowledge transfer": the direct or indirect use of new knowledge in complementary research activities other than those which are part of the project, for the purpose of elaborating, creating and marketing a product or a process or for the purpose of creating and supplying a service. | |
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| 11.2: New knowledge  11.2.1. New knowledge is the property of the INSTITUTION that has executed the work of which this new knowledge is the result.  11.2.2. If several INSTITUTIONS have jointly contributed to the work from which the new knowledge results, and the proportion of their respective contributions to this work cannot be established, the said new knowledge is their shared property. They shall conclude an agreement regarding distribution and the conditions concerning the exercising of the shared property in question.  If an agreement has not already been concluded regarding the shared property, each of the co-owners is authorised to grant non-exclusive licences to third parties, without the right to grant sublicences, according to the following conditions:  a) the other co-owner(s) must be informed beforehand, at least 45 days in advance; and  b) fair and reasonable compensation must be given to the other co-owner(s).  11.2.3. Notwithstanding the property rights of each INSTITUTION, the STATE has the right to use the new knowledge free of charge for the purpose of its internal needs. | |
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| 11.3: Ownership transfer  11.3.1. When an INSTITUTION transfers the ownership of its new knowledge, it transfers its obligations relating to this knowledge to the transferee, in particular, the obligation to transfer it to any future transferee.  11.3.2. Subject to its obligation of confidentiality, especially within the framework of a merger or the takeover of a major part of its assets, if an INSTITUTION is required to transfer its obligations to supply access rights, it must inform the other INSTITUTIONS of the envisaged transfer by prior notification at least 45 days in advance and supply them with sufficient information on the envisaged new owner of the new knowledge to allow them to exercise their access rights.However, the INSTITUTIONS can, by written agreement, agree to another deadline or renounce their right to prior notification in case of the transfer of property from one INSTITUTION to a specifically identified third party.  11.3.3. Following notification in accordance with article 11.3.2, any other INSTITUTION can, within a period of 30 days as from the notification or within another deadline agreed to in writing, oppose any envisaged transfer of property if this will infringe its access rights. If one of the other INSTITUTIONS demonstrates that its access rights will be infringed, the envisaged transfer shall not take place as long as the INSTITUTIONS in question have not reached an agreement. | |
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| 11.4: If the people employed by an INSTITUTION or the staff working for it have rights over the new knowledge, the INSTITUTION must ensure that these rights can be exercised in a manner that is compatible with the obligations that fall under its responsibility in accordance with the present agreement. | |
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| 11.5: Access rights for execution  11.5.1. The access rights on the new knowledge are granted to the other INSTITUTIONS if they are required for the realisation by these INSTITUTIONS of their share of the work in this project. These access rights are granted exempt of charges.  11.5.2. The access rights on pre-existing knowledge are granted to other INSTITUTIONS if they are required for the realisation by these INSTITUTIONS of their share of the work in this project. These access rights are granted exempt of charges, unless all the INSTITUTIONS have decided otherwise before their adherence to the present agreement  11.5.3. If an INSTITUTION ceases to participate in a project (or in its extension), it is still obliged to grant these access rights to other INSTITUTIONS in accordance with Article 11.5 herein. | |
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| 11.6: Access rights for development purposes  11.6.1. The INSTITUTIONS shall benefit from access rights to new knowledge when these rights are required for the development of their own new knowledge. Providing an agreement is reached, these access rights are granted according to fair and reasonable conditions or exempt of charges.  11.6.2. The INSTITUTIONS shall benefit from access rights to pre-existing knowledge when these rights are required for the development of their own new knowledge and providing that the INSTITUTION concerned is authorised to grant them. Providing an agreement is reached, these access rights are granted according to fair and reasonable conditions or exempt of charges.  11.6.3. The access rights of affiliated bodies must be governed according to a separate consortium agreement.  11.6.4. In accordance with articles 11.6.1 or 11.6.2, the request concerning access rights can be presented up to one year after:   1. the end of the project; or 2. the cessation of the participation of the owner of the new knowledge or the pre-existing knowledge concerned.   However, the INSTITUTIONS can agree to a different end date. | |

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| ARTICLE 12 : DISTRIBUTION OF THE RESULTS  12.1: Every INSTITUTION ensures that any new knowledge it owns is distributed as quickly as possible.  Subject to the provisions of Article 11, every INSTITUTION shall undertake to make new knowledge available in an institutional open access repository as quickly as possible and free of charge enabling users to read, download, copy, print, distribute or make a search. Should the INSTITUTION fail to do so, the STATE has the right to release the new knowledge in the same manner. In any case, the STATE has the right to make public the final report referred to in Article 7.3 of Annex I of this contract. The INSTITUTION shall invite the researchers to put their published texts, resulting from the research, into an institutional open access repository. | |
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| 12.2: The distribution activities must be compatible with the protection of intellectual property rights, the obligations in terms of confidentiality and the legitimate interests of the owner(s) of the new knowledge. | |
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| 12.3: Before undertaking any distribution activity, the INSTITUTION must notify the other INSTITUTIONS and the STATE at least 45 days beforehand and provide them with sufficient information on the planned distribution activity and the data it envisages distributing. Following this notification, each of the INSTITUTIONS or the STATE can oppose this envisaged distribution activity within a limit of 30 days from the notification if it considers that it could be disproportionately damaging to the legitimate interests concerning its new knowledge or its pre-existing knowledge or that it would have a negative impact on the project’s execution. In this case, the INSTITUTIONS and the STATE can agree in writing to the appropriate measures to be taken and can, in particular, agree on deadlines other than those indicated in this paragraph. The STATE has the right in all circumstances to convene a meeting of the INSTITUTIONS involved in the project. | |
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| 12.4: Any patent request relating to the new knowledge, registered by an INTITUTION or in its name, must include the following comment specifying that the new knowledge in question was obtained with the financial support of the Belgian state: “The work pertaining to the present invention received financial aid from the Federal Science Policy in accordance with the agreement of subsidy no. [SR/xx/xxx].” | |
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| 12.5: Any publication or other distribution relating to the new knowledge shall include the following comment specifying that the new knowledge in question was obtained with the financial support of the Belgian state: “The research pertaining to these results received financial aid from the Federal Science Policy according to the agreement of subsidy no. [SR/xx/xxx].” | |
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| 12.6: The PROJECT MANAGERS shall undertake to transfer the biodiversity data sets (observation, geographic, ecological data, etc.), generated within the framework of their project, to the Belgian Biodiversity Platform. It must be possible to easily extract all digitised data from its original database and it must be made publicly accessible primarily through the Global Biodiversity Information Facility standards (GBIF/http://www.gbif.org) and the GBIF network. The Belgian Biodiversity Platform can provide the necessary technical assistance for this purpose. | |
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| 12.7: Project managers who include tasks in which biological material is used, must ensure that this biological material is deposited and kept in a culture collection (Biological Resource Centre), preferably a Belgian one. This does not apply if project managers can prove that the material has already been deposited in a culture collection or that existing agreements (Material Transfer Agreement) do not allow it to be deposited.  By biological material we mean culturable organisms such as microorganisms, viruses, plant, animal and human cells, as well as the replicable parts of these organisms such as natural or recombinant plasmids (including those containing cDNA inserts).  In publications, the project managers shall refer to the material deposited by using the collection number allocated by the culture collection (Biological Resource Centre).  The material can be deposited in a variety of ways depending on the level of protection required for the biological material in question. The different forms of repository are:   * General deposit: in this type of repository, the deposited material is included in the public part of the culture collection, it is inserted in a public catalogue that mentions the origin of the material, such as the depositor and country of origin, and it is available to third parties (who meet the professional and legal conditions); * Safety deposit: in this type of repository, the depositor would like the biological material to be included in the safe collection of the culture collection and, subsequently, not to be included in the public catalogue, or distributed to third parties (unless the depositor gives their written authorisation); * Patent deposit: this kind of deposit falls under the scope of Belgian and/or international patent law. The material is deposited in a collection that is recognised as an international depository authority by the Budapest Treaty. Distribution to third parties of samples of the material deposited according to the patent deposit is subject to the strict rules governing patent law.   In this case, only the costs associated with the depositing of biological material will be reimbursed and not the costs associated with the patent application. The BCCM consortium collections are taken into account as Belgian culture collections. As a general deposit, BCCM collections accept mycelial fungi, yeasts, bacteria, diatoms, mycobacteria, cyanobacteria and plasmids. As regards safety deposits and patent deposits, the BCCM collections accept fungi, yeasts, bacterial recombinant genetic material or not (e.g. plasmids, RNA) in the form of an isolated preparation or in a host, animal or human cell lines, and hybridomas (http://www.belspo.be/bccm). | |

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| ARTICLE 13 : CONFIDENTIALITY  The STATE, the NETWORK and the PROMOTORS promise not to disclose the personalised or private information, relating to physical or moral persons, with which they have been provided in application of the contract, without the authorisation of the said persons. |

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| ARTICLE 14 : CODE OF ETHICS  14.1: The STATE wishes to promote gender equality in research. The INSTITUTIONS must take this into account in their choice of researchers but also by integrating the gender aspect into their research, wherever required. | |
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| 14.2: Within the framework of the law and the regulations concerning the protection and well-being of animals, the INSTITUTIONS shall undertake to apply as extensively as possible the principle of replacement, reduction and refinement as mentioned in Article 4 of European Directive 2010/63, and endeavour to use methods or strategies that do not involve the use of live animals. | |
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| 14.3: Within the framework of the principle of precaution, the PROJECT MANAGERS shall act with caution and be guided by the concern of avoiding harm to other beings. Caution requires not running risks unnecessarily or in a disproportionate manner. A conscientious analysis of the benefits but also the short and mid-term risks of a piece of research must be carried out. As regards experiments with a potential impact on the environment, the investigations must first relate to an analysis based on the principle of precaution | |

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| ARTICLE 15 : TERMINATION 15.1: The contract is terminated lawfully when the NETWORK is unable to continue its activities on account of reasons beyond its control. In this case, the end of the contract is fixed at the last day of the month following the month during which the impossibility has been notified to the SERVICE. | |
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| When one or more members of the NETWORK are unable to continue their activities and when the other members consider they are able to continue with PROJECT without this (these) PROMOTER(S), they inform the STATE of this via the COORDINATOR or another PROMOTER. In so far as the President of the SERVICE has given his consent to the above, the changes form the subject of an amendment to this contract. | |
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| 15.2: In those instances mentioned in Article 15.1, the STATE is not bound to any reimbursement of expenses realised after the date on which termination of the contract takes effect, apart from the following instances: | |
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| 15.2.1: The expenses incurred by the INSTITUTION and which correspond to the remuneration of the personnel recruited chargeable to the contract:   * for an unspecified term and for which notice runs during the period after the date on which the contract has been terminated;  for a specified term and for which an indemnity is due on account of the termination before term of his employment contract. | |
| 15.2.1.1: The INSTITUTION is entitled to this intervention in so far as it has:   * notified the advance notice or the termination of the employment contract immediately after having itself receive notification of the termination of the research contract, * reduced the term of the notice or the amount of the indemnity to the minimum, bearing in mind current legislation. | |
| 15.2.1.2: For personnel hired for an unspecified term, the intervention of the STATE may not exceed the equivalent of a notice period calculated in relation to the period during which the person in question had received remuneration chargeable to the research contract budget. | |
| 15.2.1.3: For personnel hired for a specified term, the intervention of the STATE may not exceed the equivalent of an indemnity calculated in relation to the duration of the PROJECT established in Article 2 of the basic contract. | |
| 15.2.2: The other expenses which, before the date on which termination of the contract enters into effect, have already been incurred by the INSTITUTION on the basis of the contract or authorised by the STATE within the framework of the PROGRAMME and commitment of which may not be cancelled or may only be cancelled by giving rise to damages. If the damages are less, only the amount thereof is due. | |
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| 15.3: The items made available to the PROJECT by the STATE are returned to the latter, at no expense, within two months of the entry into effect of termination of the contract. | |
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| 15.4: The STATE may terminate the contract if the NETWORK fails to respect the provisions thereof. The termination decision is taken by the Minister of Scientific Policy on a proposal from the President of the SERVICE and notified to the NETWORK by the latter via the COORDINATOR. This notification is motivated and sent by recorded delivery. Termination takes effect on the date of notification of the decision. In this case, the STATE is not bound to reimbursement of any expenses incurred after the date on which termination of the contract takes effect, or to any reimbursement for the rupture itself. | |
| When one party to the NETWORK defaults, but the other members of the NETWORK consider that they are able to continue the PROJECT without this (these) INSTITUTION(S), the STATE may decide to exclude the defaulting INSTITUTION(S), in accordance with this same procedure. | |

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| ARTICLE 16 : CIVIL LIABILITY  16.1: In no event will the STATE be responsible for damage caused to items or to the environment, resulting directly or indirectly either from any activity carried out within the framework of execution of the contract or from a technique, a process, a method or from any other form of application deduced in full or in part from knowledge acquired in execution of the PROJECT. | |
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| 16.2: Each INSTITUTION to this end guarantees the STATE against any action for damages filed by third parties. | |

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