

CONSORTIUM AGREEMENT

based upon the multi-beneficiary Grant Agreement no. 653113 and its Annexes
(hereinafter referred to as „**Consortium Agreement**“)

concluded between the following parties:

Business name: **Košice – European Capital of Culture 2013, n.o.**
 Registered seat: Kukučínova 2, 040 01 Košice
 ID No.: 35583461
 Represented by: Ing. arch. Michal Hladký, legal representative
 Bank Account Name: Košice – Európske hlavné mesto kultúry 2013, n.o.
 IBAN Account Number: SK21 5600 0000 0005 5823 5001
 Bank SWIFT code: KOMASK2X
 Bank name: Prima banka Slovensko, a.s. - pobočka Košice
 Bank address: Hodžova 11, 010 11 Žilina
 E-mail address: michal.hladky@kosice2013.sk
 (hereinafter referred to as “**Project leader**” or “**Kosice 2013**”)

and

Business name: **Stichting European Creative Business Network**
 Registered seat: Maashaven Z.z. 2, Rotterdam 3081 AE
 ID No.: 53145658
 Represented by: Bernd Fesel, Mehjabeen Price
 Bank Account Name: STICHTING EUROPEAN CREATIVE BUSINESS NETWORK
 IBAN Account Number: NL09 RABO 0140 0987 39
 Bank SWIFT code: RABONL2U
 Bank name: Rabobank Rotterdam
 Bank address: PO 10017, 3004 AA, Rotterdam. The Netherlands
 E-mail address: adrian@ecbnetwork.eu
 (hereinafter referred to as “**ECB Network**”)

and

Business name: **Peopleing Estudio Bilbao SLL**
 Registered seat: Dos de Mayo 22, 1º izq – 48001 Bilbao
 ID No.: B-95742367
 Represented by: Jone Zubiaga
 Bank Account Name: Peopleing Estudio Bilbao SLL
 IBAN Account Number: ES98 0081 4349 3900 0108 2016
 Bank SWIFT code: BSAB ESBB
 Bank name: Banco Sabadell
 Bank address: Henao 6 - 48009 Bilbao
 E-mail address: jone@peopleing.es
 (hereinafter referred to as “**Peopleing**”)

and

Business name: **Creative.Region Linz & Upper Austria GmbH**
 Registered seat: Ludlgasse 19, A-4020 Linz
 ID No.: ATU 66270028
 Represented by: Dr. Patrick Bartos

Bank Account Name: Creative.Region Linz & Upper Austria GmbH
IBAN Account Number: AT87 5400 0000 0039 8834
Bank SWIFT code: OBLAAT2L
Bank name: HYPO-OÖ Landesbank AG
Bank address: Landstrasse 38, A-4010 Linz
E-mail address: patrick@creativeregion.org
(hereinafter referred to as "**Creative Region Linz&Upper Austria**")

and

Business name: **Ale Kommun**
Registered seat: Ale kommun, 449 80 Alafors
ID No.: 212000-1439
Represented by: Björn Järbur
Bank Account Name: Ale Kommun / Swedbank
IBAN Account Number: SE418000 0810 5999 4139 9660
Bank SWIFT code: BIC Swedsess
Bank name: Swedbank
Bank address: Box 74, 446 22 Älvängen
E-mail address: kommun@ale.se and pia.areblad@ale.se
(hereinafter referred to as "**Ale kommun**")

and

Business name: **Kosice Valley z.p.o.**
Registered seat: Letná 9, 040 01 Košice
ID No.: 355 78 041
Represented by: Ján Bodnár
Bank Account Name: Kosice IT Valley, z.p.o.
IBAN Account Number: SK31 0900 0000 0004 4769 9938
Bank SWIFT code: GIBASKBX
Bank name: Slovenská sporiteľňa, a. s.
Bank address: Tomášikova 48, 832 37 Bratislava
E-mail address: jan.bodnar@itvalley.sk
(hereinafter referred to as "**IT Valley**")

and

Business name: **Stadt Gelsenkirchen**
Registered seat: Ebertstrasse 11, Gelsenkirchen 45875
ID No.: DE 125 018 225
Represented by: Frank Baranowski
Bank Account Name: Stadtkasse Gelsenkirchen
IBAN Account Number: DE62420500010101000774
Bank SWIFT code: WELADED1GEK
Bank name: Sparkasse Gelsenkirchen
Bank address: Sparkassenstraße 3, D-45879 Gelsenkirchen
E-mail address: volker.bandelow@gelsenkirchen.de
(hereinafter referred to as "**Stadt Gelsenkirchen**")

hereinafter, jointly or individually, referred to as "**Parties**" or "**Party**"

relating to the Project entitled:

EXCITE: Entrepreneurs eXchange for Innovations in Europe - EXCITE

(hereinafter referred to as "**Project**")

WHEREAS

The Parties, having considerable experience in the field concerned, have prepared and submitted a proposal to the Executive Agency for Small and Medium-sized Enterprises (EASME) (hereinafter referred to as the "Agency") for the Project in response to the 2014 Call for proposals under the Erasmus for Young Entrepreneurs Programme.

The Parties agree to cooperate pursuant to the terms of this Agreement in order to execute and fulfill the EASME Grant Agreement no. 653113 Excite and perform the tasks designated in the Project following the selection and awarding of the Grant Agreement by the EASME.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

PRELIMINARY ARTICLE

1. This Agreement is concluded in accordance with the provisions of the Grant Agreement signed between the Agency and the Parties.
2. The Grant Agreement which was signed between the Agency and the Parties specified the length and details of the Project and how it will be carried and financed.

DEFINITIONS

3. "**Background**" – Background means intellectual property rights, information and knowledge (including inventions, know-how, databases, software, etc.) held by the Parties prior to their accession to the Grant Agreement and which are needed for carrying out the Project or for using Results.
4. "**Consortium Body**" - Consortium Body means the coordination structures within the Consortium that was created to facilitate the management of the Project, such as the Project Management Board, Coordinator, Work Package and WP Leaders.
5. "**Consortium Budget**"- Consortium Budget means the allocation of all the resources in cash or in kind for the activities as defined in Annex 1 of the Grant Agreement .
6. "**Defaulting Party**"- Defaulting Party means a Party which the Project Management Board has identified to be in breach of this Consortium Agreement or the Grant Agreement as specified in the Agreements.
7. "**Needed**" - Means:
 - a) For the implementation of the Project: Access Rights are Needed if, without the grant of such Access Rights, carrying out the tasks assigned to the recipient Party would be impossible, significantly delayed, or require significant additional financial or human resources.
 - b) For Use of own Results: Access Rights are Needed if, without the grant of such Access Rights, the Use of own Results would be technically or legally impossible.
8. "**Results**" – Results means the foreground, including information, materials and knowledge, generated in a given project, whether or not they can be protected. The term includes the tangible (e.g. prototypes, source codes) and intangible (e.g. intellectual property rights, confidential material) results of the Project.

PURPOSE

9. The purpose of this Consortium Agreement is to specify with respect to the Grant Agreement and to the Project the relationship between the Parties, in particular concerning the organisation of the work between the Parties, the management of the Project and the rights and obligations of the Parties concerning inter alia liability, Access Rights and dispute resolution.

ENTRY INTO FORCE

10. An entity becomes a Party to this Consortium Agreement upon signature of this Consortium Agreement by a duly authorised representative.
11. This Consortium Agreement shall have effect from the effective date, when Project started: February 1st 2015.
12. A new Party enters the Consortium upon signature of the Accession document by the new Party and the Project leader. Such accession shall have effect from the date identified in the Accession document.

DURATION AND TERMINATION

13. This Consortium Agreement shall continue in full force and effect until complete fulfillment of all obligations undertaken by the Parties under the Grant Agreement and under this Consortium Agreement.
14. However, this Consortium Agreement may be terminated in accordance with the terms of this Consortium Agreement and terms referred to Article 34 of the Grant Agreement.
15. If the Grant Agreement is terminated or if a Party's participation in the Grant Agreement is terminated this Consortium Agreement shall automatically terminate in respect of the affected Party/ies, subject to the provisions surviving the expiration or termination under Article 16 and 17 of this Consortium Agreement.

SURVIVAL OF RIGHTS AND OBLIGATIONS

16. The provisions relating to Access Rights, Confidentiality, Liability, Applicable law and Settlement of disputes shall survive the expiration or termination of this Consortium Agreement as agreed in respective articles.
17. Termination shall not affect any rights or obligations of a Party leaving the Consortium incurred prior to the date of termination, unless otherwise agreed between the Project Management Board and the leaving Party. This includes the obligation to provide all input, deliverables and documents for the period of its participation.

RESPONSIBILITIES OF PARTIES – GENERAL PRINCIPLES

18. Each Party undertakes to take part in the efficient implementation of the Project, and to cooperate, perform and fulfil, promptly and on time, all of its obligations under the Grant Agreement and this Consortium Agreement as may be reasonably required from it and in a manner of good faith as prescribed by Slovak law.
19. Each Party undertakes to notify promptly, in accordance with the governance structure of the Project, any significant information, fact, problem or delay likely to affect the Project.
20. Each Party shall provide promptly all information reasonably required by a Consortium Body or by the Coordinator to carry out its tasks.
21. Each Party shall take reasonable measures to ensure the accuracy of any information or materials it supplies to the other Parties.

BREACH OF OBLIGATIONS

22. In the event the responsible Consortium Body identifies a breach by a Party of its obligations under this Consortium Agreement or the Grant Agreement, the Leading Partner may give written notice requiring that such breach be remedied within 30 calendar days.
23. If this does not occur, the Project Management Board may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof.
24. If such breach is substantial and is not remedied within that period or is not capable of remedy, the Project management board may decide to declare the Party to be a Defaulting Party and to decide on the consequences thereof which may include termination of its participation. The substantial breach of the Agreement shall be included but not limited to breach of the provisions of the Grant Agreement and the Consortium agreement regarding the grant, reporting and payments provisions, failure to implementation of the Project and wilful damage or defamation of the Consortium or its Members.

INVOLVEMENT OF THIRD PARTIES

25. If necessary to implement the Project the Parties may award subcontracts covering the implementation of certain Project tasks described in Annex 1.
26. Any subcontracting of the Project core activities relating to other than "Work package 2" described in Annex 1 shall be notified by the Party to the Coordinator. The Coordinator may cease any form of subcontracting of the Parties.
27. A Party that enters into a subcontract or otherwise involves third parties in the Project remains solely responsible for carrying out its relevant part of the Project and for such third party's compliance with the provisions of this Consortium Agreement and of the Grant Agreement. It has to ensure that the use of third parties does not affect the rights and obligations of the other Parties regarding Background and Results.

LIABILITY TOWARDS EACH OTHER

28. In respect of any information or materials supplied by one Party to another under the Project, 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 Party shall in all cases be entirely and solely liable for the use to which it puts such information and materials.

LIMITATIONS OF CONTRACTUAL LIABILITY

29. A Party's aggregate liability towards the other Parties collectively shall be limited to the Party's share of the total costs of the Project.
30. The exclusions and limitations of liability stated above shall not apply in the case of damage caused by a wilful act or gross negligence.
31. The terms of this Consortium Agreement shall not be construed to amend or limit any non-contractual liability.

DAMAGE CAUSED TO THIRD PARTIES

32. Each Party shall be solely liable for any loss, damage or injury to third parties resulting from the performance of the said Party's obligations under this Consortium Agreement or from its use of Results or Background.

FORCE MAJEURE

33. Force majeure means any situation or event that:
 - prevents either party from fulfilling their obligations under the Agreement,
 - was unforeseeable, exceptional situation and beyond the parties' control,
 - was not due to error or negligence on their part (or on the part of third parties involved in the action), and
 - proves to be inevitable in spite of exercising all due diligence.
34. The following cannot be invoked as force majeure:
 - any default of a service, defect in equipment or material or delays in making them available, unless they stem directly from a relevant case of force majeure,
 - labour disputes or strikes, or
 - financial difficulties.
35. No Party shall be considered to be in breach of this Consortium Agreement if such breach is caused by Force Majeure. Each Party will notify the competent Consortium Bodies of any Force Majeure as soon as possible. If the consequences of Force Majeure for the Project are not overcome within forty five (45) days after such notification, the transfer of tasks - if any - shall be decided by the competent Consortium Bodies.

MANAGEMENT STRUCTURE

36. The organizational structure of the Consortium comprises the following Consortium Bodies:

a) Coordinator:

- The Coordinator is the legal entity acting as the intermediary between the Parties and the Agency. The Coordinator shall, in addition to its responsibilities as a Party, perform the tasks assigned to it as described in the Grant Agreement and this Consortium Agreement.
- Kosice 2013 appointed delegate will act as project coordinator and assume overall responsibility for liaison between the partners and the Agency. For this purpose Project coordinator will be set by Kosice 2013 legal representative by written notice to all Parties.
- Mission: Financial control (partners payments management and distribution); coordinating the preparation of progress reports and cost statements, formal revision and submission to the EC of progress reports, related cost statements, and any other document or communication pertaining to the project (which had been previously prepared by the Consortium Bodies); preparing the meetings, proposing decisions and preparing the agenda of the Project Management Board meetings, chairing the meetings, preparing the minutes of the meetings and monitoring the implementation of decisions taken at meetings, as well as setting up and circulating the meeting agendas; supervising and informing all participants about the project progress (i.e. sending interim reports, meetings minutes, etc., once again with logistic support from the project Management Team).

b) Project management board:

- Project management board is the decision-making body of the consortium.
- Chairman: Legal representative of the Project leader. The Coordinator shall chair all meetings of the Project management board, unless decided otherwise by the Project management board.
- Members: The Project management board shall consist of one representative of each Party (hereinafter referred to as "**Member**") plus the Chairman. Each Partner shall appoint one representative as member of the Project Management Board. These members have to be empowered for the decision making process.
- Any Member: should be present or represented at any meeting; may appoint a substitute or a proxy to attend and vote at any meeting and shall participate in a cooperative manner in the meetings.
- Responsibilities: The Project Management Board is responsible for the "Major Decisions" affecting the implementation and success of the Project. Such decisions require the prior consent of the Project Management Board by a majority of two-thirds (2/3) of the votes (one vote per member):
 - (i) any expenditure with the exception of expenditures already agreed upon in the Budget;
 - (ii) any major change in the nature of the Project including starting or stopping it to conduct a particular part of the Project;
 - (iii) the giving of any guarantee by the Consortium, indemnity to, or becoming surety for, any third party;
 - (iv) the preparation and proposition of the Budget amendments;
 - (v) any transaction between the Consortium and a Representative or a Party or an Affiliated Consortium of a Party or a company in which any such Party or Affiliated Consortium has an interest or holds any position. The ownership of the results. Access rights of the results.

c) WP Leaders:

- Mission: partners are appointed to lead the work within individual workpackages (defined in the Annex 1). They will coordinate partner interaction within the WP and tasks and will call for technical meetings if required. Project progress will be critically reviewed at each milestone point. A change in the work programme may be proposed at these points and discussed by the Project Management Board. The appointed WP leaders are set according to the Grant Agreement as follows:
 - (i) WP1: Kosice 2013
 - (ii) WP2: ECBN
 - (iii) WP3: Ale komunn
 - (iv) WP4: Kosice 2013

37. The other rights and duties of the Coordinator and WP leaders are defined in Annex 1 of the Grant Agreement.

PREPARATION AND ORGANIZATION OF MEETINGS OF PROJECT MANAGEMENT BOARD

38. The Chairman shall convene ordinary on-line meetings of the Project management board at least once every 6 months and shall also convene extraordinary on-line meetings at any time upon written request of any Member.
39. The Chairman shall give notice in writing of a meeting and original agenda to each Member as soon as possible and no later than 14 calendar days preceding an ordinary meeting and 7 calendar days preceding an extraordinary meeting.
40. Any agenda item requiring a decision by the Members must be identified as such on the agenda.
41. Any Member may add an item to the original agenda by written notification to all of the other Members no later than 7 calendar days preceding the meeting.
42. During a meeting of the Project management board may the two-thirds (2/3) of Members present or represented agree to add a new item to the original agenda.
43. Any decision may also be taken per rollam, without a meeting, if the Chairman circulates to all Members a written proposal and related agenda via e-mail or regular mail which is then signed or adopted by the defined majority of Members. Such document shall include the deadline for responses. If the proposal and related agenda were delivered by e-mail to the e-mail addresses of the Members set in the heading of this Agreement, such documents shall be deemed received on the day on which the documents were sent by the Chairman to the e-mail addresses of the Members set in the heading of this Agreement. The Project leader shall maintain documentation from every decision-making process.
44. Meetings of the Project management board may also be held by on-line teleconference or other telecommunication means with respect the aforesaid provisions.

VOTING RULES AND QUORUM

45. Each Consortium Body shall not deliberate and shall not be able to make valid decisions unless a quorum of two-thirds (2/3) of its Members are present or represented. Each member of a Consortium Body, present or represented in the meeting, shall have one vote. Defaulting Party members may not vote.
46. Decisions shall be taken by a two-thirds majority (2/3) of the votes of a quorum pursuant to Article 45 of this Consortium Agreement.
47. In the event of a decision will be taken per rollam the Chairman circulates a proposal and related agenda to all Members. Decision shall be taken by a majority of two-thirds (2/3) of the all Members.

VETO RIGHTS

48. A member who 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.
49. When the decision is foreseen on the original agenda, a member may veto such a decision during the meeting only.
50. 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 Minutes of the meeting are sent.
51. 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.
52. The Project leader may exercise a veto to the any decision of Consortium body.
53. A Party shall not veto decisions relating to its identification as a Defaulting Party. The Defaulting Party shall not veto decisions relating to its participation and termination in the Consortium or the consequences of them.
54. A Party requesting to leave the Consortium shall not veto decisions relating thereto.

MINUTES OF MEETINGS

55. The Chairman of a Project management board shall produce written Minutes of each meeting which shall be the formal record of all decisions taken. He shall send the draft to all of its Members within fifteen (15) calendar days of the meeting.
56. The Minutes shall be considered as accepted if, within fifteen (15) calendar days from sending and confirmed reception, no Member has objected in writing to the Chairperson concerning the accuracy of the draft Minutes.
57. The accepted Minutes shall be sent to all of the members of the Consortium Body and the Coordinator, who shall safeguard them. If requested the Coordinator shall provide authenticated duplicates to Parties.
58. The Project management board shall be free to act on its own initiative to formulate proposals and take decisions in accordance with the procedures set out herein.

FINANCIAL DECISIONS – GENERAL PRINCIPLES

59. The financial contribution of the Agency to the Project shall be distributed by the Coordinator according to:
 - a) the Grant Agreement and the Consortium Budget
 - b) the approval by the Agency, and
 - c) the provisions of payment in Article 67 and foll.
60. A Party shall be funded only for its tasks carried out in accordance with the Grant Agreement.
61. In accordance with its own usual accounting and management principles and practices, each Party shall be solely responsible for eligibility of its costs with respect to the Project towards the Agency. Neither the Coordinator nor any of the other Parties shall be in any way liable or responsible for such justification of costs towards the Agency or towards the Coordinator.
62. Coordinator shall not be responsible for eligibility of costs of the other Parties.
63. General conditions for costs to be eligible are covered by Article 6 of the Grant Agreement.
64. All resources made available for the Project shall be valued in accordance with the usual accounting and management principles and practices of the respective Parties and shall be budgeted.

FINANCIAL CONSEQUENCES OF THE TERMINATION OF THE PARTICIPATION OF A PARTY

65. A Party leaving the Consortium shall refund all advances paid to it except the amount of expended eligible costs accepted by the Agency in accordance with the Grant Agreement.
66. Furthermore a Defaulting Party shall, within the limits specified in this Consortium Agreement, bear any additional costs occurring to the other Parties in order to perform its and their tasks.

PAYMENTS

67. Payments to Parties are the exclusive tasks of the Coordinator. In particular, the Coordinator shall:
 - a) Notify the Party concerned promptly of the date and composition of the amount transferred to its bank account, giving the relevant references;
 - b) Perform diligently its tasks in the proper administration of any funds and in maintaining financial accounts;
 - c) Undertake to keep the Union contribution to the Project in the business accounts stated to the Grant agreement.
68. The payment schedule, which contains the transfer of pre-financing, interim payments, payment of the balance to Parties, will be handled according to the Grant agreement.
69. For all projects, the Commission will establish the amount of the final payment to be made to the Party on the basis of the final report.
70. In the event that the Party's financial capacity is not satisfactory (according to the Agency assessment), it may be required to provide a guarantee in order to limit the financial risks linked to the pre-financing payment.
71. Should new Parties access to the Project, the budget included in Annex 1 of the Grant Agreement will be replaced by a new one including the new quantities.
72. The Coordinator is entitled to withhold any payments due to a Defaulting Party or to a beneficiary which has not yet signed this Consortium Agreement.
73. The Coordinator is entitled to recover any advances already paid to a Defaulting Party. The Coordinator is equally entitled to withhold payments to a Party when this is suggested by or agreed with the Agency.

RESULTS

74. Ownership of results and joint ownership:
 - a) Results are owned by the Party that generates them.
 - b) In case of joint ownership, each of the joint owners shall be entitled to use and exploit the joint Results as it sees fit without obtaining any consent, from paying compensation to, or otherwise accounting to any other joint owner.
 - c) In case of joint ownership of Results each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sub-license, subject to the following conditions:
 - (i) at least 30 days prior notice must be given to the other joint owner(s); and
 - (ii) fair and reasonable compensation must be provided to the other joint owner(s).
75. Transfer of Results:
 - Each Party may transfer ownership of its own Results.
 - The transferring Party shall, however, notify the other Parties of such transfer and shall ensure that the rights of the other Parties will not be affected by such transfer.
76. The obligations above apply only for as long as other Parties still have - or still may request - Access Rights to the Results.

77. Dissemination of own Results

- a) Dissemination activities, including but not restricted to publications and presentations, shall be governed by the Grant Agreement.
- b) The Party objecting a publication has to show that its legitimate interests will suffer disproportionately great harm and shall include a request for necessary modifications.
- c) The objection has to include a precise request for necessary modifications and a request to postpone the publication in case the information might be protected by industrial property Rights
- d) For the avoidance of doubt, a Party may not publish Results or Background of another Party, even if such Results or Background is amalgamated with the Party's Results, without the other Party's prior written approval.
- e) The Parties undertake to cooperate to allow the timely submission, examination, publication and defense of any dissertation or thesis for a degree which includes their Results or Background. However, confidentiality and publication clauses have to be respected.
- f) Nothing in this Consortium Agreement shall be construed as conferring rights to use in advertising, publicity or otherwise the name of the Parties or any of their logos or trademarks without their prior written approval.

ACCESS RIGHTS

- 78. The Parties shall identify in the Annex 2 the Background for the Project to which they are ready to grant Access Rights, subject to the provisions of this Consortium Agreement and the Grant Agreement.
- 79. Each Party shall implement its tasks in accordance with the Grant Agreement and the Consortium agreement and shall bear sole responsibility for ensuring that its acts within the Project do not knowingly infringe third party property rights.
- 80. Access Rights are granted on a non-exclusive basis. Any Access Rights granted expressly exclude any rights to sublicense unless expressly stated otherwise.
- 81. Access Rights shall be free of any administrative transfer costs.
- 82. Anything not identified in Annex 2 shall not be the object of Access Rights regarding Background.
- 83. Results and Background shall be used only for the purposes for which Access Rights to it have been granted.
- 84. All requests for Access Rights shall be made in writing. The granting of Access Rights may be made conditional on the acceptance of specific conditions aimed at ensuring that these rights will be used only for the intended purpose and that appropriate confidentiality obligations are in place. The requesting Party must show that the Access Rights are Needed.
- 85. The owning Party may add further Background to Annex 2 during the Project by written notice. However, only the Project Management Board can permit a Party to withdraw any of its Background from Annex 2.
- 86. The Parties agree that all Background not listed in Annex 2 shall be explicitly excluded from Access Rights. They agree, however, to negotiate in good faith additions to Annex 2 if a Party asks them to do so and those are Needed.
- 87. For the avoidance of doubt, the owner is under no obligation to agree to additions of his Background to Annex 2.
- 88. Access Rights to Results and Background Needed for the execution of the own work of a Party under the Project shall be granted on a royalty-free basis, unless otherwise agreed in Annex 2.

89. Access Rights to Background or to Results if Needed for Exploitation of a Party's own Results shall be granted on a royalty-free basis.
90. For the avoidance of doubt any grant of Access Rights not covered by this Consortium Agreement or by the Grant Agreement shall be at the absolute discretion of the owning Party and subject to such terms and conditions as may be agreed between the owning and receiving Parties.

ACCESS RIGHTS FOR PARTIES ENTERING OR LEAVING TO THE CONSORTIUM

91. All Results developed before the accession of the new Party shall be considered to be Background with regard to said new Party.
92. As regards Results developed before the accession of the new Party, the new Party will be granted Access Rights on the conditions applying for Access Rights to Background.
93. Access Rights granted to a Defaulting Party and such Party's right to request Access Rights shall cease immediately upon receipt by the Defaulting Party of the formal notice of the decision of the Project Management Board to terminate its participation in the Consortium.
94. A Party leaving voluntarily and with the other Parties' consent shall have Access Rights to the Results developed until the date of the termination of its participation. The time limit for its right to request these Access Rights shall start on the same date.
95. Any Party leaving the Project shall continue to grant Access Rights pursuant to the Grant Agreement and this Consortium Agreement as if it had remained a Party for the whole duration of the Project.

NON-DISCLOSURE OF INFORMATION

96. All information in whatever form or mode of transmission, which is disclosed by a Party (hereinafter referred as the "**Disclosing Party**") to any other Party (hereinafter referred as the "**Recipient**") in connection with the Project 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 at the latest as confidential information by the Disclosing Party, is "Confidential Information".
97. The Recipients hereby undertake in addition and without prejudice to any commitment of non-disclosure under the Grant Agreement, for a period of 5 years after the end of the Project:
 - 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 Party;
 - 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.
98. The Recipients shall be responsible for the fulfilment of the above obligations on the part of their employees or third parties involved in the Project and shall ensure that they remain so obliged, as far as legally possible, during and after the end of the Project and/or after the termination of the contractual relationship with the employee or third party.
99. The above shall not apply for disclosure or use of Confidential Information, if and in so far as the Recipient can show that:

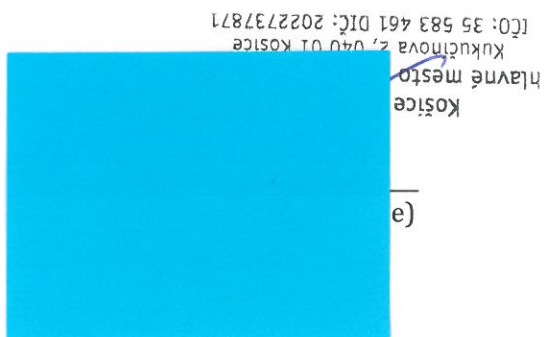
- the Confidential Information becomes publicly available by means other than a breach of the Recipient's confidentiality obligations;
 - the Disclosing Party subsequently informs the Recipient that the Confidential Information is no longer confidential;
 - the Confidential Information is communicated 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 Party;
 - the disclosure or communication of the Confidential Information is foreseen by provisions of the Grant Agreement;
 - 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
100. The Recipient shall apply the same degree of care with regard to the Confidential Information disclosed within the scope of the Project as with its own confidential and/or proprietary information, but in no case less than reasonable care.
101. Each Party shall promptly advise the other Party in writing of any unauthorised disclosure, misappropriation or misuse by any person of Confidential Information as soon as practicable after it becomes aware of such unauthorised disclosure, misappropriation or misuse.
102. If any Party becomes aware that it will be required, or is likely to be required, to disclose Confidential Information in order to comply with applicable law 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 Party, and
 - comply with the Disclosing Party's reasonable instructions to protect the confidentiality of the information.
103. The confidentiality obligations under this Consortium Agreement and the Grant Agreement shall not prevent the communication of Confidential Information to the Agency or to the European Commission.

MISCELLANEOUS

104. This Consortium Agreement consists of this body text and
- Annex 1 (Grant agreement and its Annexes),
 - Annex 2 (Background included),
 - Annex 3 (Pre-financing payment - Amount),
105. In case this Consortium Agreement is in conflict with the Grant Agreement, the terms of the latter shall prevail. In case of conflicts between the appendices and the body text of this Consortium Agreement, the latter shall prevail.
106. 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 Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.
107. The Parties shall not be entitled to act or to make legally binding declarations on behalf of any other Party. 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 Parties.

108. 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 based on the initial list of members and other contact persons.
109. If it is required in this Consortium Agreement 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.
110. Other communications between the Parties may also be effected by other means such as e-mail with acknowledgement of receipt (e.g. Minutes).
111. Any change of persons or contact details shall be notified immediately by the respective Party to the Coordinator. The address list shall be accessible to all concerned.
112. No rights or obligations of the Parties arising from this Consortium Agreement may be assigned or transferred, in whole or in part, to any third party without the other Parties' prior formal approval.
113. Amendments and modifications to the text of this Consortium Agreement require a separate agreement between all Parties in written form.
114. Nothing in this Consortium Agreement shall be deemed to require a Party to breach any mandatory statutory law under which the Party is operating.
115. This Consortium Agreement is drawn up in English, which language shall govern all documents, notices, meetings and processes relative thereto.
116. This Consortium Agreement and all clauses in the Grant Agreement affecting the rights and obligations between the Parties shall be constructed in accordance with and governed by the laws of the Slovak Republic.
117. Legal relations which are not covered by the Grant Agreement or the Consortium Agreement shall be governed by the Commercial Code Act No. 513/1991 Coll. as amended.
118. This Consortium Agreement becomes valid after signing by each Party.
119. This Consortium Agreement is executed in 8 originals, with one (1) original to be retained by each Party hereto.

In Košice, on 21 / 5 / 2015



Project leader: **Košice – European Capital of Culture 2013, n.o.**

In Brussels, on 9 / 5 /2015

(s

By

M

Pa

In BILBAO, on 13/05/2015



peopleing

C.I.F.: B-95742367

(signature & stamp if applicable)

By

Mrs. JONE ZUBIAGA

Partner 2: **Peopleing Estudio Bilbao SLL**

In Linz....., on 08 / 05 / 2015



Creative.Region
~~Linz & Upper Austria GmbH~~
(signature & stamp if applicable)

By

Mr.

Partner 3: Creative.Region Linz & Upper Austria GmbH

In Nödinge, on 18/5/2015

Ale kommun,
kommunstyrelsen

2015-05-18

By

Mr. Björn Järbur

Partner 4: Ale Kommun

In, on ____/____/2015

(signature & stamp if applicable)

By

Mr.

Partner 5: **Kosice Valley z.p.o.**

In Gelsenkirchen, on 05 / 13 / 2015

Stadt Gelsenkirchen

Reierst Kultur

Florastraße 28

45879 Gelsenkirchen

Der Oberbürgermeister
Im Auftrage

Der Oberbürgermeister
Im Auftrage

(signature not applicable)

By

Mr. *Dr. Volker Bandelow*

Klaus-D. Meyer

Partner 6: Stadt Gelsenkirchen

Annex 1 Grant Agreement

Annex 2 (Background included)

Access Rights to Background made available to the Parties:

| PARTNER | BACKGROUND INCLUDED TITLE | BACKGROUND INCLUDED DESCRIPTION |
|---------|---------------------------|---------------------------------|
| | | |
| | | |
| | | |
| | | |

This represents the status at the time of signature of this Consortium Agreement.

Annex 3 (Pre-financing payment - Amount)

| Party | Pre-financing payment - Amount |
|---|--------------------------------|
| Košice – European Capital of Culture 2013, n.o. | EUR 41,954.50 |
| Stiching European Creative Business Network | EUR 41,881.00 |
| Peopleing Estudio Bilbao SLL | EUR 35,381.50 |
| Creative.Region Linz & Upper Austria GmbH | EUR 38,322.90 |
| Ale Kommun | EUR 39,399.50 |
| Kosice Valley z.p.o. | EUR 18,291.00 |
| Stadt Gelsenkirchen | EUR 39,481.40 |
| TOTAL | EUR 254,711.80 |