

***The Copper Consortium offers, to non-members, Letters of Access to each of its Joint Dossiers on terms set out in this Agreement. The Joint Submission for Copper Final Slag was successfully submitted to ECHA in September 2010.***

## **AGREEMENT AND LETTER OF ACCESS – UPDATED OCTOBER 2016**

Whereas:

- (1) Regulation 1907/2006/EC (the “Regulation”) provides that any manufacturer or importer of a substance, either on its own or in one or more preparation(s), in quantities of one tonne or more per year shall submit a registration (“registration”) of such substance to the European Chemicals Agency, subject to definitions and conditions prescribed by the Regulation;
- (2) a Consortium (the “Copper Consortium”).of interested parties (“Members of the Copper Consortium”) was constituted by agreement on 1<sup>st</sup> November, 2007 for the purposes of the Joint Submission of a registration of the substance Copper Final Slag in accordance with the Regulation;
- (3) the Copper Consortium holds rights to data, studies, summaries, study waiving arguments, testing proposals and assessment (a compilation of knowledge hereinafter called the “Dossier”);
- (4) the Dossier may<sup>1</sup> be necessary to meet the requirements of the registration of Copper Final Slag in accordance with the Regulation;
- (5) guidance on data-sharing issued by the European Chemicals Agency in relation to the Regulation states that “parties sharing data must make every effort to ensure that the costs of sharing the information are determined in a fair, transparent and non-discriminatory way” (Article 27(3) and 30.1”);
- (6) the fee structure set out in this Agreement takes account of this requirement and recognises the investment made by members of ECI and related organisations in the development of the Dossier;
- (7) the Substance Information Exchange Forum (“the SIEF”) (as defined in the Regulation) for Copper Final Slag, established by the process set out in the Regulation, has or has been deemed to have appointed Metallo Chimique NV of Nieuwe Dreef 33, B-2340 Beerse, Belgium, a Member of the Copper Consortium, as Lead Registrant (as defined in the Regulation) for the Joint Submission of a registration of Copper Final Slag;
- (8) on creation of the Joint Submission by the Lead Registrant, a security token will be issued by ECHA to the Lead Registrant to be shared with other participants in the Joint Submission;
- (9) the Lead Registrant has submitted as part of its Joint Submission dossier a Chemical Safety Report (“CSR”). This included exposure scenarios for a list of identified uses of Copper Final Slag and an agreed Classification and Labelling;
- (10) the Copper Consortium has appointed the European Copper Institute of Avenue de Tervueren 168, Bte 10, B1150 Brussels Belgium (“ECI”) to act as Secretariat to the Consortium and has duly authorised ECI to act on its behalf on all matters relating to this Agreement, including its signature on behalf of the Copper Consortium.

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<sup>1</sup> The use of the word “may” recognises that any legal entity is able to provide its own dossier to support its own registration.

ECI, on behalf of the Copper Consortium

and

[Applicant] with registered office located at [ ] the "Applicant"

AGREE AS FOLLOWS:

1. In consideration of the payment of the fee calculated in accordance with Clause 4 of this Agreement by the Applicant to ECI, the Copper Consortium shall grant to the Applicant, by Letter of Access in the terms set out in the Annex to this Agreement, a copy of the CSR, access to a valid security token granted by ECHA to the Lead Registrant for Copper Final Slag, the right to participate in the Joint Submission and the right to refer to the Dossier for the sole purpose of supporting the Applicant's registration of Copper Final Slag in accordance with the Regulation.
2. Using the template in Annex 1, the Applicant shall declare to ECI within five working days of the signature of this Agreement:
  - a. the names of all legal entities falling under the control of the Applicant ("Affiliates") to which the rights conferred by the Letter of Access shall apply.
  - b. the average annual tonnage of Copper Final Slag produced in or imported into the EU by the Applicant (including those of Affiliates) in the three calendar years prior to the date of signature of this Agreement (the "tonnage").
3. If the Applicant is an Only Representative ("OR"), as defined in the Regulation, acting on behalf of a legal entity which is a non-EU producer and/or importer of Copper Final Slag, the Applicant shall complete:
  - a. the requirement of Clause 2a in respect of the legal entity which the Applicant is representing: the Applicant shall disclose the name of the legal entity represented by the Applicant and names of all legal entities falling under its control ("Affiliates") on whose behalf the Applicant seeks the rights conferred by the Letter of Access; and
  - b. the requirements of Clause 2b in relation to the production and/or import tonnage of said legal entity and its Affiliates.
  - c. where the Applicant is an OR, the rights afforded to the Applicant and to ECI and the duties to be undertaken by the Applicant and ECI shall apply as if the legal entity represented by the OR were itself the Applicant. For the purposes of Clauses 10 and 11, the legal entity represented by an OR shall not be treated as a third party, but shall itself be bound by the requirements of Clause 11.
4. On receipt of the information referred to in Clause 2 ECI will issue an invoice to the Applicant for the fee.

Fees have been calculated in a fair, transparent, non-discriminatory and not-for profit manner, pursuant to the cost-sharing formulae and principles defined in the Consortium Agreement. Those below are in place since March 2010. Based on the adequate justification of costs, the Consortium reserves the right to adjust these fees in the future.

The fee shall be as follows:

Given the specificity of the identity of Copper Final Slag, ECI believes that it is very unlikely that a non-member of the Consortium will require a Letter of Access. If any company believes that not to be the case, they are invited to contact ECI at [reach@copperalliance.eu](mailto:reach@copperalliance.eu)

5. The Applicant confirms that, by receiving a copy of the CSR submitted by the Lead Registrant, it has been notified by ECI of the list of identified uses of Copper Final Slag and associated exposure scenarios and agrees with the stated Classification and Labelling. ECI shall not be required to provide to the Applicant any information related to a process, use or exposure not covered by this list.
6. The Letter of Access shall be issued by ECI to the Applicant on receipt of the payment of the fee. The Applicant shall confirm its receipt in writing to ECI.
7. The Letter of Access shall be valid indefinitely. However, REACH is an ongoing business obligation, requiring the update of Core Data to reflect new information and/or guidance. With justification, the Consortium reserves the right to charge LoA customers additional tonnage based fees to secure access to such updates.
8. For the avoidance of doubt, any eventual costs related to Authorisation are not covered by Letter of Access fees.
9. The General Assembly may approve the implementation of a fair and transparent reimbursement mechanism. Any income received from annual membership fees and Letter of Access sales, well in excess of actual expenses, may be refunded to all co-registrants via a method that recognises the total share of costs paid by each member or LoA customer (of each sub-group). Any reimbursement will consider the need for reserves, to keep Core Data up to date, plus determine whether the costs to do so are higher than the amount to be reimbursed.
10. Nothing in this Agreement shall give the Applicant or the Affiliates the right to:
  - a. receive a copy of the complete Dossier;
  - b. inspect or view the complete Dossier, except in so far as the information is published in accordance with Article 119 of the Regulation (for clarity, under Whereas (9), an Applicant receives a copy of the CSR submitted by the Lead Registrant)
  - c. assign, transfer or grant to any third party the rights conferred by this Agreement and by the Letter of Access

without the express written permission of ECI on behalf of the Copper Consortium.

11. Save as required by the Regulation, the Applicant shall not disclose to any third party any information contained in or derived as a result of this Agreement.
12. Nothing in this Agreement shall be construed as giving the Applicant or its Affiliates any property rights whatsoever in the Dossier or any licence or permit to use the information for any purpose other than that specified in this Agreement.
13. Except as required by the Regulation nothing in this Agreement shall be construed as requiring the Copper Consortium or any of the Members of the Copper Consortium including the Lead Registrant to undertake or contribute to the undertaking of, directly or indirectly, any of the obligations imposed by the Regulation on the Applicant.
14. The Copper Consortium or any of its Members including the Lead Registrant or any of its duly authorised agents and representatives shall not be liable to the Applicant in any way whatsoever for any loss or damage arising out of compliance or of non-compliance with the requirements of the Regulation whether arising out of the use of the Dossier or not.
15. ECI shall keep confidential any data such as production or import tonnage disclosed by the Applicant to it for the purposes of this Agreement, and shall not disclose to any of the Members of the Copper Consortium or to any other party such data or any information from which such data can be calculated.
16. In the event of any material breach of this Agreement by the Applicant ECI may cancel any rights granted to the Applicant by this Agreement and by the letter of Access issued to the Applicant. In

such circumstances, the Applicant shall not be entitled to a refund of any part of the fee paid by the Applicant to ECI.

17. Any and all disputes which may arise between the parties in connection with this Agreement shall be settled by an amicable effort on the part of both parties. In the absence of such, this Agreement is governed by and all disputes arising under or in connection with this Agreement shall be resolved in accordance with the laws of Belgium.

Signed

For the Consortium

Duly authorised to sign on behalf of the Copper Consortium

For the Applicant

Duly authorised to sign on behalf of the Applicant

Date

STRICTLY CONFIDENTIAL TO ECI SECRETARIAT

ANNEX TO LETTER OF ACCESS APPLICATION

**Declaration and Signature of Applicant (1/2)**

The undersigned provides this annex to the signed Letter of Access agreement.

<u>Date</u>	
<u>Name of Applicant</u>	
<u>Corporate address</u>	
<u>Represented by Name &amp; Title</u>	
<u>VAT number (in EU)</u>	
<u>Affiliates Represented</u>  <u>Company Name, Address and Local Contact Person, incl. telephone and email</u>  <u>List all Affiliates - using separate page(s) as required</u>	
<u>Signature(s)</u>	
<u>Name(s)</u>	
<u>Title(s)</u>	

**STRICTLY CONFIDENTIAL TO ECI SECRETARIAT**

**Declaration and Signature of Applicant Member (2/2)**

Material scopes are listed on the REACH website of the European Copper Institute

<http://copperalliance.eu/industry/regulatory-framework/reach/classification-and-labelling>

<b>Substance</b>	<b>Tonnage</b>
<b>Sub-Group A</b>	
<b>Copper</b>	
<b>Sub-Group B</b>	
<b>Intermediate B1 - Anode</b>	
<b>Intermediate B2 - Copper Matte</b>	
<b>Intermediate B5 - Black Copper</b>	
<b>Intermediate B6 - Copper Slimes</b>	
<b>Intermediate B7 - Copper Speiss</b>	
<b>Intermediate B8 - Slags Copper Refining</b>	
<b>Intermediate B10 - Copper Scale</b>	
<b>Intermediate B11 - Copper Flue Dust</b>	
<b>Intermediate B12 - Copper Electrolytes</b>	
<b>Intermediate B13 - Weak Sulfuric Acid</b>	
<b>Intermediate B14 - Residues Nickel Matte</b>	
<b>Intermediate B15 - Copper Cupro</b>	
<b>Sub-Group C</b>	
<b>Copper Final Slags</b>	

The tonnages on which the fees for Letters of Access are based are the averages of the three years prior to the date of formal registration (within REACH IT). As an example, for LoAs to dossiers required by the end of November 2010, the tonnages are the averages of 2007, 2008 and 2009.

The tonnage shall be the total of EU production plus imports into the EU for all Affiliates within the applicant's company.

To the Applicant:

**Letter of Access to the Joint Submission Dossier for Copper Final Slag**

Pursuant to the Agreement dated [date] between the Copper Consortium and [Applicant] (the "Agreement") the Copper Consortium hereby grants to the Applicant the right to participate in the Joint Submission of the registration of Copper Final Slag and the right to refer to the Dossier for the sole purpose of supporting the Applicant's registration of Copper Final Slag in accordance with the Regulation, subject to the terms of the Agreement.

Terms used in this letter shall be construed by reference to the Agreement.

In order to facilitate participation in the Joint Submission of the registration, the Applicant is hereby provided with a copy of the Chemical Safety Report submitted by the Lead Registrant.

The Applicant is also given the following access information:

- Joint Submission name: JSCopperFinalSlagC1
- Valid security token number issued by ECHA to the Lead Registrant
  - *Token number*

The right conferred by this Letter of Access shall be without termination.

Signed:

John Schonenberger  
Chief Executive  
European Copper Institute

Duly authorised by the Copper Consortium