

SATLABS GROUP^{EEIG}

LIABILITY AGREEMENT

(Annex to the Internal By-Laws)

1. *SatLabs members, as well as associate members, are aware that a European Economic Interest Grouping (EEIG) has the following liability regulations **by law** (EC Regulation 2137/85):*

1.1. Liability principles and exemptions:

In the preamble: “whereas the protection of third parties requires widespread publicity; whereas the members of a grouping have unlimited joint and several liability for the grouping’s debts and other liabilities, including those relating to tax or social security, without, however, that principle’s affecting the freedom to exclude or restrict the liability of one or more of its members in respect of a particular debt or other liability by means of a specific contract between the grouping and a third party”;

1.2. Liability before registration:

In art. 9 EC Regulation: If activities have been carried on behalf of a grouping before its registration in accordance with art. 6 [which says, that a grouping shall be registered in the State in which it has its official address, at the registry designated...] and if the grouping does not, after its registration, assume the obligations arising out of such activities, the natural persons, companies, firms or other legal bodies which carried on those activities shall bear unlimited joint and several liability for them;

1.3. Liability of managing directors and of the EEIG for them:

In art. 20 EC Regulation: Each if the managers shall bind the grouping as regards third parties when he acts on behalf of the grouping, even where his acts do not fall within the objects of the grouping, unless the

grouping proves that the third party knew or could not, under the circumstances, have been unaware that the act fell outside the objects of the grouping; publications of the particulars referred to in art. 5 (c) [on the objects for which the grouping is formed] shall not of itself be proof thereof.

1.4. General liability (joint and several):

In art. 24 EC Regulation: The members of a grouping shall have unlimited joint and several liability for its debts and other liabilities of whatever nature. National law shall determine the consequences of such liability.

This is also repeated in the article 13 of the Articles of Association.

1.5. “Subsidiarity liability” of the EEIG:

Art. 24 (2) says: Creditors may not proceed against a member for payment in respect of debts and other liabilities, in accordance with the conditions laid down in paragraph 1 [see above under 1.4.], before the liquidation of the grouping is concluded, unless they have first requested the grouping to pay and payment has not been made within an appropriate period.

1.6. Liability of new members for the debts before their admission:

Art. 26 (2) stipulates that “every new member shall be liable, in accordance with the conditions laid down in art. 24 [see above under 1.4. and 1.5.], for the grouping’s debts and other liabilities, including those arising out of the grouping’s activities before his admission.

However, in article 8 (2) of the Articles of Association there is stipulated that “new members shall not have unlimited joint and several liability, in respect of third parties, for the payment of debts of the grouping that originated prior to their admission, it being understood that the EEIG shall be responsible for the publication of the clause exempting the new

members timely after their admission, according to the applicable law”
(see also number 1.7. of this Liability Agreement).

1.7. Exemption of old debts for new members:

Art. 26 (2): He may, however, be exempted by a clause of the contract for the formation of the grouping or in the instrument of admission from the payment of debts and other liabilities which originated before his admission. Such a clause may be relied on as against third parties, under the conditions referred to in art. 9 (1) [on publication of any protection clause in the register], only if it is published in accordance with art. 8 [on compulsory publications in the register].

1.8. Liability of former members

Art. 37 (1) stipulates that “a period of limitation of five years after the publication ... of notice of a member’s ceasing to belong to a grouping shall be substituted for any longer period which may be laid down by the relevant national law for actions against the member in connection with debts and other liabilities arising out of the grouping’s activities before he ceased to be a member.

According to art. 12 Articles of Association, when a member ceases its membership his existing rights and obligations will not be affected.

The same legal perception of a period of limitation is valid in case of a liquidation of a grouping [art. 37 (2)].

2. *In addition, the SatLabs members, as well as associate members, agree to the following **contractual restrictions**:*

2.1. General attempts

SatLabs will use all efforts to exclude liability of itself and its members arising from its activities towards third parties, e.g. by including disclaimers and liability exclusions in its official documents or by excluding or limiting liability in contracts.

2.2. Internal distribution of liability

It is evident that due to the differences in size and financial strength the members of SatLabs can distribute by separate agreement their liability in an asymmetric way, i.e. the internal liability can be distributed differently to different organisations.

2.4. Internal controlling

SatLabs will set up and exercise a controlling system to verify that its members spend the allocated means in a contractual way and according to the intended spending. Members agree that SatLabs can – by SatLabs itself or by thirds – induce controlling measures at all time, including spot checks.

2.4. External controlling and auditing

This controlling system can also be transferred to external auditors. In the case of external auditors, they have to be asked for exercising strict controlling mechanisms towards SatLabs members and their projects, in order to prevent them to be liable for any damages.

2.5. Liability limitations or exemptions

2.5.1. Restriction of liability to the amount of third party (e.g. research) means

The SatLabs members agree that in contracts SatLabs signs with donors, it will be entitled on its own choice either

- to restrict its liability on the amount of financial means given to SatLabs or by SatLabs to a single project e.g. in a call, or
- to restrict its relevant liability to a quota, or
- to exclude its liability.

2.5.2. Restriction of liability when accepting funds from a donor

SatLabs can also agree upon a restriction of liability, which is applicable when accepting funds from a donor; then the grant can be accepted only if the terms and relations of this grant limit the responsibility of SatLabs or of SatLabs and the involved member or members. The measure of this is that the SatLabs member or members will be able to conform to the terms and conditions of the grant. Under these auspices, SatLabs has also to try to limit the liability for the grant to the amount, which has been received.

2.5.3. Restriction of liability for research means “out of hands”

When research funds are given to members or their country's research funding agencies or research organisations via SatLabs, SatLabs sets up as a rule that from the moment the money is out of the *de facto* influence of SatLabs, it declines any responsibility for the amount of funding in the particular case.

2.6. Insurances

If SatLabs would be involved in activities, which can be insured it will arrange for sufficient insurance coverage for any risks resulting from its operations.

2.7. Further decisions to limit liability

If SatLabs – the management or the members – deem it necessary they can always induce a members' decision on further measures to limit liability, in the given legal framework.

2.8. Associate members

All members and associated members agree that this Liability Agreement is accepted by and applicable to the associated members as well, and where there has been written "members" also the associated members are meant.

2.9. Adoption and modification of this Liability Agreement

This Liability Agreement has been adopted by a $\frac{3}{4}$ majority voting of the members' assembly. It can be modified with a $\frac{3}{4}$ majority as well.

Noordwijk, August 8th 2006