

Membership Agreement for SCILAB Consortium

BETWEEN:

Institut National de Recherche en Informatique et en Automatique (French National Institute for Research in Computer Science and Control)

A Public Scientific and Technological Body

Established by Order No. 85,831 of August 2, 1985 as amended,

Domaine de Voluceau - Rocquencourt - B.P. 105- 78 153 Le Chesnay

Represented by its Chairman and CEO, Gilles KAHN

Hereinafter "**INRIA**,"

AND:

Corporate Name	
Legal form and share capital (in euros)	
Legal identification number	
Name and position of legal representative	
Principal office address	
Postal code	
City	
Country	

Hereinafter "**the Member**"

<p>If the member is domiciled in the European Community (other than France), specify: whether you are subject to VAT: YES / NO</p>

Designated collectively hereinafter "**the Parties**" or individually as "**the Party**"

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WHEREAS:

- Scilab is a scientific software package for numerical computation developed by the INRIA and the ENPC (École Nationale des Ponts et Chaussées);
- Scilab is distributed free of charge since 1994 under an "open source" license via the website www.scilab.org;
- In order to ensure Scilab's success over the coming years, particularly in industry and around the world, we must assure users of the product's credibility and continuity; respond to new requirements in terms of product quality, distribution and support; achieve visibility in developments to come; and lead and unite the contributing scientific community;
- these new demands require a new support and development organization for the Scilab product;
- Accordingly, the INRIA wishes to form a consortium to allow it to bring together industrial and academic partners around the world and create a network of contributors and a team that will develop and publish the versions, assume scientific leadership, and provide for quality assurance and product promotion;
- Scilab's announced objective is to become a quality scientific software package within four years and an international standard in the academic world and industry.
- In accordance with the initial contract provisions, this conditions have been amended. This contract is an amended version integrated the modifications that the first participants to scilab consortium agreed in an amendment of the initial contract.

THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

ARTICLE 1. Definitions

Participant: means a Member or Contributor, without distinction.

Prior Knowledge: means any type of knowledge, patent applications, patents, software, other intellectual property rights including industrial property rights and copyrights, processes, technologies, technical files, know-how and information of any nature on any media, in the same field as the Field of Activity or a related field, first implemented or verified by the INRIA and/or the Participant, which was obtained prior to or independently of this Agreement and required for due performance of this Agreement. Prior Knowledge includes, in particular, versions 2.6 and 2.7 of the Scilab software.

Membership Agreement: means this Agreement and all agreements executed by the INRIA pertaining to the same subject.

Contributors: means any natural person who has executed a Contributors' Charter agreement with the INRIA.

Accepted Contribution: means any contribution of any kind (code, documentation, etc.) accepted by the Steering Committee, in particular, for inclusion in the standard version of Scilab.

Start Date: means the date of signature of the first Membership Agreement between INRIA and a Member.

Field of Activity: means the field of scientific calculation.

Affiliate: means any existing or future legal entity controlled by a Member:

- where the Member directly or indirectly holds a percentage of the capital conferring a relative majority of the voting rights in that entity's annual meetings of shareholders;
- where the individual Member holds a relative majority of the voting rights in that entity pursuant to an agreement with other partners or shareholders that is not contrary to the entity's interests;
- where the Member, by virtue of the voting rights held, determines the outcome of votes by that entity's annual meetings of shareholders.

The Member is presumed to exercise control when the Member directly or indirectly holds more than 40% of the voting rights and no other partner or shareholder directly or indirectly holds a greater percentage of shares.

Member: means any legal entity that has signed a Membership Agreement with INRIA, as well as its affiliates. The Members are organized in colleges as provided in Article 4.3.b.

Results: means experimental prototypes created by the Parties in connection with Research and Development activities under this Agreement, including knowledge of any nature, patent applications, software (source and object code), all intellectual property rights including industrial property rights and copyrights protecting the creations or improvements made or designed using resources contributed by the Parties in connection with this Agreement, processes, technologies, technical files, know-how and all information, regardless of its nature or medium.

ARTICLE 2. Purpose

2.1 The purpose of this Agreement is to define the terms of cooperation between the parties in efforts to improve and distribute the Scilab software and the Member's leadership role in the scientific community organized in support of the software, referred to hereinafter as the "Scilab Consortium."

2.2 The Parties declare that this Agreement cannot be construed as creating a company, consortium having legal status, partnership, or de facto partnership. There is no intent to form a partnership (*affectio societatis*), share profits or contribute to losses.

ARTICLE 3. Term and Effective Date

3.1 This Agreement shall take effect upon signature by the Parties. It shall expire on December 31, 2006 and may be renewed by amendment.

3.2 However, the provisions of Articles 7-9, 16 and 17 shall survive this Agreement after expiration or termination.

ARTICLE 4. Framework for Cooperation

4.1 - General

The Scilab Consortium is comprised of a Conference of Participants, a Steering Committee and a Scientific Board. In addition to these bodies is an Operational Team.

Each Member shall appoint a natural person as representative, who shall exercise its right to vote, and an alternate. The Member agrees to advise the INRIA immediately in writing in the event of a change of its representative or alternate.

Each Participant shall have one vote and may be represented by another Participant or the Chairman of the Consortium.

The quorum rules shall apply to the Participants present or validly represented. In voting on any matter first deliberated in one of the Consortium's bodies, the required quorum shall be 2/3 of that body's membership. Decisions shall be made by a relative majority unless otherwise provided.

If the required quorum is not present at the time of voting, the vote shall be decided by a relative majority of voters within a period of from two (2) to fifteen (15) working days, conducted in the most appropriate manner.

4.2 - Chairman of the Consortium

a. Appointment

The Chairman of the Consortium shall be elected by the Steering Committee by single roll-call vote for a term not to exceed that of this Agreement. He shall be elected by a relative majority of votes subject to the presence of a quorum. In the event of a tie, the elder candidate shall be elected.

If the Steering Committee has not yet been elected, the INRIA shall, on an exceptional basis, appoint the first chairman and advise the Participants of its decision.

b. Role

The Chairman of the Consortium shall convene the Conference of Participants and the Steering Committee. He shall promote the Consortium's visibility both nationally and internationally.

In the event of a tie vote by the Conference of Participants or the Steering Committee, the Chairman shall cast the deciding vote.

The Parties agree that the Chairman cannot in any way be considered or consider himself their representative or agent authorized to act on their behalf vis-à-vis third parties.

4.3 - Conference of Participants

A Conference of Participants is hereby established, which shall be comprised of four Member colleges and a college of Contributors.

a. Role

The Conference of Participants shall elect the persons taking part to the Steering Committee and to the Scientific Board in accordance with the terms set forth below. It shall decide any other matter proposed for the agenda by the Steering Committee. Modifications to this Agreement (other than the amount of dues) or the Contributors' Charter shall be set forth in an amendment following the vote and sent to the Participants for signature subject to the provisions of Article 10.3.

b. Membership

Persons taking part to the Conference of Participants shall be the Consortium's Members and Contributors.

Any corporation may acquire the status of Member by signing a Membership Agreement.

There are four Member colleges:

- A and AA for Members paying annual dues of €2,000,
- B for Members paying annual dues of €3,000,
- C for Members paying annual dues of €5,000.

As indicated above, membership in an association is determined by the level of dues or for AA college by the satisfaction of the hereafter conditions. The minimum dues depend on the number of persons employed by the Member, on the understanding that each Member may pay a higher level of dues to change its college:

- Members having less than 50 employees shall be required to pay minimum dues of €2,000,

- Members having 50 to 499 employees shall be required to pay minimum dues of €8,000,
- Members having more than 500 employees are required to belong to college C and shall be required to pay dues of €25,000.

Without prejudice to the foregoing provisions, for purposes of the first dues payment, the Member shall indicate by letter the college to which it wishes to belong based on the number of employees on the date of signature of the Agreement.

AA college members should be an organization entitled to deliver state degrees (degrees or diplomas delivered by the *education national* government department) or the organization that delivers engineers degrees recognized by the *commission des titres d'ingénieurs* created by the law of July the 10th 1934, or delivering endorsed diplomas. They should produce a written evidence of their here above described situation.

In view of its previous investments in Scilab, the ENPC is exempt from payment of dues for the term of the Consortium and shall belong to college C.

The INRIA, in view of the substantial efforts it has contributed and shall continue to contribute under this Agreement, is exempt from payment of dues and shall belong to college C.

Subject to the following provisions, natural persons or "Contributors" shall have the same rights and obligations as Members.

An individual may acquire the status of Contributor by:

- first, making a contribution accepted by the Steering Committee ("Accepted Contribution"), and
- second, signing the Contributors' Charter.

The Contributor's status is maintained, within the term of this Agreement, as long as the contribution retains the status of Accepted Contribution. Contributors do not pay annual dues for the Consortium as described above.

Other contributions are available on the website www.scilab.org.

A list of all Participants is also available to the public on the website www.scilab.org.

c. Operating Procedures

The Conference of Participants shall meet once every year upon notice by the Chairman of the Consortium. The notice of meeting shall be given by e-mail or any other means at least one month prior to the date of the meeting. The notice shall indicate the agenda, the time and place of the meeting and a proxy form. Any Participant may request the inclusion of additional agenda items within 2 weeks following the respective notice of meeting.

The results of the Consortium's activities during the previous year shall be presented under the Chairman's supervision at the annual Conference of Participants.

Decision of the Conference of Participants shall be made by a relative majority of votes subject to the presence of a quorum in accordance with Article 4.1. In case of a tie vote, the Chairman shall cast the deciding vote.

For purposes of electing the Steering Committee, each college shall designate representatives from among persons taking part to it:

- 2 for college AA,
- 1 for college A,
- 2 for college B,
- 5 for college C,
- 3 for the college of Contributors.

For purposes of electing the Scientific Board, each college shall designate representatives from among persons taking part to it:

- 2 for college AA,
- 1 for college A,
- 1 for college B,
- 2 for college C,
- 4 for the college of Contributors.

The Participants may participate in events, seminars and working groups organized by the Consortium. An annual symposium open to non- Participants is also planned.

Minutes of the Conference of Participants shall be distributed to them.

A system shall be established to facilitate efficient distribution of information to Members as well as private discussion among them.

4.4 - Steering Committee

A Steering Committee is hereby established.

a. Role

The principal functions of the Steering Committee shall be as follows:

- it is the decision-making body representing the Consortium's Conference of Participants. As such, it defines major strategic goals, including the terms and conditions applicable to the license and priorities for development, which are taken into consideration or proposed by the Scientific Board and implemented by the Operational Team;
- it appoints and removes the Chairman of the Consortium;

- it appoints and removes the Chief Technology Officer on the recommendation of the INRIA;
- it chooses the Accepted Contributions; it establishes the amount of annual dues under the terms provided in item c, which shall be subject to approval by the INRIA board of directors;
- on the recommendation of the Chief Technology Officer, it establishes the Consortium's annual budget;
- it establishes major technical objectives;
- it identifies the promotional activities to be undertaken in order to increase the Consortium's and the Scilab software's visibility and reputation;
- in the event of termination prior to expiration as provided in article 10.2 or termination of the Agreement, the Steering Committee shall decide on the use of available funds in accordance with applicable INRIA accounting rules.

b. Membership

Subject to the following provisions, the Steering Committee shall include a maximum of 15 persons taking part, including the ten Consortium Members and three Contributors elected in accordance with Article 4.3 and the Chief Technology Officer. It is chaired by the Chairman of the Consortium. The Chairman of the Scientific Board also attends meetings in an advisory capacity but is not entitled to vote.

In addition to the INRIA and the ENPC, any Contributor and any Member that has paid its dues for the current year shall be eligible for the Steering Committee.

The Parties agree that the ENPC shall be an additional person taking part to the Steering Committee during the first year.

Persons taking part to the Steering Committee shall be elected for a one-year term, which shall be renewable within the limits of the term of this Agreement.

The Steering Committee membership is available on the website www.scilab.org.

c. Operating procedures

The Steering Committee shall meet on a regular basis (at least three times per year) upon notice by the Chairman of the Consortium.

The notice of meeting shall be given by e-mail or any other means at least one month prior to the date of the meeting. The notice shall indicate the agenda, the time and place of the meeting and a proxy form. Any person taking part to the Steering Committee may request the inclusion of additional agenda items within 2 weeks following the respective notice of the Committee meeting.

Decision of the Steering Committee shall be made by a relative majority of votes subject to the presence of a quorum in accordance with Article 4.1. In case of a tie vote,

the Chairman shall cast the deciding vote. Decisions regarding the level of dues shall require a majority of 75% subject to the presence of a quorum in accordance with Article 4.1.

Persons taking part to the Steering Committee shall agree to comply with the obligations of confidentiality set forth in Article 7 with respect to information provided to them as such.

Minutes of the meetings of the Steering Committee shall be sent to the persons taking part to that Committee and to the Participants when the Committee's decisions concern the level of dues.

The INRIA shall have the right to veto decisions as to matters within its purview, in particular:

- management of the Consortium's accounts,
- management and hosting of the domain name (www.scilab.org) and the associated intellectual property titles and rights,
- signature of Membership Agreements and Contributors' Charters,
- collection of dues.

4.5 - Scientific Board

A Scientific Board is hereby established.

a. Role

The principal functions of the Scientific Board shall be as follows:

- analysis of the scientific value of contributions,
- review of the scientific value of developments to be carried out,
- promotion of Contributor networks by proposing events to build on them,
- recommending distinctions to recognize contributions not accorded the status of Accepted Contributions as well as their contributors.

b. Membership

The Scientific Board shall comprise a maximum of 12 persons taking part, i.e., the Chief Technology Officer, the Manager responsible for coordinating the Contributor network, six Members and four Contributors.

The Scientific Board shall elect a Chairman by a relative majority in a single roll-call vote, subject to the presence of a quorum in accordance with Article 4.1. In the event of a tie, the elder candidate shall be elected.

The persons taking part to the Scientific Board shall be appointed for a one-year term, which shall be renewable within the limits of the term of this Agreement.

The Scientific Board membership is available on the website www.scilab.org.

c. Operating procedures

The Scientific Board shall meet on a regular basis (at least three times per year) upon notice by its chairman.

The notice of meeting shall be given by e-mail or any other means at least one month prior to the date of the meeting. The notice shall indicate the agenda, the time and place of the meeting and a proxy form. Any person taking part to the Scientific Board may request the inclusion of additional agenda items within 2 weeks following the respective notice of the Board meeting.

Decisions of the Scientific Board shall be made by a relative majority of votes subject to the presence of a quorum in accordance with Article 4.1. In case of a tie vote, the Chairman shall cast the deciding vote.

4.6 - Operational Team

The Scilab Consortium shall be assisted by an Operational Team in implementing the decisions of the aforementioned bodies.

The team is organized as follows:

- *The Chief Technology Officer*, who shall serve as manager of the Operational Team. He shall decide its membership and coordinate its activities. He shall recommend a budget for the approval of the Steering Committee and shall be responsible for the expenses incurred. He shall periodically report to the Steering Committee. For the purpose of launching the Consortium, the INRIA shall appoint the first Chief Technology Officer and recommend his potential successors for the approval of the Steering Committee.
- *A Promotion and Marketing Manager*, who shall be responsible for promoting the software, recruiting new Members, conducting communications and promotional activities, and communicating the users' needs.
- *A Quality Assurance Manager*, who shall monitor and enhance quality assurance processes used in development and maintenance of the Scilab software.
- *A Contributor Network Development Manager*, who shall monitor and solicit contributions, coordinate and develop the Contributor community and serve as the point of contact for the various bodies for information regarding Accepted Contributions.
- *A Product Manager* responsible for product policy for the Scilab software.

- *A Development Manager*, who shall coordinate the Development Team.
- *A Development Team*, tasked with developing or delegating the development of new functions or enhancement of existing features, evaluating new contributions in collaboration with the Scientific Board for purposes of their acceptance, and to compile and distribute subsequent versions of the Scilab software.

The structure of the Operational Team is provided only by way of guidance.

ARTICLE 5. Financial Terms and Conditions

5.1 - General

In achieving its objectives, the Consortium shall use its own resources, which derive from the Members' dues or other sources of funding.

The INRIA shall collect the funds and provide a statement of receipts and expenses. The funds collected shall be used to finance the Consortium's activities. Only the INRIA shall be authorized to incur expenses on behalf of the Consortium. The accounting methods used by the Consortium shall comply with rules applicable to public accounting, in particular, Order No. 62-1587 of December 29, 1962 concerning general regulations for public accounting and subsequent laws.

Under no circumstances shall the Participants' contributions be deemed a contribution within the meaning of Article 1832 of the French Civil Code. Furthermore, the Participants do not accept joint and several liability for any losses resulting from the performance of this Agreement.

The Participants shall remain independent from one another in all respects. No Member shall bind another Member by acting as the latter's representative unless expressly authorized in a written contract for this purpose.

Each Party shall bear the cost of salary, payroll taxes, travel expenses, training, and seminar registration for its personnel who participate in the Consortium's operations.

All assets, equipment and resources made available by the Parties to one another pursuant to this Agreement shall remain the property of the Party concerned, and shall be returned to it in the same condition at the expiration of this Agreement, the effective date of any termination or, if applicable, at any time upon request presented with the reasons therefore at least thirty (30) days in advance.

5.2 - Members' Annual Dues

Annual dues shall be determined each year by the Steering Committee. Dues for the first calendar year shall be as follows:

- €2,000 euros for college A and for college AA ;
- €8,000 for college B;
- €25,000 for college C.

All dues shall remain the property of the INRIA and shall be deposited to an account opened by the INRIA for the purpose of this Agreement.

In regard to applicable dues, the INRIA shall send each Member an invoice for the amount of its annual dues within the first quarter of each calendar year, to be paid in accordance with the financial terms and conditions of this Agreement. Those Members that join during a calendar year shall pay proportional annual dues based on the number of months remaining in the calendar year. The calculation shall be made from the month following signature of the Membership Agreement.

The Member agrees to pay the INRIA the amount invoiced for applicable dues. The VAT rate applicable to this Agreement shall be the rate in effect at the time of the event giving rise to payment.

Members domiciled within a member State of the European Community and subject to VAT shall pay the tax to the appropriate agency in their country.

Members domiciled within a member State of the European Community but not subject to VAT shall pay the tax in France.

The Member agrees to pay the invoice within ninety (90) days of receipt. The Member's payment shall be made by check or wire transfer through the Trésorerie Générale des Yvelines to the following account opened on behalf of the Accounting Agent:

Bank code: 10071
Branch: 78000
Account No. 00003003958
Key: 80

After the 90 days mentioned above, interest shall automatically be charged on the amount due at the legal rate plus two (2) points without need of prior notice, said interest being due and payable solely by expiration of the contractual time limit.

In the case of French or foreign public institutions, the terms and conditions of payment and interest shall be those imposed by their respective laws if the latter conflict with the aforementioned terms and conditions and no derogation therefrom is possible. In such case, they shall submit the legal documentation required to verify the restriction imposed.

The Parties agree that this clause is not a penalty clause and therefore may not be modified by a court, insofar as it is not a sanction but interest for payment terms granted to the Member by the INRIA.

ARTICLE 6. Obligations of the Parties

6.1 - Obligations of Participants

Each Participant shall bear the expenses relating to its own personnel (wages and salaries, travel, etc.) and any associated supervisory authority.

The Participants agree to participate in the Scilab Consortium and comply with all of its organizational and operation rules and in general to comply with all obligations established by this Membership Agreement.

The Member agrees to pay its annual dues in accordance with the terms and conditions set forth above.

The Member agrees to inform the INRIA by mail, and to forward the legal notice if applicable, of any amendment of its corporate charter during its membership in the Consortium or any change in the number of its employees which may affect the amount of its dues.

6.2 - Obligations of the INRIA

The INRIA agrees to devote all resources necessary to fulfilling its obligations under this Agreement.

The INRIA agrees to dedicate five persons to the operations and activities of the Operational Team.

In particular, the INRIA shall :

- provide financial and physical resources for the Consortium (offices, machines, etc.);
- provide technical support and accommodation for the servers required to host the website www.scilab.org.

6.3 - Particular obligations of the members

The members shall :

- promote and/or use Scilab in its establishment and/or in its products offering and/or its service offering;
- participate to Consortium works and working groups and spend necessary time;
- accept to give information that may be displayed in the Consortium documents;

have a fair behavior with respect to the other members of the Consortium concerning the links with Scilab.

ARTICLE 7. Confidential Information

7.1 – In general, information disclosed by the Participants cannot be considered confidential.

However, each Party may request that information submitted to the Steering Committee or Operational Team or other members be treated as confidential.

Such Party agrees to identify in writing the elements for which it requests confidential treatment and to ensure that the notation "*Confidential*" appears on the documents in question regardless of the medium.

Each Party agrees to treat elements and information provided to it as confidential as though they were its own and to ensure that its employees, associates and/or third parties duly authorized by the Parties comply with this obligation.

Each Party shall refrain from using confidential information of the other Party exchanged in connection with this Agreement solely for purposes of the Agreement and not to make any other use of the information or document without the prior written consent of the originating Party.

7.2 - This obligation of confidentiality shall remain in effect throughout the term of this Agreement and for five (5) years after its expiration.

However, it shall not apply to information as to which the Party receiving it can show:

- that it was already in the public domain or became public through no fault of its own,
- that it was already in its possession prior to receiving it from the originating Party (providing evidence from its own files), or
- that it properly received the information from a third party entitled to disseminate it.

ARTICLE 8. Publications

The Participants may freely publish their research findings. Subject to the provisions of Article 7, publications by the Operational Team shall indicate that the work was performed in connection with the Consortium.

ARTICLE 9. Intellectual Property

9.1 - Prior Knowledge

Each Member shall retain exclusive title to all intellectual property rights in its Prior Knowledge.

At the effective date of this Agreement, the Scilab software is governed by the "open source" license attached as Appendix 1. In accordance with Article 4.4, the Steering Committee may determine the choice of new terms and conditions applicable to the Scilab software license.

9.2 - Results

The Results shall remain the property of the Party that produces them. Each Party shall take the legal and contractual measures necessary to ensure full protection of said Results.

Accordingly, the Operational Team's Results shall be the property of the INRIA, which agrees to distribute them under an "open source" license to be subsequently defined by the Steering Committee.

Released versions of Scilab and its documentation are classified as collective works and the Parties agree to their disclosure by the INRIA, which will register them with the Agence de Protection des Programmes (Agency for the Protection of Programs). However, each author of constituent elements of the collective work shall retain the right to reproduce and exploit its creation provided that it refrains from competing with exploitation of the collective work as a whole.

9.3 - Trademark and Domain Name

a. Trademark

The Member acknowledges that the INRIA is the owner of the French Scilab trademark No. 02.3.162.874 reproduced in Appendix 2 and all associated rights. Procedures have been instituted to expand this trademark based on priority date to the countries selected by the INRIA.

The INRIA agrees to maintain its trademark registration throughout the term of this Agreement.

The INRIA agrees to grant a license to use the Scilab trademark upon written request. Such license shall be set forth in a separate agreement.

The Member authorizes by this contract the INRIA to use its name, protected by a trademark or as a corporate name. This use will be restricted to the communication needs of the Consortium. The Member agrees to notify the INRIA of this name and of the corresponding graphics expression to be used with this name.

b. Domain name

The Member acknowledges that the INRIA is the registered owner of the domain name "scilab.org," and that it agrees to maintain the registration throughout the term of this Agreement.

ARTICLE 10. Termination

10.1 - By Mutual Agreement

This Agreement may be terminated prior to its expiration by agreement of both Parties. Such termination shall be set forth in an amendment signed by the Parties which shall specify the terms and conditions of termination.

10.2 - Unilateral

In the event the number of Members of college C falls to five (5) or less, the INRIA may decide to unilaterally terminate this Agreement without such termination entitling the other Party to damages.

In such case, the INRIA shall notify the Participants, via certified mail with acknowledgment of receipt, of its intention and the terms and conditions of termination, which may be set forth in an amendment signed by the Parties if necessary.

10.3 - Other Grounds for Termination

As provided in Article 4.3, the Conference of Participants may vote to modify this Agreement. Such modifications shall be set forth in an amendment sent to the Participant following the vote. The Member shall have a reasonable period of time to sign the amendment. If it fails to do so, this Agreement shall be automatically terminated.

ARTICLE 11. Notices

Correspondence to the INRIA shall be sent to the following address:

INRIA
Direction du Développement et Relations Industrielles
Consortium Scilab
Domaine de Voluceau - Rocquencourt
BP 105
78153 Le Chesnay Cedex
France

Correspondence to the Participants shall be sent to the address appearing on the cover page. If the billing address differs from the previous address, the Member shall provide it below:

Corporate Name	
Department	
Address	
Postal code	
City	
Country	

ARTICLE 12. Force majeure

If an event of force majeure occurs, this Agreement shall not automatically terminate.

The alleged force majeure event must have a direct effect and render compliance with the unfulfilled obligation absolutely impossible in order to exonerate the Party which relies on such event from liability.

The consequences of a force majeure event are expressly limited to direct damages actually incurred.

It is expressly agreed that an obligation not performed by reason of an event of force majeure shall become obligatory as soon as the effects of the force majeure event cease.

Force majeure events and acts of God shall be those customarily recognized by the French courts and tribunals.

ARTICLE 13. Headings and Severability of Clauses

If one or more clauses or provisions of this Agreement are found invalid or declared invalid pursuant to a law, regulation or final decision by a competent court, the remaining clauses and provisions shall remain in full effect.

ARTICLE 14. Assignment of Agreement

Neither Party may assign all or part of this Agreement, with or without consideration, to a third party without the express written consent of the other Party. Such assignment shall take the form of an amendment to this Agreement.

ARTICLE 15. Entire Agreement and Amendment

This Agreement and its Appendices constitute the entire agreement of the Parties as to its subject. It supersedes and replaces all previous oral or written agreements between the Parties as to the same subject as provided in Article 2.

The provisions of this Agreement, other than the amount of dues, may be modified only through an amendment signed by the Parties.

ARTICLE 16. Applicable Law

This Agreement shall be governed by French law.

ARTICLE 17. Dispute Resolution

The Parties shall endeavor to resolve any dispute as to the interpretation, performance or validity of this Agreement within a period of two (2) months from the date it arises. If the dispute is not resolved, it shall be submitted to the competent court of Paris.

Executed in two counterparts at Rocquencourt, this

For the INRIA

For the Member

Appendix 1: Scilab Software License

1- Preamble

The purpose of this license is to establish the terms and conditions under which you may use, modify and distribute the Software. However, the INRIA and the ENPC shall remain the authors of the Software and retain the use of all rights attached thereto.

2- Definitions

The Software consists of all successive versions of the Scilab software and the respective documentation developed by the INRIA and the ENPC.

Scilab-Derived Software shall comprise all or part of the Software that you have modified, translated or customized.

Scilab Composite Software shall comprise all or part of the Software for which you have created an interface to a software program or package or utilities of which you are the owner or licensee.

3- Purpose, terms and conditions of the Software license.

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