

APPENDIX 9
to the Zinc Consortium Agreement

Letter of Access for referral (Model)

European Chemicals Agency
P.O. box 400
00121 Helsinki
FINLAND

Letter of Access for the registration of the substance [*insert the short name of the substance to be registered*] under REACH Regulation 1907/2006/EC.

Dear Sirs,

The Zinc Reach Consortium constituted on July 1st, 2007 on the registration of the substance [*insert the short name of the substance to be registered*] under REACH Regulation (hereafter referred to as “the Consortium”) agrees that the data, studies, summaries, waiving argumentations, reasoning of testing proposals and/or assessments specified in detail below owned by Consortium Members and submitted by the Consortium in support of the registration under REACH Regulation of:

Substance: [*insert the exact name of the substance to be registered*]

(hereinafter collectively referred to as the “Dossier”), may be cited or referred to by

Applicant: [*insert the name of the Legal Entity*]

in order to support Applicant’s registration of the above mentioned substance under REACH Regulation.

The Dossier covers documents as follows:

- a) *Token provided by the Lead Registrant for the purpose of a joint registration.*
- b) *Information necessary for additional exposure scenario according to requirements in REACH Regulation and information necessary for inclusion in the Safety Data Sheets*
- c) *Full list of identified uses for the substance according to what is known by the Consortium*
- d) *Agreed Classification and Labelling*

The right to cite or to refer to the Dossier is subject to the following restrictions:

1. The Applicant is allowed to refer to the Dossier for the sole purpose of registration of the [**Substance Name**] under the REACH Regulation.

2. The right of referral is solely granted in favour of the Applicant and is neither transferable nor assignable to any other entity (even if Applicant's affiliated company) or person, without prior written consent of the Consortium Members.
3. Unless otherwise agreed, the Applicant is not authorised to receive any copies of the Dossier nor is it authorised to inspect or view the Dossier or any related specific document in whole or in part except (i) the documents that are published on the internet pursuant to Article 119 of the REACH Regulation, and (ii) the information above, under a, b, c and d.
4. In any case, the Applicant may not disclose to third party confidential and/or proprietary information received from the Consortium without the prior written consent of the Consortium, except if such communication is made to the European Chemicals Agency or any other competent authorities in strict accordance with the REACH Regulation.
5. To the extent permitted by law, the Consortium shall not be liable in contract or otherwise for any direct, indirect or consequential loss or damage, including loss of profit or of business, sustained by the Applicant.
6. Any disputes or claims relating to this Letter of Access and any legal issues arising from it shall be governed exclusively by Belgian law without regard to its conflict of law rules.

This Letter of Access shall in no event be construed as granting the Applicant any property rights whatsoever (including -but not limited to- intellectual property rights) in the Dossier.

Nothing in this Letter of Access shall require the Consortium to provide or to file any additional data, but the potential updates to the Dossier prepared by the Consortium.

Signature: [Authorized Representative of the Zinc Reach Consortium]

AGREEMENT ON LETTER OF ACCESS

for the registration of [**insert Substance Name**] under the REACH Regulation
1907/2006/EC

The members of the ZINC REACH CONSORTIUM constituted for the registration of various substances including [**insert Substance Name**] under the REACH Regulation 1907/2006/EC

Hereinafter collectively referred to as the “Consortium”

Represented by the International Zinc Association, acting as the Consortium’s secretariat and duly empowered for the purpose hereof,

and

[**LEGAL ENTITY NAME**] with registered office located [●], having the following identification number [**VAT in Europe for example**];

Acting both in its own name and on its behalf, as well as in the name and on behalf of any legal entity which it could represent as ‘Only Representative’ or as ‘Third Party Representative’ in the sense of REACH Regulation,

Hereinafter referred to as the “Legal entity”

Represented by [●], duly empowered for the purpose hereof;

The Consortium and the Legal entity being hereinafter collectively referred to as the “Parties” or individually as the “Party”.

AGREE AS FOLLOWS:

1. The Consortium shall grant a right to cite or to refer to the data, studies and summaries, waiving argumentations, reasoning of testing proposals and/or assessments, which are in the legal possession of and submitted by the Consortium Members in support of the registration under the REACH Regulation of [**insert Substance Name, EC number, CAS number, IUPAC name**] (hereinafter collectively referred to as the “Dossier”) and shall provide the information detailed in Annex 1 to the Legal entity.

Annex 1 may be amended from time to time as agreed in written and signed by the Parties.

2. Letter of access fee

The Legal entity shall pay a fee to the Consortium, based on the aggregated tonnage for **[insert Substance Name]** the Legal entity produces or imports in the European Community.

The General Assembly of the Consortium fixed on September 30th 2009 following fees for the LoAs:

➤ 2.1. Zinc metal

In the minimal tonnage band , applicable in this Consortium (f.i. 1 - 24.999 t/y), the fee for the LoA is fixed at

- 9.000 € when required for referral at the registration deadline of November 2010 ;
- 6.000 € when required for referral at the registration deadline of May 2013 ;
- 3.000 € when required for referral at the registration deadline of May 2018.

For higher tonnage bands, a multiplication will be applied to this minimal price, using similar ratios as those applied for the yearly contributions of Members (ref. Page 44: 4.2, 4.3, 4.4 vs. 4.1)

- From 25.000 to 74.999 t/y > x 3.33 ;
- From 75.000 to 199.999 t/y > x 6.66 ;
- Equal or aAbove 200.000 t/y > x 8.33.

➤ 2.2. Zinc compound

In the minimal tonnage band applicable in this Consortium, (f.i. 1 - 4.999 t/y), the fee for the LoA is fixed at

- 9.000 € when required for referral at the registration deadline of November 2010 ;
- 6.000 € when required for referral at the registration deadline of May 2013 ;
- 3.000 € when required for referral at the registration deadline of May 2018.

For higher tonnage bands, a multiplication will be applied to this minimal price, using similar ratios as those applied for the yearly contributions of Members (ref. Page 44: 54.2, 54.3, 54.4 vs. 54.1)

- From 5.000 to 14.999 t/y > x 1.66 ;
- From 15.000 to 29.999 t/y > x 3.00 ;
- From 30.000 to 49.999 t/y > x 4.00 ;
- Equal or aAbove 50.000 t/y > x 5.00.

➤ 2.3. Zinc Intermediate

The fee for the LoA is fixed at 6.000 € for Intermediates declared above 1000t/y and 3000 € for Intermediates declared below 1000 t/y.

Following the signature of the present agreement and upon receipt of the corresponding invoice issued by the Consortium's secretariat, the Legal entity will be invited to pay the fee, preferably in one payment in the month following the date of signature of the present Agreement. Optionally, on specific request, it may be accepted to fraction the payment in two installments:

- 50% in the month following the date of signature of the present agreement, and
- the balance will be due, at the latest, six months before the dossier submission deadline; no systematic reminder will be sent

3. Provided the letter of access fee referred to in Article 2 of this agreement has been duly paid, the Legal entity shall receive from the Consortium:

- a letter of access (herein referred to as the “**Letter of Access**”), and;
- the information listed in Annex 1 necessary for the registration of **[Substance Name]**.

4. The Letter of Access shall state that the Legal entity has the right to cite or to refer ('right of referral') to the Dossier prepared by the Consortium in support of the registration under the REACH Regulation of the **[Substance Name]**. The Letter of Access shall cover any updates of the Dossier made by the Consortium. Each Letter of Access shall be signed by the Legal entity in two original copies, one for itself and one to be returned to the International Zinc Association.

5. The Parties agree that the right of the Legal entity to refer to the Dossier is subject to the following restrictions:

5.1. The Legal entity is allowed to refer to the Dossier for the sole purpose of registration of the **[Substance Name]** under the REACH Regulation.

5.2. The right of referral is solely granted in favour of the Legal entity and is neither transferable nor assignable to any other entity (even if Applicant's affiliated company) or person, without prior written consent of the Consortium Members.

5.3. Unless otherwise agreed, the Legal entity is not authorised to receive any copies of the Dossier nor is it authorised to inspect or view the Dossier or any related specific document in whole or in part except (i) the documents that are published on the internet pursuant to Article 119 of the REACH Regulation, and (ii) the information mentioned in Annex 1.

5.4. In any case, the Legal entity may not disclose to third party confidential and/or proprietary information received from the Consortium (cfr. Annex 1) without the

prior written consent of the Consortium, except if such communication is made to the European Chemicals Agency or any other competent authorities in strict accordance with the REACH Regulation.

- 5.5. To the extent permitted by law, the Consortium shall not be liable in contract or otherwise for any direct, indirect or consequential loss or damage, including loss of profit or of business, sustained by the Legal entity in connection with this agreement.
- 5.6. Any disputes or claims relating to this agreement and any legal issues arising from this agreement shall be governed exclusively by Belgian law without regard to its conflict of law rules.
6. This agreement shall not grant any property rights whatsoever (including -but not limited to- intellectual property rights) any property rights whatsoever of the Dossier or any part of it to the Legal entity.
7. Nothing in this agreement shall require the Consortium to provide or to file any additional data with the European Chemicals Agency and/or any other competent authority, but the potential updates to the Dossier prepared by the Consortium..
8. To the maximum extent permitted by law, the Legal entity acknowledges and accepts that the Lead Registrant (who will submit the Dossier to the European Chemicals Agency on behalf of the other registrants) shall not be liable for any direct, indirect or consequential loss or damage, including loss of profit or of business, sustained by the Legal entity in connection with the Joint Submission except if the liability is attributable to the gross negligence or wilful misconduct of the Lead Registrant.
9. The Consortium and any of its members shall have the right to enforce this agreement against the Legal entity.
10. No amendments to or changes or modifications of this agreement may be made except in writing signed by a duly authorised representative of each of the Parties.
11. This agreement does not give any Consortium membership rights to the Legal entity.
12. Any and all disputes, controversies or claims which may arise between the Parties in connection with the interpretation of any provision of this agreement or its validity or enforceability, or the breach of termination of it, or the performance or non performance of any obligations under the terms and conditions of this agreement shall be settled by an amicable effort on the part

of the Parties. An attempt to arrive at a settlement shall be deemed to have failed as soon as one of the Parties so notifies the other in writing.

If an attempt at settlement has failed, the Parties will submit the dispute, controversy or claim to the exclusive jurisdiction of the Belgian courts.

During the period of any court proceedings, the Parties shall continue to perform their respective obligations under this agreement insofar as the circumstances will allow it but without prejudice to a final adjustment in accordance with the court decisions.

Each undersigned Party shall execute two (2) signature pages, retain one for its file and communicate the other to the other Party.

FOR THE ZINC REACH CONSORTIUM MEMBERS:

By: _____
(Signature)

(Name)

TITLE: _____

DATE: _____

FOR THE LEGAL ENTITY:

By: _____
(Signature)

TITLE: _____

DATE: _____

Annex 1 - LoA Agreement

| No | Information provided |
|----|--|
| 1. | Token provided by the Lead Registrant for the purpose of a joint registration. |
| 2. | Information necessary for additional exposure scenario according to requirements in REACH Regulation and information necessary for inclusion in the Safety Data Sheets |
| 3. | Full list of identified uses for the substance according to what is known by the Consortium |
| 4. | Agreed Classification and Labelling |